

**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

February 3, 2021 1:30 p.m.

ATTENDANCE:

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

BAE STAFF:

Brandon Mitsuda  
Mark Watanabe

ADMINISTRATION STAFF:

Sylvia Hussey, Ka Pouhana / CEO  
Brown, Casey / COO  
Hinck, Ramona / CFO  
Wong, Sterling / Chief Advocate  
Tanaka, Wayne / Public Policy Manager  
Raina Gushiken, Senior Legal Counsel  
Ohta, Everett, Assistant Legal Counsel  
Kevin Chak, IT

EXCUSED: NONE

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, February 3, 2021 to order at **1:36 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:36 p.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
VICE-CHAIR	KEOLA	LINDSEY	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	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. October 21, 2020**

Trustee Hulu Lindsey moves to approve the minutes of October 21, 2020.

Trustee Ahu Isa seconds the motion.

Chair Akaka calls for a **ROLL CALL VOTE**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY			X			
JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	

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

Chair Akaka notes for the record that the minutes have been approved.

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

**A. 2021 OHA Legislative Package Updates - Matrix 1\*\***

Chair Akaka yields the floor to CEO Pouhana Sylvia Hussey.

**CEO Hussey:** I'll ask Chief Operating Officer Casey Brown to provide a context for this year's assembly of the matrix and all of the advocacy and then he will go ahead and turn it over to our Chief advocate, as well as Public Policy Manager to go through the matrices.

**Chief Operating Officer Brown:** Mahalo Ka Pouhana, aloha mai chair Akaka and Trustees. These next couple of topics is where we're going to dive in to our own bill package, as well as the other bills that we've been tracking on. So with the small matrix for our own bill package and the larger matrix, the very large matrix, which tracks the rest of our bills. Before I do that, just a reminder that we've already been introduced but Sterling Wong and Wayne Tanaka are on the call and they are essentially the engine of our advocacy team and they will help to walk us through this today. Before I turn it over to them, I also wanted to set expectations that might be reminder to some, new to others that these two topics that are about to be undertaken are the kind of topics that can and should go long. So as Sterling and Wayne are walking us through these, I just want everyone to know that these discussions this afternoon will likely take a long time. Sterling and Wayne are going to do their best to focus us on the most key areas and then we'll move on from there. But I just wanted to

make sure everyone has the right expectations in mind for these last two topics. With that being said, I'll turn it over to Sterling Wong and Wayne Tanaka, mahalo.

**Chief Advocate Wong:** Madam Chair, Sterling Wong, Chief Advocate for the administration.

If it's OK with you, I'm going to first take the board through our legislative calendar and then I'll go in through our Bill Matrix. So I think with my sharing of the screen you can see the current calendar and I just wanted to give you folks a sense of where we are in this session. As you know, the 20th was opening day. The 27<sup>th</sup> was bill intro cut off and the deadline we're looking at next is the triple referral filing deadline, which means that all bills need to be into their second committee of referral to move forward, and that's really what's driving session as most of you know that these deadlines that appear in purple on the calendar are really what drives session. The last point I want to make about the calendar is that we have a shortened session and where they shorten the session was really the last week of session, the last sort of part of session. They removed one week from conference, which means that as you know, conferences where most of the bills. The negotiations and most of the action happen at session. The removal of an entire week from conference week is going to mean that a lot of bills are not going to make it and it's going to be really fun for conference. We're going to see a lot of action there, but that's where we are in terms of the calendar, and then I will take us through an update on the bill package itself. So we have a very modest package. We have four bills. As most of you recall, the first bill is our budget bill. This is a budget year, the Senate bill did have a hearing yesterday for our budget. It passed out with amendments. The amendments were to zero out the dollar amounts, which isn't necessarily uncommon for our budget and most appropriation bills for that matter. I would note, however, that historically the House bill has been the vehicle and that Bill hasn't received the hearing yet. OHA two is our CIP for Wahiawa, that bill actually did get a hearing scheduled. And that is scheduled for tomorrow 9:00 AM in Water Land. OHA three is our expungement bill. By the way, sorry if I didn't mention it's actually the the House bill that was scheduled for a hearing on the CIP. For OHA three our expungement bill, SB391 was scheduled for a hearing as well and that will happen tomorrow at 3:05 in HMS. OHA four has not received the hearing yet. The resolutions that's expected of the resolutions are on a different timeline, and this one has got a referral. I would just draw your attention to the referrals we have, all of the referrals scheduled for our package bills and just note that with JHA this new committee in the House, Judiciary Hawaiian Affairs, that's a new committee we've never seen in the last 15 years. The combination of Hawaiian affairs and judiciary presents the opportunity to really expedite bills this session, so we'll keep an eye on that as well. Madam Chair, that is the conclusion of our update on this agenda item. I will turn it back to you. Madam Chair, that concludes my my update for this agenda item and then the next agenda item we would go to our public Policy Manager Tanaka to go over the big matrix, and pretty much the heart of I think today's presentation, mahalo nui.

**Chair Akaka** thanks sterling for his presentation and moves on to the 2021 OHA Legislative Positioning - Matrix 2

## V. NEW BUSINESS

### **B. 2021 OHA Legislative Package Updates - Matrix 2\*\***

**Chair Akaka** yields the floor to CEO Pouhana Sylvia Hussey.

**CEO Sylvia Hussy** yields the floor to Public Policy Manager Tanaka to walk through Matrix 2.

**Public Policy Manger Tanaka:** Thank you. Good afternoon Chair, members of the BAE. Before I begin I just want to say mahalo nui to all of my staff, Annie, Kamaile, Leimomi, Jan, Letani, Shardae, Michelle and Nina. As well as all of the other staff who have been working overtime these past few weeks. And who are continuing to work to review the hundreds and hundreds of bills that we've assigned to them, and hopefully at one point we'll be able to bring them before you and put face to name. Really what we have prepared for you today and what we will be presenting to you over the next week and next few months it's all thanks to their review, their

analysis, recommendations on all the robust discussions that we've been having. But what we think would be the best positions for this agency to take on these measures. I also want to commend our leadership, including you know our seasoned leg. Veterans, Sterling Wong, Casey, Ramona, Kalani and of course, Sylvia, for all their support during these trying leg. times.

**Trustee Ahu Isa** asks if now would be the appropriate time to ask questions.

**Chair Akaka** asks if Trustee Ahu Isa could hold off on questions until after the presentation.

**Public Policy Manger Tanaka:** Today as a quick outline, first I'll talk about new bills that aren't in your matrix that you folks should have received and recommended position change to two companion bills, so it's basically one position change to the bill that's in your tracker, and then I'll talk about bills that name OHA starting with bills considering Kaka'ako, our public land trust share and trust funds and then other OHA named bills. Then I'll go through some bills that we think are significant, that the BAE should be look thinking about.

Not every single bill that we're taking up a position on, but you know mostly bills that we're recommending we oppose or other high profile bills that we thought would be sent it to you. Also, I'm going to try to go through these a little fast but I want to make sure that you understand and are comfortable with our reasoning behind these recommendations. I also wanted to note that this is not all of the bills that have been introduced. This is maybe about half before we had to turn this matrix over. There will be a lot of bills coming in next week and possibly the third week with new positions.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** Yesterday they had a hearing Hawaiian Affairs Senate. Bill 195, 321 and 238. Wayne did you go to that hearing?

**Public Policy Manger Tanaka:** Yes, we were at that hearing.

**Trustee Ahu Isa:** Because it was all about OHA. most of the bills are about OHA. I talked to Senator Shimabukuro about randomizing our names and also redrawing, having a apportionment committee. Because I think that's unconstitutional and I wanted to hear your take on it.

**Chair Akaka** advises trustee Ahu Isa the bills mentioned will be covered when Wayne goes through the matrix.

**Public Policy Manger Tanaka:** Yes, I will be talking bout those bills. I wanted to go first through the the bills that aren't on the matrix that we sent over. These are bills that you know because we were trying to do things a little differently and get you the matrix little earlier, there's more time for things to come up where we might want to make these table changes, including adding bills or maybe changing positions and bills that get amended, after doing research we decided that we should take a particular position that's different on your matrix that we sent over. I'm just going to real quick run through those and then I'm going to talk about the bills that focus on OHA, that name OHA, and I'll start with Kaka'ako PLT. Also, as Trustee Ahu Isa had mentioned, some bills that talk about OHA as the process for electing OHA Trustees. The first measure that we're adding to the matrix is HB245. We're recommending to take a position of comment. It actually had a hearing on Tuesday, at 9:00 a.m., but right now, just so folks know. The definition of historic property under our historic preservation laws, is basically just any property that's over 50 years old. This bill, it would amend the definition of historic property so to not just be anything over 50 years old, but it also has to be eligible for inclusion on the Hawaii Register of Historic Places, in order to be a historic property and be protected through historic preservation, review and consultation. I think that this has been a recurring I guess proposal. I think the concern is for buildings that that you know, age out or become over 50 years old, which happens every day. It's creating a lot of additional burden for homeowners an you know an SHPD itself to engage in historic preservation review for when folks wanna do like renovations and things like that. We can understand that

concern. I think that our concern though, is that might inadvertently result in Hawaiian culture sites from being disqualified as historic properties and then losing that protection.

So our comments would offer amended language to specify that this new requirement about eligibility for the Register of Historic Places to only apply to buildings. The next bill we want to add HB705, this will name OHA. It will appropriate \$25 million in capital improvement project funds for the design of a Kapuahuawa complex surrounding Kukaniloko so under lands Wahiawa. We know we didn't ask for this, obviously. I think it's coming from some community members who have been helping take care of the area and I think the original request was for \$500 million. So it's \$25 million is kind of like a step towards that. Recommending just monitoring to see if it moves. We have our own safety request for Wahiawa, which will be actively supporting. So we wouldn't want to have weigh in on this and have that potentially impact our package priority.

The next measure, it's actually two bills they're companions, HB 974 and its companion, SB 1128. This bill creates a revolving fund that can help sustain a strengths based vocational training program at the Kawaiiloa Youth and Family Wellness Center, which is the campus in Waimanalo that used to be called the Hawaii Youth and Correctional Facility. So basically the fund is generated by the youth in this program to go back towards supporting the program. We've actually featured this and the bill itself in our Ka Wai Ola article from a couple months ago. We had a video that has over 10,000 views. Programs like this is a way for youth who have troubled pasts to find and develop skills and strengths that can prevent them from becoming part of the adult criminal justice system. We would recommend supporting this measure just as a way to help our youth reduce the impact of the criminal justice system on the Native Hawaiian community.

The next bill or bills we like to add SB725 and a very similar bill, SB 749. Both of these bills would expand the authority of the Hawaii Public Housing Authority to contract for or basically to enter into development agreements in projects for any kind of housing, including market rate and non income restricted housing. SB725, you know it allows each HPHA to work with developers to develop housing projects and housing is defined specifically as any kind of housing, no income restrictions, no cost restrictions. SB 749 similarly would allow HPHA to finance or partner with eligible developers to build housing projects and to build non subsidized housing. So basically market rate housing. I think the concern here is HPHA has the ability to lease lands that are set aside without any leased linked restrictions. So essentially issue like 99 year leases. We weren't so concerned with this authority before because you know HPHA's role and responsibility was limited to public housing projects or state low income housing projects. So basically projects targeted at making a developing housing units that are reserved for households at you know 30 to 80 percent AMI, which is where Native Hawaiian demand is for housing. These bills would greatly expand, but unfortunately these bills are greatly expanded with the authority of HPHA and create an incentive for public lands, including ceded lands, to be set aside at least to HPHA, which is a relatively an easy process and then HPHA would then lease and encumber these potential ceded lands for up to a century or more. I think most Trustees are familiar with our concerns about that. Part of the reason for our existence as an agency is to protect the ceded lands corpus. We sued for decades to try and stop the sale of ceded lands by the state, and we came up with a settlement agreement compromise where before any public lands are sold we need to get notice three months ahead of time so we can figure out if their ceded or not, and then to complete the sale there has to be a legislative approval by a super majority of both houses of the legislature. Anything that would encumber ceded lands for a century or longer, that's in many ways that tantamount to a sale, except it doesn't have to go through that prior notice and legislative approval process. What we've seen when you have these super long term leases that lessees themselves start feeling like they're entitled to the land that creates a lot of pressure that can and has led to the elimination of ceded lands. Given the incentives and the opportunities this bill could create in terms of encumbering lands leased or set aside to the HPHA, for you know, a century longer, we recommend opposing it.

The next bill SB977. We're recommending supporting it. It names OHA, and is actually a revival of a bill from our 2017 package. It codifies reporting and accounting requirements of Act 178, which is the act that established \$15.1 million as our interim provider share of the Public Land Trust. Part of that act required agencies to account for their public interest revenues. This would qualify that and also reaffirm that UH is

subject to those requirements because there's been some questions from UH about whether they are required. Our position is that they are as a state agency with public land trust lands. Consistent with our past package bill, requires an explanation of why any PLT revenues that are generated if they're not transferred to OHA, it requires an explanation as to why they haven't been transferred, and there are some reasons why certain revenue streams can't directly flow to OHA, but then sometimes we don't get revenue streams or they disappear and it's not clear why that happens. So we recommend supporting this to strengthen the accountability in the agreement we reached under Act 178 and hopefully improve consistency in reporting and accounting for public land trust revenues. There's a few other public land trust bills that I'll talk about later, but those are in our matrix.

Finally, the last new bill is SB1021. This bill would require cemeteries to allow up to 10 family members to be interred in the same plot, consistent with Hawaiian burial traditions and customs. It would better accommodate the perpetuation of cultural practices associated with burials, which you know have been foreclosed by some cemetery industry practices, and so we recommend supporting this measure. That's it for the new bills on your matrix. We have a position change on two bills, companion bills essentially. This would be SB1 and HB607. So HB607 is on page 14, item 74 on your matrix.

**Chair Akaka** recognizes Trustee Ahu Isa

**Trustee Ahu Isa:** Wayne there is a bill SB321. It's increasing the payment from the Office of Hawaiian Affairs Pro Rata Shares. But this one says establish a public land trust negotiating committee. Is that the same as 977, but just tacking on that committee. That's the difference between the two?

**Public Policy Manager Tanaka:** 321 actually lifts the \$15.1 million cap so it goes a little bit further than SB 977. I'll talk about that after this one position change. HB607/SB1 is basically the Aloha Homes bill that were in play for the last couple of years. It would establish the Aloha Homes program, let HHFDC, the Hawaii Housing Finance & Development Corporation issue 99 year leases in these Aloha Home condos, which are built on state lands within one mile of a public transit station in Oahu. So basically, you know within one mile of rail station. It doesn't have any income restrictions for who can buy these leaseholds. The units have to be priced at 80% AMI and there is limitations on down payments and monthly mortgage payments. I think it's commendable that Senator Chang and his colleagues have been trying to address our affordable housing challenges. Our concern with these measures has been and continues to be these 99 year leasehold interest in public lands that could be ceded lands and that could essentially foreclose Hawaiian claims on these lands without recognizing or protecting them. In these measures, as in measures that we saw in previous years, there is language talking about requiring rules that would determine an unspecified percentage of units to be transferred to either OHA or DHHL, which the board has accepted as kind of a compromised approach to mitigating our concerns about these 99 year leases. These bills that we have here also include that language, but we know from talking with Senator Chang and others, we think that transfer of units to OHA and DHHL language is probably not viable, so it's probably going to get taken out. We would recommend for the Aloha Homes part of this bill, some alternative approaches to protecting and recognizing Native Hawaiian claims. Specifically, after talking with OHA's CORP. Counsel and others that have been working on public land trust and ceded land issues, we're thinking about a requirement that rules be passed that include conditions approved by OHA that would recognize and protect Native Hawaiian claims and any ceded lands that are leased for over 65 years. We can provide examples. We don't want to lock in anything in particular now because that can be scary. We were thinking rights for first refusal for not necessarily just residential, but commercial leases because the Aloha Homes envisions this big mixed use developments. It could be set aside of certain revenue streams for Native Hawaiian serving programs. It could be expressed recognition, reservation of rights of a Native Hawaiian self governing entity. These are just examples that we would provide. That's what we're thinking about as an alternative approach to these transfer units language, which we know is probably not viable at this point. So we will comment on that for the Aloha Homes part of these bills. These bills also have another part that's a lot more concerning, which is the reason why we're recommending that we oppose. We change our position from comment to oppose on these measures, and that's subpart basically

would let lands be set aside or leased to HHFDC and HHFDC could then issue 99 year leaseholds for those lands. There is no recognition in these 99 year leases for these other lands beyond Aloha Homes. There's no recognition for Native Hawaiian claims to the ceded lands corpus, so we recommend opposing, consistent with the position we've taken in previous years. Opposing unless and until there's some kind of language like I just discussed that can protect Native Hawaiian claims to the ceded lands in any issuance of leases for ceded lands for over 65 years. And that's it for the changes that I'm recommending right now. So now we'll get into the fun OHA name stuff, including the PLT stuff.

But before that, let's start with HB1264. This is on page 18 item 96. This bill concerns our Kaka'ako Makai lands. It lets us seek hotel construction in Kaka'ako Makai. As you may know or recall, Act 12 transferred Kaka'ako Makai to us to settle 30 years of back due public land trust payments that the state owed OHA. That transfer, Act 12, envisioned that there be entitlements to these lands that that didn't exist back then. I think we wanted to have discussions to figure out what we wanted to do with the lands before we, or see what the best use of lands would be before we sought specific entitlements. This would be an entitlement that would give us more flexibility in terms of uses of Kaka'ako Makai and potentially generate more revenues to help serve our beneficiaries, so we're recommending supporting this this measure, which would help us take a step forward in terms of realizing the intent of Act 12.

The next Kaka'ako Makai bills on page 19, item 99, that's HB1267 and there's a companion SB1334. This would give us residential entitlements for six parcels in our Kaka'ako Makai lands. Two of those parcels will also be allowed to be built up to 400 feet. There is a public hearing requirement, some steps have to be taken before we can use those entitlements. It's slightly modified, but something that we went for in the past. I think in 2014. Now it's been some years now to finally give us entitlements that were envisioned back in 2012 when we got Kaka'ako Makai. So we're recommending supporting this bill for similar reasons as the previous.

For Public Land Trust, SB 321 on page 32 item number 61. This is the one that was heard that Trustee Ahu Isa was talking about. This is the one that was heard by the Hawaiian Affairs Committee.

**Chair Akaka** recognizes Chief Advocate Wong.

**Chief Advocate Wong:** HB 1267 and its companion in the Senate, you know we went for this in 2014 and we are definitely recommending a support. It's going to be a heavy lift, you know, was one of the biggest lifts I think I've ever been apart of for this agency and certainly if we're successful, I think it's going to be a major windfall and help us a lot. But should we support this and I don't know if Chair Hulu Lindsey wants to say anything, but this will become one of our priority efforts for the agency. It will take a lot of resources to move forward, but it will be a big lift and it's going to be going to fire up basically all of our leverage within the agency to try and help it move through from community outreach to advocacy and our digital media team. But yeah, just keep that in mind that this, I think is envisioned to be sort of a major lift for the agency. Mahalo nui.

**Chair Akaka** recognizes Trustee Waihe'e.

**Trustee Waihe'e:** Thank you, Sterling, what do you think the opposition to this bill would be since it doesn't cost the state anything, they are just giving us an entitlement.

**Chief Advocate Wong:** Trustee Waihe'e that is a great question. I would say the legislative outlook, there are going to be definite challenges. The House is always challenging and you know this is the Speaker's district. But I would say in this environment, we know that because of the economic situation and the major general fund shortfall that the state is experiencing that generally appropriation bills aren't moving or really don't have much of a chance this year, and so our understanding is that the legislature is really going to be looking at trying to move, I think big bold, you know, policy changes forward. I think that's why you see DHHL moving forward with a casino, and I think a lot of people talking about sort of big policy change stuff and I think you're

right Trustee Waihe'e, this doesn't cost the state anything in terms of dollars, so I think there may be some momentum there in terms of trying to find big bold ways to move forward Hawaiian issues that don't actually cost any revenue, and this could certainly be one of them. To be clear, there's going to be challenges for this bill as there always is. As you recall, in 2014, the opposition was very strong from the community, Friends of Kewalos, SEAPAC. But we do have a lot of support from I think the Hawaiian community wanted to see really OHA build up a place that Native Hawaiians can be really proud of in the heart, you know, sort of the jewel of state properties within urban Honolulu. But I don't want to sugarcoat it, this will be a tough lift this year. But you know, I think you know the challenges we have with developing Kaka'ako Makai stem a lot from this prohibition, but I'll leave it at that. Thank you, Madam Chair.

**Public Policy Manager Tanaka:** First Public Land Trust bill on page 32 item 61, this is SB 321. We're recommending support. The administration testified on behalf of administration in support of this bill on Tuesday. This bill would do it with lift \$15.1 million cap on revenues that transferred to OHA, it would transfer to us the funds in the carry forward, trust holding account, the CFTHA account, which is basically the account that has been collecting the excess revenues beyond 15.1 million that transferred to us that we then have to transfer back to the state because of the cap. It was also established negotiating committee with representatives with with the Senate President, House Speaker, the Governor and the OHA Chair or their designees to negotiate what should be a fair increase in the public land trust share for OHA, for Native Hawaiians. So essentially this is the bill that has most of the components of the bill that we introduced in our package in 2018, reintroduced in 2019. Only thing, it doesn't have the back payment, it doesn't actually lift the 15.1, it just says there's no cap on it. So we are recommending supporting this. It gets us, you know, it gets us closer towards our goal of achieving a more fair share of the Public Land Trust for Native Hawaiians. So it doesn't, you know, have the lump sum or increase in the 15.1, specific increase negotiating committee should help get us there achieving these other objectives so we're recommending support.

Another bill on page 19, item number 97, is HB1265. We're also supporting this bill. It basically would lift the \$15.1 million to \$20 million and like SB 977, it would codify the county requirements of Act 178. Clarify that DLNR is in charge of that and affirm that, UH, does yes have a responsibility to account for their public land trust revenues, so we're recommending supporting this.

The next couple of measures which are, you know, basically the same. We're actually recommending oppose. Now this is on page 19, item number 98, HB1266 and its companion is SB1317 in the Senate. So this bill, it does lift the cap, the 51 million cap. But what would happen is, those public land trust revenues that would come to OHA would instead go to DHHL, it would also transfer it to the Department of Hawaiian Homeland's the CFTHA monies and then it would establish a negotiating committee like the last bill. But it would also include DHHL as a representative, so you know we have problems with this. It really confuses and conflates the independent obligations of this state to support both the administration operation of DHHL, as well as separate independent obligation from the state under the public land trust towards Native Hawaiians and to OHA. The Constitution specifically establishes that OHA is responsible for receiving and stewarding the public land trust revenues set aside for Native Hawaiians, so this is probably unconstitutional, but in any case I would recommend opposing this bill and it's Senate companion. Then and that's it that specifically talk about the Public Land Trust.

The next bill is on page 20 item 100 and 101. This is HB1298 and HB1299. Both of these bills contemplate transferring money out of some of OHA's trust accounts. So our Hawaiian Projects fund and Native Rights fund for HB1298 and then HB1299 will also transfer the Wao Kele o Puna fund. This is OHA trust fund money it's not general fund money. It's OHA's, like I just said. The Constitution establishes OHA as the autonomous body to determine how these funds are expended, whether these accounts exist or not, and so it's probably unconstitutional, but we would recommend opposing it anyways. Just to be clear, these bills don't just target OHA, they target like every account non general fund account across all these state agencies so we just you know a line in there and so we want to make sure that we don't maybe inadvertently try to, you know, capture trust funds and pull them into the State Treasury. I don't know, but yeah again we're opposed.

On page 50, item 259, this is SB1352. We are also recommending opposing this bill. It would establish a workforce development grant program within the Office of Community Services, which is within, I think, the Department of Labor Industrial Relations. The Workforce Development program would be to award grants to organizations that provide workforce development services to Native Hawaiians. The problem, the reason why we want to, even though it's you know it sounds great. The problem is that the funds that would be used would be from the Public Land Trust. Essentially it would take the overages, you know everything above 3.1 and put it into this program, and essentially it would be the state dictating how Public Land Trust money set aside for Hawaiians should be spent rather than OHA. Apart from the fact that it's you know, and exercise of state authority over funds that should be you know that it's the boards prerogative to control. I think it would establish a precedent where the state would begin feeling like anything above 15.1. All those overages are basically the states to do what it wants with and then that could really limit our ability to lift the 15.1 million cap or increase the pro rata share to what you know what most appropriately should be, which is substantially more than 15.1. It could lock us in 15.1 million for however long so you know, for those reasons we recommend opposing this bill.

**Chair Akaka** recognizes Chief Advocate Wong.

**Chief Advocate Wong:** I did want to make a comment on the last few bills that Wayne did go over. I think they demonstrate a pattern of sort of a legislative overreach into our trustees authority over the trust funds, and I think, in a lot of ways, unconstitutional. But I would just be clear, I don't think we've seen it, sort of this pattern in maybe like seven or eight or nine years of this sort of legislature reaching into the the trustees authority, trying to directly through legislation, appropriate or spend trust funds that are bored by Constitution, have exclusive authority over. So I just wanted to point out that sort of trend and that these are, I think, major bills, that we we need to try and kill, but I think also you know, talk story and have discussions with legislators just to see where these are coming from and remind them of sort of, you know, the constitutional framework for OHA. Mahalo nui.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Thank you, Madam Chair. Sterling, but we saw this coming right. I mean, you just made that comment that we don't know where this is coming from. We've got a whole line of questioning during our budget package. All in line with what these bills are. I mean, they're trying to balance their budget because they have zero revenue coming in. So we saw this coming right.

**Chief Advocate Wong:** I certainly think once the economic crisis hit, we absolutely knew that like, for example, I don't think it was any secret that we had concerns that the the overage account, the CPTHA account, was going to be targeted. Yeah, I don't think we did not expect some of this to happen and certainly we did see a lot of this coming and I think it's just a matter of having those discussions with legislators and trying to figure things out moving forward. But yes Trustee Lee, you're right.

**Public Policy Manager Tanaka:** Yeah, thanks Sterling. So on a somewhat related note on page 40, item 205, is SB691. This bill names OHA. Basically it would transfer the administration operation of the Kaho'olawe Island Reserve Commission from the DLNR to OHA. So you know, we have a policy and because of the concerns that Sterling just highlighted to oppose any kind of proposal to place an entity into OHA that would otherwise direct how OHA trust funds are spent without prior consultation and approval by the Board of Trustees, and that's just what this does exactly. I think we would be tasked with administering operating correct, but we would have no regulatory authority either, it's pretty problematic. My understanding is that they are not in support of this bill, so it's a little confusing to where it's coming from. But in any case, we would recommend opposing this this measure.

The next couple bills are, I think SB196 is actually heard on at the Senate Hawaiian Affairs committee on Tuesday, so that bill is well, there's HB644, which is the House bill counterpart. So we'll just look at that. But essentially this is proposing a constitutional amendment. Where it would allocate the total number of OHA Trustees among the four basic island units so Hawai'i, Maui County, Oahu, Kaua'i and Ni'ihau. Each island unit would basically, there would be districts in each island unit and then the voters in that district would vote for their representatives on the OHA board. So we're recommending commenting on this bill, but you know, I want to be clear that all of these trustee election bills, you know we really are kind of deferring to the Board as to what positions they would like to take. But this is based on past discussions on similar measures we've seen before. Our comments that we submitted on Tuesday on behalf of the administration. They noted that you know there's some concerns about getting rid of a Moloka'i island seat, given the unique and important nature of that island. Also too, because of the equal representation with the US Constitution. You have to have districts drawn out, so there's an equal number of people.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** We should not comment, we should oppose. Beneficiaries called me on that bill, but was too late in submitting testimony because of the 24 hour thing. I called Maile's office, she said it's not her bill, it's Karl Rhoads bill because I talked to Keahi, her office manager, and he's head of judge. So he has a lot of power in this. Peter Apo said that before they had that, when they made the district instead of the island, he had Waianae and part the tip of Kaua'i. So they made it the island. So now they want to get rid of that at large and make four from O'ahu and Moloka'i and Maui. And yeah, this redistricting is unconstitutional, so we shouldn't comment. I'm sorry we should oppose. That's my opinion. Thank you, Chair.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Wayne, Sterling, I agree with Trustee Ahu Isa. You know this, if they go by the basic unit that could potentially limit the board to just four trustees. I'm not saying it would, but it could. Like Trustee Ahu Isa said it doesn't take into account at large Trustees. If they went by the apportionment, that would make the Board of Trustees of the Office of Hawaiian Affairs, O'ahu centric. Now, although historically at large trustees come from O'ahu, there isn't a law that says they have to come from O'ahu. That just happens to be where they normally get elected from. But if this passed, they would all come from O'ahu, which means the law would say that the Board of Trustees for the Office Hawaiian Affairs is O'ahu centric and I don't believe our beneficiaries are going to be okay with that. And I don't believe that was the intent of what was written in 1978. So I agree with Trustee Ahu Isa that we should oppose this.

**Public Policy Manager Tanaka:** Yeah, that's a very valid concern. I think the bill does require a nine member minimum for the board. It maintains at nine member minimum for the board, but you know, like Trustee Lee was saying, because equal representation rule where each Trustee has to represent an equal number of voters, it most likely would, looking at the populations of the different islands, you know where, like minimally 10 O'ahu Trustees, two Hawai'i trustees, two Maui trustees and one Kaua'i trustee in order to comply with US Constitution, which you know like Trustee Lee said, is you know, somewhat O'ahu centric breakdown. I think in the past some of the concerns with OHA weighing in on these election measures. It seems like we're, you know, there could be the perception that the board is trying to, you know, I don't know like you know, protect itself from election reform. But I mean, you know, there's definitely a constitutional like issues and potential impacts to the to the trust as well. If we have to blow up or double the number of trustees we have, that's gonna be, you know, increase the trust funds we would have to expand for things like airfare, salaries, staff salaries, trustee salaries, that kind of thing.

**Chair Akaka** recognizes Board Chair Hulu Lindsey

**Board Chair Hulu Lindsey:** Thank you, I agree with Trustee Ahu Isa and Trustee Lee in that we should oppose this bill and it's not about personalities or people that are presently in office, but it's about fair representation of our Hawaiian people. For them to try to reapportion us without knowing the population. I think that's very wrong, and I do believe in the past, that this was tried before and they weren't able to do it because of the federal one man one vote law. So I think eventually as they study this bill, they'll find that it's unconstitutional for us, for the Office of Hawaiian Affairs. Thank you.

**Chair Akaka:** Mahalo chair, and to note again, if it hasn't already been shared, that we did explain our sentiment to Senator Maile Shimabukuro on this and our concerns and what this would mean. And whereas, she did mention that this is Karl Rhoads bill, but we will continue to monitor this and see what must be done. Any other discussion on this bill?

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** I don't believe this is just a discussion, so on that point, I make a motion that we change, or actually.

**Trustee Ahuna:** Bifurcate

**Board Chair Hulu Lindsey:** Bifurcate, bifurcate this out from the matrix.

**Trustee Brendon Lee:** Well, we don't necessarily have to bifurcate anything out because we haven't made a motion on anything yet, we're still just talking so we can just make the changes on here now. Well, actually I don't believe a motion is necessary madam chair because we don't have a motion on here.

**Chair Akaka:** We can do that with Wayne to approve all the different bills on Matrix 2.

**Trustee Lee:** Well, we can just make the change from comment to oppose, and then when we go to vote on the entire matrix, if somebody is opposed to that, they can try and bifurcate it out. But this whole matter hasn't been brought before the committee for a vote, yet. So we can just make a change. So that being said, Sterling and Wayne, I believe I'm hearing a consensus that we should. Before you bring this matrix to us for approval, and by way of a motion at the end of this discussion, that you change this from comment to oppose.

**Chair Akaka** recognizes Chief Advocate Wong.

**Chief Advocate Wong:** So Wayne, do you want to just make sure the trustees know, just so we're clear on the bill position changes, because I think there's a number of these election bills. There's this con con amendment one and HB644 and there's a few others. So I just want to make sure we catch all of them so nothing gets lost. I know HB644 will go from comment to oppose, and then I'll defer to to Wayne on the rest.

**Public Policy Manager Tanaka:** I'm sending a note to Brian and Mark. They have that Excel matrix so they can make that change.

**Trustee Lee:** I believe it's HB644, HB658, SB195 and SB196. Is that correct Wayne?

**Public Policy Manager Tanaka:** Yes, those are the four apportionment bills, they are companions. For SB195, HB658, so that's a statutory amendment that's contingent upon a constitutional amendment that we just talked about it would, you know, again, you know, just so you know it keeps a nine member compositions, which I don't know how that's going to be constitutionally possible. If you're going to have island representatives because between the four units, Kaua'i has 70,000 people, Honolulu has like a million people, so I don't know how they're gonna. They're gonna have to basically carve up to keep nine trustees. It's like a

weird math kind of thing. Basically, O'ahu centric again. They would have to carve up O'ahu. I'll flag that too for Brandon and Mark right now.

**Trustee Ahu Isa:** Chair, there's another bill I'm questioning when Wayne is pau.

**Public Policy Manager Tanaka:** There's a couple more election bills I'll get too. On page 30, item 150, this is SB238. This is a bill that we've seen before. It would basically list the OHA BOT candidates by residency and non residency requirements and randomized order of you know how the peoples names are listed. We just monitor this bill when it came up in 2019. Our recommendation was to monitor based on that but yeah. I don't know if anyone has any feelings. Maybe the next one might be a little more concerning SB 890, which is on page 45, item 231. It would create. It would basically for the four at large seats, it would put them two each in district one and district two for the congressional districts, and would require the at large trustees. Like the two at large trustees from the rural district and two from the urban district, they would have to be elected by residents of those districts. Also, residents for the island trustees will be elected by residents of the respective islands, which is again it's, you know, that's not US. Constitution, it's blatantly unconstitutional under the equal representation rule. The one man, one vote rule that Trustee, Chair Lindsey just mentioned. I mean it's so blatantly unconstitutional, we're thinking just monitor, but again, you know we're deferring to the board as to what they think you know would be the best position for OHA to take.

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** Thank you, Wayne so there basically what I'm guessing. Well, it's just so badly thought out, but I'm guessing that the Board of Trustees would still be. They would still be serving every single Native Hawaiian as beneficiaries and not just the people at their district, but they were elected this way. So what we're saying is that for beneficiaries, they'll be trustees that are their trustees being elected not only by non beneficiaries. But by non beneficiaries and they can't even have any say in it themselves. I can't believe it. Non beneficiaries will be electing their trustees and they have no say in their own, in their own trustee.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** So Wayne, maybe not just monitor. Maybe we just comment, pointing out the unconstitutionality of this measure, and some of the very valid issues that Trustee Waihe'e just brought up. That you know, they're asking people who live in a certain district to elect somebody who's going to have a say over the entire state, even though the entire state doesn't have a say. Which we understand is the reason why it's unconstitutional. But maybe we should make these comments if no one else is going to point out to them that it's unconstitutional. That we sit in the room with the lawmakers and show them that Hawaiians are smart, and that you know what you guys all didn't get it, but we get it, it's unconstitutional and we're going to point it out.

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** So how do we move forward on this? Do we oppose it or do we watch it, but with comment or just comment?

**Trustee Lee:** Well that was my recommendation Trustee Ahuna that we just comment. Like Wayne said, their reason for just monitoring is because it's so blatantly unconstitutional that they don't believe this is going to go anywhere. It's going to die because it's so blatantly unconstitutional. But I feel that the Hawaiians should sit at the table and point out to them that we understand this is unconstitutional and we're going to point it out to you that it's unconstitutional. So I don't necessarily think we need to oppose it because it is unconstitutional, but I think it's a good thing for Hawaiians to sit at the table and point it out to them.

**Trustee Ahuna:** Yes Trustee Lee, I was referring back to that the 265. We wanted to oppose it, so do we just comment on that one, that one is outrageous too. There was one bill that we wanted to oppose. I just wanted to make sure that we want to oppose or do we just want to comment.

**Trustee Lee:** It was HB644, HB658, SB195 and SB196.

**Board Chair Hulu Lindsey:** I think we should oppose it if we don't believe in it.

**Trustee Lee:** I agree, I think we should oppose those for the reasons we said, it makes it O'ahu centric. That's a different issue Trustee Ahuna than SB 890. That's a completely different issue.

**Trustee Ahuna:** So oppose with comment.

**Trustee Lee:** Well, they're gonna comment. They're not just going to stand and say we oppose. Wayne them are awesome. When they oppose something, they give our reasons. They submit testimony as to why we are opposing it.

**Chair Akaka:** Mahalo, Trustee Lee, so we would be providing our comments and recommendations to the chair of that committee as to our reasoning.

**Public Policy Manager Tanaka:** So what I have right now is the apportionment bills, so the four that Trustee Lee mentioned. I sent a note to Brandon and Mark to change their positions, from comment to oppose, and it sounds like for SB890 we want to change our position from monitor to comment, where we'll point out you know, the blatant, glaring constitutional defect.

**Chair Akaka** recognizes Trustee Akina

**Trustee Akina:** Thank you Wayne. Thank you for walking us through this, I appreciate it. What is the motivation behind these apportionment bills? Or what problem are the introducers trying to fix?

**Public Policy Manager Tanaka:** I don't know for sure, I'm gonna guess that they like right now every resident in the state votes for every trustee seat that's open for election. And so I think they want to make it so that you know, if you live on Moloka'i then you vote, or if you live on Big Island or Kaua'i then you vote for your respective trustees of those islands. I think that's what they're trying to go for, but it runs, because the population is distributed, I don't know how you'd be able to do that without making 20 trustees, given the equal representation rule over the constitution.

**Trustee Akina:** I'm assuming from today's discussion that the legislators who are proposing these measures have not been prompted by OHA trustees and are not necessarily acting on our behalf. I want for the record to lend my support to opposing the apportionment bills and to providing negative comments to the ballot display revision bill. Thank you to my colleagues here for comments you've made.

**Public Policy Manager Tanaka:** Okay, so I think that the ballot display, the randomization we still have that on monitor, we were talking about the negative comments on the urban and rural districts for at large trustees, which would also require island trustees be voted on by their island residents. At least that was my understanding of the discussion.

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** Wayne, can we suggest that the randomization bill apply through every elected office in Hawaii and not just singling out the Office of Hawaiian Affairs?

**Public Policy Manager Tanaka:** So would you like to comment on that?

**Trustee Waihe'e:** Right now it's monitor?

**Public Policy Manager Tanaka:** Yes, so that would be a position change to comment?

**Trustee Waihe'e:** I would like to, I would but, if not I don't care that much.

**Trustee Lee:** Trustee Waihe'e makes a good point right? Why is OHA being singled out versus the entire election apportionment? This is no different when they try and introduce a bill, saying that OHA trustees should have term limits. Not that I'm against term limits, but if we're going to have term limits, why doesn't the House of Representatives and the Senate have term limits? Why is it that they're only singling out the Office of Hawaiian Affairs?

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** After Trustee Lee speaks I wanted to, because I called Maile and her office manager told me they did a study from the mainland and they found that always the top three majority would get in. Majority of the time they would win, so that's why the random thing, but he said it's mandating the Office of Election to create a separate ballot for OHA, randomizing when all the other ballots are alphabetical. I told Keahi, nobody is going to vote, they're gonna look at all the Hawaiian names like some 20 letters long. They're gonna look and try to find the persons name and they got to make a separate ballot which is more expensive. Cost more money it's all mail in. They gonna make more blank votes than anything. Maybe the reasoning is only the Hawaiians would vote because they would have a separate ballot. Anyway, that was the rationale, they went and did a study of mainland ballots and they said the top three most of the time would get in. That's why they thought they would randomize. Mahalo chair.

**Public Policy Manager Tanaka:** I would be happy to comment on that bill. I think there is a bill to randomize every campaign, but this one yes is tailored at OHA.

**Chair Akaka:** Wayne, also if you can also share with the different bills, recognizing that some are by request.

**Public Policy Manager Tanaka:** Yes, Okay.

**Chair Akaka:** For instance like a constituent, if there's discussion on this and concern made by the trustees.

**Public Policy Manager Tanaka:** I see, the randomization actually comes from a bunch of senators, SB195, 196, that's coming from Rhoads. It doesn't say by request.

**Chair Akaka:** Often times it's shared that the bills are introduced by requests of a constituent.

**Public Policy Manager Tanaka:** Yes, whoever introduces it, it's not necessarily their idea. For these it doesn't say by request, but that's really good to keep in mind that we you know we can't blame the introducers necessarily for every everything that gets introduced. So I'm gonna send a note to Brandon and Mark to change SB238, the randomization to a comment and so we can talk about not singling out the OHA candidates. I'm reading that as the consensus, or feeling of the board.

**Trustee Lee:** I don't think any of us care, Wayne.

**Public Policy Manager Tanaka:** Okay, so that's it for the OHA elections bills that we've found. Heads up, there's a bill just to put on your radar. It's not in the matrix and we sort of didn't break it down, but there's

another public funding bill for trustees we've talked about in previous years, but we'll probably get to that next week.

So there's a couple more proposals that names OHA. Page 18, item 93, this HB742. There's Native Hawaiian training courses as trustee's know. That certain board and commission members are required to take, to inform them about their legal rights and obligations to Native Hawaiians and under the public trust. This bill would require that course which we fund and is offered twice a year. It would require that the course be offered four times a year, once per quarter. I think this is testament to how successful the course has been, how well received it's been, you know. I think that the we're actually recommending opposed to this measure. I think first because it would require the expenditure of trust funds without prior consultation with the Board and the Board's approval, and also to you know, talking to Kahuiiau folks. There's been demand for actually deeper courses and longer courses, so not necessarily for more courses, but they want instead of two days having like three or four days, they can really dig into the weeds and again, some nuances of how the public trust and how native rights might apply to their respective responsibilities, and so, by mandating that there be four courses, it kind of limits how much we can address actual like what's actually needed in terms of the need being more quality versus quantity. So recommended posing for those purposes. There is a training course bill that we want to support, this is on page 18, item 94, HB800, it's got a companion SB1409, so this is very similar to our OHA package bill from last year. It would give teeth to that new Hawaiian training course requirement that I just described to incentivize better compliance. Basically, if a boarding commission number doesn't attend the course within one year. They can't serve on the permitted interaction group. If they vote then their vote can be nullified. If they don't do it within a year after the year deadline. So within two years, then they have to either attend the course by that time or get reconfirmed by the Senate. So we recommend supporting this bill, especially since now we saw really great. Overall, like the majority of people are supposed to take it, but there's still gaps in attendance an it's really, you know, the people that don't want to attend like those are the people that need to take the course, so we're recommending supporting this bill as a way to incentivize getting those people to actually take the course. So that's it for the whole name bills.

**Chair Akaka** recognizes Trustee Akina.

**Trustee Akina:** Thank you. With regard to HB800 and training in Native Hawaiian rights. I am absolutely in support of seeing that our elected, as well as our non elected officials get the right understanding of issues such as public lands trust and all of the content of the course, and I think the course is very excellent. I do recognize what Wayne said and that it has become popular, that most officials who are required to take the course are actually taking it, so I'm a little bit concerned about the heavy hand of putting sanctions on those who don't take it. First of all, it's not a large number of people, and I would rather win them over with the honey than with a fly swatter. Secondly, I would like to leave room for ideological difference. There may be individuals for ideological reasons who choose not to go through the course, not that we support their thinking or take any stand on it, but this is a free country, so my feeling is that we should just leave well enough alone. It's a great course, I've taken it myself and just continue to win people to going through it.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** Chair, I agree with Trustee Akina because that bill is a heavy hand and it prohibits council board a lot of these are volunteer board, even like the Board of Regions, commission members from serving even if they haven't completed it. So I agree with Trustee Akina, mahalo.

**Public Policy Manager Tanaka:** There's still a lot of leeway even if people don't take. The reconfirmation process requirement only kicks in after two years, so they basically have to have served over half of the term. Without you know, a general standard for your term without taking the course before that, you know, I think that the heavier hand of having to be reconfirmed would come down, and they could always just take that course and then not have to get reconfirmed. You know it's not like, oh you missed it and then you're out, it provides a lot of flexibility and leeway. This course is administered by the law school, and what they're really doing is

explaining the law. It's like when boards and commissions have ethics training. There's ethics laws that they have to follow, so this course is really designed to tell people what the law is, and prevent us from having to deal with decisions made after the fact that weren't informed by this course, and the notice provides people about where the landscape of the law lies.

**Chair Akaka** recognizes Vice Chair Lindsey.

**Vice Chair Lindsey:** Thank you Madam Chair, just a question, would this requirement be limited to councils, boards and commissions that have kuleana in Native Hawaiian rights, is it every single board, even ones that wouldn't deal with Hawaiian issues?

**Public Policy Manager Tanaka:** No, the training course requirement is targeted only at boards and commissions that have particular, you know as Vice Chair Lindsey mentioned, particular responsibilities, their decisions can really impact Native Hawaiians. So land use commissions, board of land and natural resources, water commission, there's a list that you can look up, it's under section 10-41a HRS in case folks are interested. So it's not every single board, it's not like the Board of Nurse Practitioners. Thanks, good question.

**Chair Akaka** recognizes Board Chair Hulu Lindsey.

**Board Chair Hulu Lindsey:** I've been involved in that training for like 5 years and actually I've attended it five years, so I'm very familiar with it and we just recently finished another course in the last, I want to say three weeks. When it was held in Maui County, I also went to that one and the department head of our administration was extremely, extremely impressed at the presentation by the law school and how they demonstrated the rights of our people. To educate those people in office that have the right to make decisions every day that affects our peoples lives. So sometimes, even if they are not involved in let's say water or land, just the overall plot of what our rights are is certainly beneficial to all leaders. Our auditorium could not accommodate all of the people that came and when they left they were extremely impressed. So this is training that I really, really would recommend to all leaders of all the counties and our state government to attend. Have their department heads, deputies and also the boards and commissions. Certainly not the nurses and maybe other people that have no effect on the Hawaiian rights, but it is an extremely good course, so Keola if you hadn't gone, I would exhort you to go and you will agree with us that it was really, you know OHA sponsors it. I don't know if you knew that, but the Office of Hawaiian Affairs sponsors that training, and it's a good training. Thank you.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** Trustees I'm not saying it's a bad bill, read it, prohibits the council, board and commission. We're not having an administrative rule, not HAR. We are creating a law, an act that says you prohibit any board member from serving if they have not completed. Why are we going to make this a law? My brother who was a past judge said to be careful how you create laws, you make it too narrow, hard for the judges to interpret, you make it too loose, they can interpret. Now this one can be a HAR. It doesn't have to be a law that prohibits. You're getting people to sit on these boards, our Hawaiian and Native Hawaiian boards. Okay, they are concerned like Trustee Keola said, they should know about it. I agree with chair, they should know, but to create a law that says your prohibited from serving. So your in the middle of serving, you didn't take this, you get out? You cannot serve because the law says, act whatever this act is going to be. That's the only reason I'm saying we should watch what they create into a law. It's the negative, so that's why I agree with Trustee Akina.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** I'm confused why Trustee Ahu Isa is getting upset about this. Our position is to oppose this. I don't understand why. We are opposing this.

**Trustee Ahu Isa:** I'm sorry

**Trustee Lee:** I believe Trustee Hulu Lindsey was just pointing out the merits of the program as it is, which I believe we've all attended, we have to. We're opposing this measure.

**Chair Akaka:** Wayne, could you please elaborate on that.

**Public Policy Manager Tanaka:** Sorry for any confusion, so we're opposing HB742 which would increase the frequency of the training course. HB800, which I think we'll actually be supporting and this is the one that would create the incentives for people to comply with the training course requirement, which is already a requirement. It's just people aren't. Some people are just resistant for whatever reason to attend the course, and those may actually be the folks that we actually want to attend the course because they're the ones that need to understand that they have legal responsibilities to Native Hawaiians and to attend the course currently. It's just the enforcement mechanism for non compliance of this requirement is just it hasn't been.

**Trustee Ahu Isa:** It says support.

**Trustee Lee:** I stand corrected Madam Chair.

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** I want support this like Trustee Hulu Lindsey because I've been to these meetings. I watched the Ka Huli Ao meetings, I've been there with our county and the people involved. It's very important because especially on the island of Kaua'i we have a lot of water issues and ceded land trust issues. You know these people are making decisions for us and it's very important that they understand these laws. I want to support it, you know, because we need people who is educated and know the rights of Native Hawaiians and know how to support them. You know, not we're going to support a water bottling company. We cannot just be doing that and just giving our trust funds away. I'm in support of it, so thank you.

**Chair Akaka** recognizes Trustee Akina.

**Trustee Akina:** Thank you, and again I'm addressing HB800. Absolutely, I agree with Chair Lindsey that it's a fabulous course and I would hope that everyone in Hawaii would take such a course and understand our constitutional obligations to Hawaiians. That's not the question. It's already been established that the course is well attended and the majority of commissioners have attended. I think our kuleana is not to control the training of people or the way they think, but judge them by their actions. So Commissioners should be judged by their actions as to whether they make good decisions or bad decisions, but not be given sanctions and told they can't serve if they haven't completed a course. That's why I hope that if we do vote on these today that we'll bifurcate this one, and so I have the opportunity to oppose, not the course, but the very heavy requirement and consequences for not participating.

**Chair Akaka:** Mahalo, Trustee Akina.

**Chair Akaka** recognizes Chief Advocate Wong.

**Chief Advocate Wong:** Aloha Trustees, I think there is a lot of good mana'o here. This is just staff's recommendation to support. You know we will go with the consensus of the Board in whatever position that the Board wants. Whether we keep it as support or change it, we are just looking for guidance from the Board. Mahalo nui.

**Trustee Ahu Isa:** Chair, can I address Trustee Ahuna's concern.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** Trustee Ahuna, it says this will create a law that prohibits the council, board, commission member, so you get a really good commission member and board member on Kaua'i, who can have relationship with their water rights bill and all that, but he missed taking the class, so now he gotta get off because the law said that if he didn't take that you got to get off, not even give him a chance to retake the course. This is a law. It can be an administrative rule, Hawaii Administrative Rule, go take the class and you won't be kicked off of the commission. This one is a law that says you have to get off. It's going to be an act. That's the reason why I think it is too harsh because Neighbor Island it is so hard to get people to volunteer. Good qualified people to volunteer to sit on these commissions, and once you get somebody good and they don't do one thing because of this, they got to get off. Thank you, Chair.

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** I think it's important that they get off the board if they don't serve their time, you know, with these types of. These are requirements. These are things that they should understand. The reason why I say this is because our administration at OHA is on Kaua'i talking with House Rep. and talking about this exact issue right here. You want to create all kinds of other things except for. It was important that our administration get involved on these types of land, so you know, for me they have to be qualified, and if you're not qualified, I'm sorry. I mean, we have laws for people to drive and if you don't take your drivers license you cannot drive. So it's very important that we have these types of laws. Thank you.

**Public Policy Manager Tanaka:** I mean, we could potentially bifurcate this when we take the motion on this matrix. And again, it's not automatic expulsion. If you serve for half of a term without taking the course and you need to get reconfirmed or just take the course, so that's that's what the bill would do.

So I was going to go jump onto just kind of highlighting some of the most significant bills that we've flagged. That was the last of the bills that name OHA. So page 2, item number 8, this is HB66, we're recommending oppose. Basically it says, notwithstanding any law or the contrary, the board shall sell lands in Sand Island Industrial Park to its lessees to the current lessee. Sand Island is ceded lands. We oppose the sale of ceded lands, but like one again, one of our reasons for existing is to protect the ceded land corpus. So we would recommend opposing this bill, as it would result in the sale of ceded lands in Sand Island. Yeah, it's probably special legislation as well.

The next bill is on page 2, the next one down. Actually HB77. It's got a companion SB689. We're recommending commenting on these bills. It creates an exception to the prior notice and super majority approval requirement for the sale of public lands. The exception would be for certain parcels that were leased out by the HHFDC's predecessor, and where approval for the lessee to get the fee was granted before 1994. Like before our lawsuit, and that actually tracks the language in our ceded lands policy where we won't oppose the sale of ceded lands if in this case there is an approval granted by the authority prior to our lawsuit, and so we would recommend commenting to note that you know it does fit within our ceded lands policy as to not oppose these kinds of sales, but we still want prior notice just so that we can make sure that what they are interpreting this law allows fits into our interpretation of what this law allows and what we determine is inappropriate disposition of ceded lands, so that would be our comments to include that prior notice requirement still.

Next bills, HB81, so two lines down. We're recommending opposing these bills, so again, for any lands that gets set aside or leased to HHFDC, they will not be subject to leased length limitations, other protections of Chapter 171, and so it could result, and the vision is for this result in the encumbrance of public lands for century longer. HHFDC is supposed to build affordable housing, but. Nonetheless, there still has to be some concern, some recognition of Native Hawaiian claims to ceded lands especially if they're gonna be

encumbered for such a long time, it's going to foreclose Native Hawaiians from maintaining those claims for at least a century, potentially longer if it results in the sale. So we'll oppose, but we'll also off that language that I talked about earlier about. So if they do want to lease ceded lands for over 65 years that they released pursuant to rules that OHA approves that would impose conditions that can protect Native Hawaiian claims ceded land corpus.

There's a similar bill, SB24 that would contemplate 99 year leases for HHFDC, but it does have that OHA. That language about rules to transfer units to OHA or DHHL, so we're recommending just commenting again to recognize that the transfer. Well first commenting because that's what the board accepted as a compromise for long term leases last year, but then our comments will also recognize that, you know, because there's so much resistance to that transfer of units language that we have the alternative language about any leases being subject to rules approved by OHA.

So the next Bill, Page 4, item 22. HB205, so this is a bill that we're actually just monitoring but wanted to draw it to your attention. It basically clarifies the disclosure of information to the ombudsman doesn't constitute a waiver of attorney client privilege and also prohibits the ombudsman from disclosing privileged communications. We don't think it really impacts any of the current issues we're looking at now with the other, but we want to monitor for potential effects that it may have, especially if it gets amended to include the auditor.

There's another bill. This is HB517. It's on page 11, item 59, that does talk about the auditor. Where it says is the auditor, you know, it just says notwithstanding any loss of the contrary, the auditor can inspect and examine records of government agencies. It doesn't appear to affect our position currently, so we're just going to monitor it, but we've also, you know, been sitting over. Yeah, we've been sent a request to kind of talk about it with our Board Council to maybe take a look at the bill and see if there are any concerns about how it might get amended, especially going forward. So we're just recommending monitoring that one for now.

Next bill page 4, item 24, HB260. We've talked about these kinds of bills before in the multiple times in the past. Basically, it would reduce the Land Use Commission's jurisdiction over land use district value changes to boundary changes that involve 100 acres or more. Currently anything 15 acres or more, the Land Use Commission has to approve that boundary district change. So if you're going from rural or agriculture to urban, you know to build housing or something then you know the Land Use Commission has a chance to weigh in. And what really happens is when the Land Use Commission oversees these changes, there's processes they follow that allow for Native Hawaiian traditional customary practitioners to assert their rights and to have them protected actually mitigated, having impacts mitigated or reduced. And it's really because those processes, the Land Use Commission is often the only time that practitioners can weigh in and have their rights firmly protected in land use changes. So you know a 100 acres huge like there are huge swaths of land that could be converted from agriculture to urban, from rural to urban. It does target this reduction authority to propose this, where at least 50% of units would be, 50% of housing developed on these lands would be reserved for incomes at or below 140% of AMI. So first of all, 140% AMI is way above what our beneficiaries need and what state residents need. Over 57% of Native Hawaiian demand is for 80% AMI, slightly less of the state population is for less than 80% AMI, so it's way above where the demand is and where the need is. Also, there's this perception that the Land Use Commissions' District Boundary Amendment process unreasonably delays construction, especially for affordable housing. But when you look at what's been approved so far, there's 23,000 units that have been approved by the Land Use Commission in district boundary changes on O'ahu alone that have not been built. And you look at, you know, studies by Office of Planning, you know multi stakeholder input report that was developed in from stakeholders from across the spectrum, like acknowledging that you know Land Use Commission isn't the issue when it comes to delays in affordable housing, it's really water and infrastructure like sewage capacity that's jamming up these affordable housing projects. Right now there's no Land Use Commission involvement in development to occur like in the urban district. It's just when you want to ag. or rural lands and convert them to urban so you can build, you know housing or whatever. So it doesn't really address, I think the issue of affordable housing and also just takes away a pretty important mechanism for protecting Native Hawaiian rights in the changes in land use for huge swaths of land so we recommend opposing this bill.

Then the next measure on page 6, item 31, is HB341. It limits when declaratory orders can be petitioned for, and so declaratory orders are one way that beneficiaries can get an agency to apply the law to protect their interests and their rights. What this bill would do is it'd say that if one agency issues a declaratory order on an issue or question which isn't well defined, then another agency can't rule on the issue of question. So for example, say you want to build a water bottling plant, and you know this one agency is really friendly to you, so you can go to them, petition them for a declaratory order about your water bottling plant being, you know, consistent with the public trust or something and get the order, and then that prevents anyone else from going to another agency that has more expertise in the public trust and petition for declaratory order from that agency. So that kind of would really cut off, what minimally, what could be an important mechanism for Native Hawaiian to protect and enforce their rights. Also, this bill would make declaratory orders unappealable, and what we see all the time is the state agencies will deny standing, for example, or they'll issue orders like for example, like you know, we've seen in earlier water cases where they're just totally not consistent with the law, very detrimental to Native Hawaiian interests and communities, and it's been the courts that have had to correct these agencies repeatedly, and so making declaratory orders unappealable would be, you know, remove that safeguard oversight that courts and other appellate values may have. So for those reasons, we recommend opposing this bill.

The next bill it's on page 7, item 36, HB375. It has a companion SB657. This bill exempts repetitive construction projects, which isn't clearly defined, of public school facilities by DOE, UH or by the school facilities agency. It will exempt those repetitive projects from permit requirements. It's not clear what repetitive means, but this you know, if you interpret it broadly it could be, who knows. So like essentially the permits when you exempt the permit like a county permit, then you also take out the trigger for historic preservation review, and so essentially what could potentially exempt whatever they consider as a repetitive project from, you know, the review consultation mitigation requirements of chapter 60 or historic preservation laws which could impact Hawaiian cultural sites, Iwi Kupuna, you know that kind of thing, so we're recommending opposing this bill.

Next bill page 8, item 41, HB409, we're recommending opposing as well. This bill actually just died this morning. So just as a heads up, this bill would give immunity to feral cat and mongoose caretakers. I don't know why they have mongoose in there, but if they are registered with a nonprofit to do trap neuter release. Cats are like terrible for our native species. You know they carry diseases that can kill, you know, the last remaining birds and monk seals. They predate birds. Also, the diseases they carry, especially and including toxoplasma gondii and toxoplasmosis can also have like some pretty bad impacts on people who are immunocompromised, like people who are pregnant, children, that kind of thing, so we recommend at which you know it could include practitioners together from the ocean area who eat food that's grown, you know, in areas where feral cats may be colonizing, so yeah, same as last year opposing and the bill died.

The next bill is page 10, item 54, that's HB496. It's got a companion SB690, which has a hearing right now, or maybe like an hour ago. This would require as a condition before any community based subsistence fishing area rules can be passed. It would require a referendum of every resident within 10 miles of the CBSFA, and basically at least half of those residents have to approve CBSFA before it can be established. If you look at what communities have gone through to try and establish these CBSFA's to protect their subsistence resources, it's just saturated with community outreach, stakeholder consultation, requirements about studies, scientific studies documentation, all that kind of things just adds another hurdle to what has been like a decades long process for some communities. The CBSFA statute was enacted in 1994, only one specific exists that's Haena. But even though there's all these hurdles like, there's still, you know, at least 20, maybe 30 communities that try to stand up these areas just because of how important their subsistence fisheries are. This would create an insurmountable hurdle to all of their efforts, and so we're recommending opposing this bill.

Next bill page 10, item 55, this is HB499. It has a companion SV657.

**Chair Akaka** recognizes Trustee Alapa.

**Trustee Alapa:** I'm sorry, I meant to interject right when you mentioned about the CBSFA. Just want to bring this to the Board's attention because I've been contacted by numerous beneficiaries about OHA's stance in opposition to this bill. And I said I would like to bring it to the attention of the board, and I know the intent of the bill is not to stop the work of the CBSFA, but require more input from the communities that are directly affected, especially in my area, my island, Mo'omomi. Residents want more say in, you know, how such designation will impact their access to one of the subsistence fisheries, especially for the people of Moloka'i. Also, if you wouldn't mind, I wanted to read the closing statement of our Island's House of Representative, Lynn DeCoite and her statement if I may do so.

The SB690 bill is helping to protect other island communities from the turmoil, the turmoil that the CBSFA process has done to Moloka'i. This process and the proposals have divided our community, our home, our island. It's not that many do not want to protect resources at Mo'omomi, they just don't agree with how it's being done and what is being proposed. Meanwhile, the supporters of the proposal with and within DLNR keep recruiting support from off island to try to balance out and and even try to drown out the voices of our island. The intent of the SB690 is to ensure community voices are heard and will hopefully lead to a more transparent process. So perhaps if anything, the Board reconsiders its position. I'm not sure if there is correct words, I'm new to this, monitor, support. I don't know what the appropriate word would to be for this, but if you would consider that, I would highly appreciate that, greatly appreciate that, thank you.

**Public Policy Manager Tanaka:** If I could just provide a little clarification. So CBSFA designation doesn't impact access, which I know is a pretty big issue that's being kind of, you know, boiling over. I think potentially conflated with the CBSFA itself. You can't exclude people from an area. It only says you know if you're gonna come fish in this particular area, that a subsistence community depends upon, to follow this particular code of conduct in terms of how to fish and how much you take and that kind of thing. There has been something of a conflict, even on island between I think, based on the access issue that has kind of spilled over into the CBSFA. Rep. DeCoite has been trying to address that issue. We have been reaching out to folks and talking to folks to kind of figure out what the rules itself is and if there's any substantive concerns for Mo'omomi. We haven't been able to identify anything other than the access problem like conflicts, and so we have been supporting the Mo'omomi CBSFA. This particular bill as written now, with the 10 mile referendum requirement, maybe it might work in like places like Hawaii Island where everything is spread out, but 10 miles is actually kind of a big area, right. So Moloka'i, your 10 miles from Maui. Maui is within 10 miles of Moloka'i. So you basically have to ask Maui people for permission to establish a CBSFA for a fishery that Moloka'i folks depend on, and similar issues for other islands too, and this bill would impact all islands and not just Moloka'i. Maybe there's a way to address the situation in Mo'omomi, but I think the unintended large impact this may have across the islands and all these communities are trying, you know, really hard and sincerely to get consensus to perpetuate the resources and their lifestyles for the future generation, future and present generations, because of those potential unintended consequences, I think we'd recommend opposing it, at least as written right now.

**Trustee Alapa:** My question would be then in reference to the 50%, where did they come up with that number in this bill that they need 50% of the input from the community? Because of what I have learned from the testimonies that were about 3-4 months ago during the election year, that residents were silenced. Those who were trying to give their testimony was not heard. They were very upset. It was almost like there was a coup, if you will. To silence those who were in opposition. I believe at the time when this CBSFA bill had come about and testifying so they didn't have any support, so this particular bill came about so that they could at least be heard from what they've been wanting for so long, and they haven't had that opportunity. So that's pretty much where the people and the beneficiaries have texted me and asked me to please reconsider to ask our board if they would least monitor this situation, I guess. And I'm not quite familiar with that particular position we should

have, but I understand about your opposition in that particular sense, but it's still not going to go over well with our residents who really, really want more of an inclusive say in this. Thank you.

**Public Policy Manager Tanaka:** OK, so I guess the next bill is page 12, item 65. This is HB546.

This is the bill that we talked about as one of our advocacy measures prior to session, actually last year. What it would do is it would elevate Aha Punana Leo's role on the Early Learning Board from being just a representative of early learning Hawaiian medium education to being an invited voting member just like Kamehameha Schools, just like the Hawaii Association of Independent Schools are in on the early learning board. Right now, Aha Punana Leo, you know, even though they're the only statewide representative of early learning Hawaiian education service providers, their seat is limited to two year terms. So basically, given the two term limit for boards and commissions, they can only be on the board for four years before they have to cycle out, and that really kind of undermines their ability to be an effective advocate for Hawaiian immersion early learning on the early learning board, which establishes policies and programs and recommendations for early learning and development, so prenatal to pre K basically. So we've been working with Aha Punana Leo. We have this vehicle introduced and endorsed by the House Native Hawaiian Caucus. The Association of Hawaiian Civic Clubs have also voted to support at the last convention and so we're recommending supporting it. There's another bill we'll bring next week. That's SB1384, but it's very similar. It just takes away the two term limit, as it would apply to Aha Punana Leo or their seat, so we're probably going to support that one. But we'll talk about it next week.

So next item, page 15, item 81, that's HB628. There's a companion SB899, and there's also a very similar bill, SB905, but these are all kind of like a reboot of our mental health bill from 2011. Basically, we know that Native Hawaiians suffer from a you know, very high levels, high rates of negative mental health associated risk factors and outcomes. Everything from recent child abuse, rates of suicidal ideation and suicide attempts among youth and adult. Self harm for Native Hawaiian girls. Native Hawaiian women have you know higher levels of negative self evaluations when it comes to their health. Kupuna have higher levels of depressive disorder. So you know there's a lot of, there's some big mental health issues in the community. We also know that when you have culture grounded, mental health methodologies or interventions that can be really helpful in terms of improving mental health outcomes in addressing some of the disparities we're seeing, and so we introduced the bill a couple years ago and which has been re introduced this session to have the State Council on Mental Health have at least three members have a background, a demonstrated knowledge or work experience in Native Hawaiian concepts of well being culturally grounded health, mental health methodologies or traditional healing or health practices, and so having those kinds of members on the State Council on Mental Health will help ensure that there's more consistent opportunities for Native Hawaiians and others to participate in culturally grounded mental health interventions and programs, and so we recommend supporting these measures. So SB905, which is a third one. It doesn't specify how many seats have to have this background, it just blanks it out. But SB628 and SB899 both specify three, and in either case, I think just to have that seat designated, it takes a step forward towards ensuring that we have these kinds of programs more consistently available across the state.

Okay, next bill is on page 24, item 104, this is SB4. This bill would prohibit the state or county from imposing inclusionary zoning requirements. When there is a housing project that's offered exclusively for sale in perpetuity to state residents who are owner occupants and do not own other real property. But there's no, there's no income qualification requirements for qualified buyers in this case. You know we've supported inclusionary zoning. We actually support inclusionary zoning requirements, we have in the past. These are basically requirements of policies that require that developers set aside a certain fraction of housing units to be sold at below market rates. So for example, the Hawaii Community Development Authority, I think the inclusionary zoning requirements is for 20% of the units be set aside and offered at below market rates. You know, we know that Native Hawaiian housing demand is for well below market rate. We also know that when you develop market rate housing, you create a demand for workforce or less than market rate housing and really this is one tool that counties can use to ensure that developers give back a certain amount to our housing stock to meet the needs of our residents, versus for example like folks from out of state that want to

speculate on real property in Hawaii, which ends up driving up housing costs. As we have testified on this same measure before, we will oppose this, as it may tie the hands of the counties from using what could be a very important tool for any development that fits within the definition in this bill.

So the next bill page 24, item 119, this is SB41. There's a similar bill SB743. So they both require permits to be issued within 60 days for SB41 and SB743 would be 65 days. SB41 that 60 day time limit would be for high density housing developments. For SB743, that would be for any state projects or state funded projects. Our opposition or problems with these kinds of time limits is that it sometimes, especially for the more complicated projects or projects in more sensitive areas, SHPD, the historic preservation review can take awhile. You know they're very limited in capacity and in some cases really complex projects and take up to six months. And really, when you have those kinds of complex projects that are in very sensitive areas, we don't want to shortchange a historic preservation review process. That's how we see irrevocable, potentially avoidable impacts to Native Hawaiian cultural sites, Iwi Kupuna, that kind of thing. So putting an arbitrary 60 day, 65 day turn around time period or else your permit is automatically approved is something that we have concerns about that we've opposed in the past, and we would recommend opposing now.

Next measure page 33. This is item 165, SB363. We're recommending oppose on this bill, one part of this bill which we're not in opposition to. We have no position on is it would require reimbursement to search and rescue operations. If you're, you know, in a closed area and you need rescue, we're not too concerned about with that. We are concerned was an expansion of the criminal trespass law to where if you're on a state trail, you could get fined. It creates a another criminal statute where you get fined and potentially arrested for being on a state trail that's closed. I think the concern as was our concern in the past when this statute was originally enacted was that it could have a substantial chilling effect on Native Hawaiian Cultural Practitioners, who often have to access through state land, use state trails to access resources that's necessary to perpetuate their Native Hawaiian traditional custom practices, and even though they may have the right to do so, if you don't have some kind of explicit exception in the statute, what happens is their still risking getting arrested, having to go to court, getting fines, if they can't prove their case, and it may choose instead because of all that hassle and risk to forgo their practices, and so we're recommending opposing. We acknowledge the need that sometimes there is a need to close trails for public safety and other purposes, but we'd like to see minimally an explicit exception that can give notice to practitioners as well as law enforcement and prosecutors and so forth that Native Hawaiians can continue to exercise their traditional custom practices without being liable under this bill.

Next bill is on page 36, item 179, SB527. This is a bill that we've supported in the past. We actually helped draft it I think. It's trying to help reduce the disproportional impact of the criminal justice system on Native Hawaiians. Native Hawaiians are particularly over represented in people charged with drug offenses, even though they don't, you know, when you do surveys and stuff, they don't do drugs more than other people, but they are the ones that get hit with the penalties and the criminal justice approach to dealing with drug problems, drug addiction, and so what it would do is it would reduce, create a lower level offense. So if you only have a little bit of drugs you don't get charged like a big felony. It's creates what they call possession of detrimental drug four, which would be, instead of felony, it would be a misdemeanor. We think it will help reduce the impact of the criminal justice system on Native Hawaiians, especially when it comes to our approach on drugs. Dealing with drug as a criminal issue versus a public health issue, which is probably a more effective way to deal with it.

Next is a DHHL bill. It's page 44, item 229, SB877. This is a bill to allow the Hawaiian Homes Commission to retain independent legal counsel, and we've supported this bill in the past. Basically, the concern is when the AG's are assigned to the Hawaiian Homes Commission, it's not clear if the representing the governor and the state versus the interests of the commission and of its beneficiaries. So this would at least provide an option to where they can. you know, if they don't feel like they're getting adequate representation, they can seek counsel from other you know outside of the AG's office. Right now, unless you have an exception, if you're a government agency in the executive branch, you have to use AG's, and there's some exceptions for some

commissions but not the Hawaiian Homes Commission, so we recommend supporting that bill as we had before.

The next measure page 45, item 230, SB878. This is part of the Hawaiian Homes Commission package or it was part of the Hawaiian Homes Commission package that went to the Governor but he didn't introduce as part of his package bills introduced anyways. Basically it would give the Hawaiian Homes Commission a seat on the County Boards of Water Supply. Even though they have property rights to water under the public trust, like under the State Water Code, counties are kind of treating as like the same as like any other private developer or you know and it really kind of jams up their attempts to try and build housing and sharing their wait list. So having a Hawaiian Homes Commission member on each County Board of Water Supply can help educate these county boards that yes, DHHL does have priority rights that should be recognized when they make decisions regarding water appropriation, allocation, that kind of thing, infrastructure.

Page 46, items 237 and 238. They're both very similar. SB909 which is item 237, would require the Department of Business, Economic Development and Tourism to develop a plan to ensure that communities have schools that receive Title One funding, can have high speed broadband internet access. SB914, similarly it would require broadband access in public housing. So you know, in our new strategic plan, one of our priorities is creating educational pathways for beneficiaries. We understand that education outcomes include like you know, well paying jobs, better health, that kind of thing, quality of life and so you know for 909 which talks about ensuring that places which schools have high broadband access that can help facilitate you know education opportunities, particularly rural areas where beneficiaries reside. So we would comment express appreciation. We're not supporting just commenting. We just express appreciation for the measure. Talk about importance of supporting access for rural communities to educational pathways and then offer to serve as a resource in the development of the plan. Similarly for HPHA , basically 4% of Native Hawaiian households are in public housing compared to about 2.7% of the non Hawaiian population. Our beneficiaries have higher rates of residing in public housing projects. So ensuring that they have digital access to broadband is going to help them improve their situation, especially in this modern tech era and that's it.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Mahalo, Wayne, the last two bills SB909 and 914, are these companions to the House bills that talk about internet access and broadband access?

**Public Policy Manager Tanaka:** You know there's a bunch and I have to. Yeah I can try and see right now. I mean I have to compare. Yeah, there's a HB615 for the House side.

**Trustee Lee:** Right, so the only reason why I ask is those House bills, the recommendation from administration is to monitor, while we're commenting on the Senate.

**Public Policy Manager Tanaka:** Yes, that's a good catch. Yeah, I would probably recommend a table change for that one and let me see if I can pull the companion for 914 if it's in there.

**Public Policy Manager Tanaka:** Okay, mahalo.

**Public Policy Manager Tanaka:** We can change 615, I'll send Brandon a note. I'll just bring 616 next week, or we can do it this week too as a comment. And if it comes up we can do administrative testimony or whichever folks prefer.

**Chair Akaka** recognizes Trustee Akina.

**Trustee Akina:** Thank you. Wayne, I'm going to go back to HB260 related to housing. That's the bill that dealt with reclassification of land. I'll keep this brief. When the time comes, I'm going to ask to bifurcate because I think there are compelling arguments on both sides of the issue here. One that wasn't mentioned is that it's often important to allow developers to sell properties to those with higher incomes up to 140% AMR in order for them to make the money necessary to build affordable housing. That's part of the way it works, so I'll just ask for it to be bifurcated because I'm not prepared to oppose the bill.

**Public Policy Manager Tanaka:** Yeah, I mean I think our main concern with that is the removal of the Land Use Commissions DBA process for up to 100 acres. When it's not clear that the lands commission is even, you know, if that process is even the thing that's holding up the development of housing, whether it's affordable or at 140 AMI. There's definitely models and theories about what's necessary to have projects penciled out.

**Trustee Akina:** Thank you

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Thank you, Madam Chair. Wayne, you answered most of the concerns that I have, but I have four more bills, two on the Senate side and two on the House side. I'd like you to address if you can.

**Public Policy Manager Tanaka:** Yes, absolutely.

**Trustee Lee:** The first is HB393, which is on page seven, about prohibiting the sale of new motor vehicles that are solely powered by fuel, by January 1st, 2030. By motor vehicle dealers and salespersons.

I am an EV owner, I own an EV vehicle. The problem I have with this is one, the state isn't keeping up with the law for EV charging stations demand now so there currently is not enough EV stations to satisfy the way the law is written now. They're also not enforcing the law for EV charging stations. Just as I said, they're charging stations, not parking stalls, and the states not enforcing that so people that have to charge can't charge because people are parking there, not charging there. This also takes away the free market, Native Hawaiians are very typically economically disparitied out of this, and if this measure were to pass, this is going to negatively impact Native Hawaiians. Because not only are EV vehicles typically more expensive, there are more affordable ones, but their registration is significantly higher than a regular vehicle, and I don't know the status of if the bill passed last year or not that was introduced. But the governor wants to impose an EV tax so that they can recoup the funds that they're not getting from the gas tax. So if the only vehicles they're going to allow to be sold are hybrids or EV vehicles, that's going to negatively impact Native Hawaiians. So is there a reason why we're only monitoring this and not either opposing it or at least commenting to point out how this will negatively impact Native Hawaiians statewide. I mean on Moloka'i there's only one charging station on the entire island, public charging stations and it's only for Teslas.

**Public Policy Manager Tanaka:** I imagine that this bill, just like a bill last year, which I'm pretty sure died. We probably get a lot of opposition based on those concerns, not only in terms of Native Hawaiians, but just you know, like it's a struggle to try and move us forward in this climate change era to address what we realize as something less impactful to the situation, but do it in a way that's also fair economically, that doesn't like you say, like disproportionate impact bills that don't have the means to keep up with the higher cost potentially of renewable energy like those types of things.

**Trustee Lee:** No, I mean there are other ways to do that which we won't get into here right. Like they took away all the tax incentives, they've taken away all the other incentives for electric vehicles other than the carpool lane. So there are other ways to do that. But to say that no one can buy a vehicle that is only a brand new vehicle that is only fossil fueled, that isn't either a hybrid or an electric vehicle. That will negatively impact Native Hawaiians.

**Public Policy Manager Tanaka:** Yeah, I think what the challenge is and we can bring this back too, but I want to be able to. I just don't have the information about predicted price trends, income trends. We would have to articulate something that's, you know, if there's some kind of economic forecast study or something that we can point to, to make it very clear, or just to base the position that this is definitely going to impact Native Hawaiians disproportionately.

**Trustee Lee:** Okay, that's fine Wayne. I don't want to belabor it because I'm sure other trustees have bills they want to talk about as well. The the last one for the house side is HB524 on page 11. So this one establishes the \$500 fine for feeding or attempting to feed feral chickens. But it also specifies, because I read the entire bill, even if it's on private property. I believe OHA should oppose this bill. It says that it has to be in captivity. Well, it doesn't define what captivity is. So are they saying I personally know lots of Native Hawaiians that have hens for laying eggs and they roam freely in the yard because that's how they eat. They don't feed those hens, they eat the insects and things that they find around their property. By this law that would now be illegal. So this takes away from lots of Native Hawaiians who do this, especially on the homestead. I mean, I don't think I know anybody in Anahola that doesn't have chickens.

**Trustee Ahuna:** Call it free range.

**Trustee Lee:** Well, this law Dan is going to say those free range. Or if you're feeding those free range they will fine you \$500.

**Public Policy Manager Tanaka:** I was actually looking at this because I was really interested in it. I was also worried that, you know, is there subsistence practices that may result in liability under this bill. I don't know how they are going to enforce it. There has to be two things, you have to prove beyond a reasonable doubt that the feral chicken that's alive is being fed, is not in captivity and not owned. So if someone just claims ownership of the hen, I don't know how they will be enforceable because you just say that's my chicken and then you own it, and then you're not satisfying the criminal elements, or the I guess the civil elements in this case.

**Trustee Lee:** So did I read that wrong, Wayne? Because I thought it said even if owned.

**Public Policy Manager Tanaka:** No, it says to be feral chicken, it has to be not in captivity and has to be not owned, so if its owned or if it's in captivity, then it's not a feral chicken and you can feed it.

**Trustee Brendon Lee:** Okay, the first Senate bill and I only have two Senate bills. The first Senate bill is SB179. Which I believe is on page 28. I wanted Trustee Ahuna to weigh in on this because right now we're just monitoring it, but this talks about the transfer of operational authority for the East Kaua'i Irrigation System, and I know that this has been a hot topic issue with the County Council. Trustee Ahuna can you weigh in on this, about us just monitoring this.

**Trustee Ahuna:** Yes, we had many beneficiaries come and actually spoke at our board meetings about the diversion and about what's been going on with the east irrigation, and a lot of them, you know, it's about the managing and the cultural practice of these areas. No access, they're doing whatever they want, diverting water. There's so many issues and what they're using the water for is, you know, for hydros and all that. There's been a lot of complaints regarding these issues and what is our stance on this?

**Trustee Lee:** Monitor.

**Public Policy Manager Tanaka:** I guess the East Kaua'i Water Users Co-op which had operational control over the East Kaua'i Irrigation System dissolved, and so this would transfer the operational authority to the Department of Agriculture. Which, depending on how. Which may or may not provides for some opportunities to intervene in cases of you know, operations being contrary to the state's obligations under the public trust and other things. But I'll have to look. If you have any insights as to community concerns or issues regarding

Department of Agriculture taking over the irrigation system, I'd be interested in that. Part of the reasoning we're monitoring is to kind of see what comes out in testimony to figure out like what the implications may be.

**Trustee Ahuna:** Okay and Wayne, I'm okay with that and then I'll get back with you with more beneficiary concerns. Thank you Trustee Lee.

**Trustee Lee:** That was it Wayne, thanks.

**Public Policy Manager Tanaka:** Okay, thank you. I'm happy to discuss any other bills that I might have skipped over or any other questions about any of the things I discussed. Anything else?

**Chair Akaka** recognizes Vice Chair Lindsey.

**Vice Chair Lindsey:** Thank you, Madam Chair. You know the presentation today started out with HB245 related to historic properties and in reading about the issue, I think admin's testimony is spot on, but you know, historic preservation is always an important issue for our beneficiaries, the protection of Iwi Kupuna, cultural sites. I just wanted to ask admin and I know shortly before the session started or maybe right after the new year, the Burial Council leadership were trying to express some of their concerns. I just wanted to ask admin in addition or other than that bill that we talked about in terms of the historic preservation landscape at the leg., are we seeing anything else? Are we anticipating anything else developing as the session moves along? Thank you.

**Chair Akaka** recognizes Chief Advocate Wong.

**Chief Advocate Wong:** Mahalo, Trustee Lindsay, great question. I think the legislation that the Burial Council leadership and some of our historic preservation partners have been discussing, I don't believe it's been submitted yet. I mean there's a different timeline for resolutions, so there's a little bit more of a runway. I think I have in my inbox, I just received today a draft that seems to be floating around. Our staff Compliance Enforcement Manager Kai Markel, has been working closely with this group and discussing sort of. Involved with the discussions and you know we met with Senator Shimabukuro I think last week and we had discussions about this as well, so I haven't had a chance to look at the reso. yet. But definitely the moment it gets introduced, we'll share it with the board. My understanding from what we've been hearing is it's a task force to sort of look into the issue which as you know, Vice Chair Lindsey, a longstanding issue with a lot of different sort of. Many issues within the issues, but we will definitely bring it to the board and discuss it.

**Trustee Lindsey:** Thank you, Madam Chair.

**Public Policy Manager Tanaka:** Yeah, there's definitely another vehicle. We're actually seeing a lot of our old package bill being reintroduced. So there's one bill to kind of look at the issue of after the fact enforcement. It kind of takes language from our historic preservation bill from last year. I don't think it made it into this matrix because again, this is only like half the bills you got. This matrix got printed before all the bills came out so it's probably gonna come up next week, so I'll be sure to highlight that one. Thank you.

**Chief Advocate Wong:** Madam Chair, I think that ends our presentation for this agenda item.

**Chair Akaka:** Mahalo Wayne, Mahalo Sterling. Alright then, may I please have a motion to add and change to the 2021 Legislative Positioning Matrix 2.

**Chair Akaka** recognizes Board Chair Hulu Lindsey

**Board Chair Hulu Lindsey:** Did we bifurcate any bills before I move with the motion? Or we didn't because we didn't make a motion on those bills, right? So before us is the request by administration to approve the

recommendations on new bills, items 1 to 271 along with the following revisions: House Bill 245, as comment, House Bill 705, as monitor, House Bill 974, as support, Senate Bill 725, as oppose, Senate Bill 749 as oppose, Senate Bill 977, as support, Senate Bill 1021, as support, Senate Bill 1128 as support, House Bill 616, as comment. Change items: House Bill 607, from comment to oppose, Senate Bill 1, from comment to oppose, House Bill 644 from comment to oppose, Senate Bill 196 from comment to oppose, House Bill 658 from comment to oppose, Senate Bill 195 from comment to oppose, Senate Bill 890 from monitor to comment, Senate Bill 238 from monitor to comment, on the OHA Legislative Positioning Matrix dated February 3, 2021 as amended.

**Trustee Waihe'e** seconds the motion.

**Chair Akaka** recognizes Trustee Akina.

**Trustee Akina:** Thank you very much. Is this an appropriate time to move forward the bifurcation of any bills?

**Trustee Lee:** Point of order, Madam Chair

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** The motion is not as amended, although we amended the matrix, there was no original motion to be amended. No, I understand Trustee Lindsay, you're just reading what was on the screen, but it's not as amended.

**Board Chair Hulu Lindsey:** You're right.

**Chair Akaka:** Just to clarify, all the bills are included for any additions or changes.

**Public Policy Manager Tanaka:** Madam Chair, I think we might need one more, HB615 which was a position change from monitor to comment.

**Chair Akaka:** Okay, if you could please add that in.

**Trustee Lee:** Are the makers of the motion rescinding their motions, or are we now going to amend the motion that has been seconded?

**Chair Akaka** recognizes Board Chair Hulu Lindsey

**Board Chair Hulu Lindsey:** I'm okay with rescinding and adding if Trustee Waihe'e who seconded me is in agreement with rescinding and adding.

**Trustee Waihe'e:** I will rescind my second.

**Board Chair Hulu Lindsey:** So Wayne, what did you want to add?

**Public Policy Manager Tanaka:** There was that HB615 which is a companion to the SB that Trustee Lee pointed out. We had it as comment on the Senate side and the House companion was as monitor. So we we talked about changing it to comment as well. HB615 which is item number 75, relating to internet access.

**Board Chair Hulu Lindsey:** Anything else? I think we should look at what Trustee Akina wants done please, before we make the motion.

**Trustee Akina:** Thank you, just a point of clarification Madam Chair, would this be the appropriate time to recommend the bifurcation of any bills, items.

**Chair Akaka:** Yes

**Trustee Akina:** Okay, I would like to bifurcate HB808 with companion bill SB1409. This is relating to training in Native Hawaiian rights, and in addition to that HB260 relating to housing.

**Chair Akaka:** Is there a second?

**Trustee Lee:** Madam Chair, he's asking to remove it. We don't have a main motion on the floor.

**Chair Akaka:** Mahalo, Trustee Lee

**Trustee Lee:** If he's currently asking for it right now then you're going to remove it and it won't be apart of the main motion. But we don't have a motion. Vice Chair Lindsey rescinded her motion, and we were waiting for the language from Wayne before she remade her motion.

**Trustee Akina:** Thank you, I'll wait Madam Chair.

**Trustee Ahu Isa:** I'll second

**Board Chair Hulu Lindsey:** So should I go through the whole motion again, all those bills, put up on our screen?

**Chair Akaka:** Wayne could you please share your screen. Adjustments made.

**Board Chair Hulu Lindsey:** So your addition Wayne is added to this, right?

**Public Policy Manager Tanaka:** Yes

**Board Chair Hulu Lindsey:** So all of you can see this screen. I move that we accept administrations recommendations on these bills, as is listed on this screen before you.

**Trustee Alapa:** Can I get a point of clarification please?

**Chair Akaka** recognizes Trustee Alapa.

**Trustee Alapa:** This is a point of clarification for SB690, I'd like to ask if we could change our position from oppose to monitor. Do we need a motion for that? Because if we're in opposition for SB690 and the companion House bill.

**Chair Akaka:** Trustee Alapa, what page are you referring to?

**Trustee Lee:** Point of order Madam Chair.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** We don't have anything in front of us. Vice Chair Lindsey just made a motion, but it hasn't been seconded so there is nothing in front of us to change. Unless Trustee Alapa is trying to put a stop to the motion and doesn't want the motion and just wants to keep talking about the matrix. She's free to do that.

**Trustee Alapa:** If it's possible to get clarification for the SB690 bill, changing our position, if that's possible.

**Board Chair Hulu Lindsey:** Trustee Alapa, did we discuss that House bill that you want?

**Trustee Alapa:** Yes, earlier.

**Board Chair Hulu Lindsey:** And what is our position, Wayne?

**Trustee Waihe'e:** Madam Chair, I thought Trustee Ahu Isa seconded it, but maybe she didn't, she was doing something else. I'll second the motion.

**Chair Akaka:** Motion has been seconded.

**Trustee Waihe'e:** Now if they want to change things we can amend it.

**Board Chair Hulu Lindsey:** Discussion, please show us the bill, I don't see it listed here. House bill 690 you said, right?

**Public Policy Manager Tanaka:** I think it's Senate bill 690 and it has a House companion HB496.

**Board Chair Hulu Lindsey:** The motion is to change it from oppose to what?

**Trustee Alapa:** Monitor

**Chair Akaka** recognizes Trustee Waihe'e.

**Trustee Waihe'e:** I'll second the amendment.

**Board Chair Hulu Lindsey:** Actually it's a motion.

**Trustee Waihe'e:** No, there's already a motion on the floor.

**Board Chair Hulu Lindsey:** I didn't finish the motion, nor did I get a second.

**Trustee Lee:** You did get a second, Trustee Waihe'e seconded you.

**Board Chair Hulu Lindsey:** No, he seconded Trustee Alapa.

**Trustee Lee:** He seconded you first.

**Board Chair Hulu Lindsey:** And then we rescinded.

**Trustee Lee:** Right, but when you made the motion Vice Chair Lindsey, to approve what's in front of us on the screen, Trustee Waihe'e seconded.

**Board Chair Hulu Lindsey:** Well I hadn't finished my motion.

**Chair Akaka:** Shall we make the motion on what is on our screen here?

**Trustee Waihe'e:** Just to make it clean I will rescind the second that I made the second time.

**Chair Akaka:** So noted, mahalo Trustee Waihe'e.

**Board Chair Hulu Lindsey:** So there's a motion on the floor from Trustee Alapa asking us to change the position of that bill and I think that Wayne said there was a House bill as well. Right, that's on the floor right now.

**Trustee Ahuna:** I have a question Madam Chair, on this one.

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** Where does this put us if we supported a CBSFA in Ha'ena?

**Board Chair Hulu Lindsey:** I was thinking about Ha'ena.

**Trustee Ahuna:** I mean we all supporting over there so it's important to us, so I just don't know how that works.

**Board Chair Hulu Lindsey:** So I think Trustee Alapa should tell us how she feels about, I think, Mo'omomi.

**Trustee Alapa:** Basically, it was my concerns for my constituents on Moloka'i, Mo'omomi area, and fisheries and so forth. When I was receiving a bunch of texts and messages from my constituents asking me to ask our Board if we could reconsider our opposition. For them to get a fair chance at expressing their views on this particular sensitive topic, and they haven't had that opportunity. This bill was their opportunity to do so. That's basically all I was asking, to allow them to continue with their being able to testify so that they can have their voices heard in this particular matter. There are many that were not given that opportunity and this is why this bill has, from what I understand, has come to the surface.

**Chair Akaka** recognizes Vice Chair Lindsey.

**Vice Chair Lindsey:** Thank you, Madam Chair. So in regards to Ha'ena, maybe admin can clarify, this wouldn't be retroactive, right, this is for any CBSFA moving forward? So Ha'ena would stay the way it is even if this bill were to pass.

**Public Policy Manager Tanaka:** Madam Chair, I can clarify. Yeah, so this bill would apply. Yeah, will be for the future designation of CBSFAs and rules implementing CBSFAs. It will require a 51% vote, so someone will have to pay for a election for everyone that lives within 10 miles of any proposed CBSFA anywhere. There's a lot of concern from communities, not necessarily maybe on Moloka'i or Mo'omomi about how this would impact their efforts which have been ongoing for a number of years, so Kipahulu, Miloli'i, Ho'okena. I mean across the across the islands are a number of rural communities that have been trying to go through the state's process to establish a CBSFA, and so this would require like an additional step which is essentially the election of everyone within 10 miles of there CBSFA to have a vote on whether there should be one or not. We do have a lot of concerns from other beneficiaries elsewhere that are worried that if this bill passes, would essentially make all of their efforts be dead in the water.

**Trustee Alapa:** Please monitor it, if possible.

**Chair Akaka:** Checking in, Wayne, are you making those adjustments?

**Public Policy Manager Tanaka:** I'm not actually writing the motion, but I can send Mark a note about. So we have a motion?

**Trustee Lee:** No, we do not.

**Public Policy Manager Tanaka:** So if we wanted to include it to Mark's list for the motion then the two bill numbers are SB690 and HB496 that's the bills that Trustee Alapa is asking for the position to be changed.

**BAE Staff Watanabe:** I'm going to share my screen and change it as needed.

**Trustee Lee:** Wayne what was it, SB what?

**Public Policy Manager Tanaka:** 690 and HB496

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** If we're going to do it this way, I think it would be wise to get consensus from the committee whether they agree with doing that before we change that, otherwise.

**Trustee Lee:** I concur Trustee Waihe'e.

**Chair Akaka:** Can I entertain a motion here then?

**Board Chair Hulu Lindsey:** I think we should bifurcate it.

**Trustee Waihe'e:** I agree, so what's the original motion? What was the motion that Hulu was making that she never got to finish?

**Board Chair Hulu Lindsey:** I was going to make a motion of all the bills that's on the screen right now.

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** Madam Chair, I move **To approve Administration's recommendations on: NEW BILLS (Items 1 – 271, excluding items 24, 54, 94, 204, 260), along with the following revisions:**

**ADD bills:**

- HB245, as COMMENT
- HB705, as MONITOR
- HB974, as SUPPORT
- SB725, as OPPOSE
- SB749, as OPPOSE
- SB977, as SUPPORT
- SB1021, as SUPPORT
- SB1128, as SUPPORT
- HB616, as COMMENT

**CHANGE items:**

- 74, HB607, from COMMENT to OPPOSE;
- 102, SB1, from COMMENT to OPPOSE;
- 85, HB644, from COMMENT to OPPOSE;
- 140, SB196, from COMMENT to OPPOSE;
- 87, HB658, from COMMENT to OPPOSE;
- 139, SB195, from COMMENT to OPPOSE;
- 231, SB890, from MONITOR to COMMENT;

- 150, SB238, from MONITOR to COMMENT;
- 75, HB615, from MONITOR to COMMENT

on the OHA Legislative Positioning Matrix dated February 3, 2021.

**Board Chair Hulu Lindsey:** I second.

**Chair Akaka:** Motion has been made by Trustee Waihe'e and seconded by Chair Hulu Lindsey, is there any discussion members?

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** I just wanted to make sure we didn't change anything because on Kaua'i, they have 18 years invested in this CBSFA. I cannot just go against all of that, it's really tough.

**Trustee Waihe'e:** It has not been added.

**Trustee Ahuna:** I'm okay with it.

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** So if you wanted to amend it, this would be the time to change the position if someone had the desire to do that.

**Trustee Akina:** Madam Chair, would now be the time to purpose bifurcations?

**Chair Akaka:** Yes

**Trustee Akina:** I would like for us to bifurcate HB800 and SB1409, along with HB260.

**Trustee Waihe'e:** I'll second it.

**Chair Akaka:** Is there any discussion members?

**Chair Akaka** recognizes Trustee Alapa.

**Trustee Alapa:** Yes Board, SB690 and HB496

**Trustee Lee:** Point of order Madam Chair.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** We cannot have a double bifurcation, there's a bifurcation with a motion and second to do so. No vote has yet been taken. Is Trustee Alapa asking to amend that bifurcation?

**Board Chair Hulu Lindsey:** No, she has another bifurcation.

**Chair Akaka:** Okay, shall we take a roll call vote on this then. Brandon could you please call the roll.

**Trustee Lee:** Madam Chair, I call for the question. Can the Board have the question called before we take a roll call vote please.

**Chair Akaka:** Yes, Mahalo, Trustee Lee.

**Chair Akaka:** We're going to take a brief recess, mahalo.

**Meeting Recessed at 4:31 p.m. and resumed at 4:54 p.m.**

**Chair Akaka:** We'll be calling the meeting back to order. Is there a motion to bifurcate?

**Trustee Akina:** Yes Madam Chair, I made the motion to bifurcate and I'll repeat it for clarification we have the correct number. **I move that we bifurcate HB800 and it's companion bill SB1409, and also HB260.** I had made that motion and I believe another member of our Board seconded it. I don't recall who that was.

**Trustee Waihe'e:** I second

**Chair Akaka:** It's been moved by Trustee Akina and seconded by Trustee Waihe'e. Is there any discussion on this?

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** First of all, HB800 and the rest of those companion bills, they bring up a lot of concern for me. I think the biggest concerns for me is you know OHA, we're the ones who is supporting organizations like Ka Huli Ao to put on these types of training courses, and to say that they don't need it, is not something that I can support. We all here voted to support this type of training and this type of training is very important to our beneficiaries. Our beneficiaries are being impacted by these type of votes, and I believe these type of votes should include some type of training. Without no training or no background, they shouldn't be on top of these boards, thank you.

**Chair Akaka:** Mahalo, Trustee Ahuna. Any other further discussion? Seeing none may I please have a **roll call vote.**

							4:57 p.m.
<b>TRUSTEE</b>		<b>1</b>	<b>2</b>	<b>'AE (YES)</b>	<b>A'OLE (NO)</b>	<b>KANALUA (ABSTAIN)</b>	<b>EXCUSED</b>
LEINA'ALA	<b>AHU ISA</b>			X			
DAN	<b>AHUNA</b>				X		
KELI'I	<b>AKINA</b>	1		X			
LUANA	<b>ALAPA</b>			X			
BRENDON KALEI'ĀINA	<b>LEE</b>				X		
CARMEN HULU	<b>LINDSEY</b>			X			
VICE CHAIR KEOLA	<b>LINDSEY</b>			X			
JOHN	<b>WAIHE`E</b>		2	X			
CHAIR KALEIHIKINA	<b>AKAKA</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>7</b>	<b>2</b>	<b>0</b>	<b>0</b>

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

**Chair Akaka** recognizes Trustee Alapa.

**Trustee Alapa:** I'd like to bifurcate for SB690, HB496, and I'd like to ask that administration reconsider their position and change it from opposing to monitor.

**Board Chair Hulu Lindsey:** I'll second that.

**Chair Akaka:** Is there any discussion members?

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** I'm confused, is there a motion that has been seconded to bifurcate or is there a motion to reconsider?

**Chair Akaka:** Trustee Alapa can you please state your motion.

**Trustee Alapa:** I wanted to clarify the position for our board to take. From opposition of these bills, SB690 and HB496. Instead of opposing, I'd like to know if we could move it to a monitor position.

**Trustee Lee:** So that's a motion to reconsider?

**Board Chair Hulu Lindsey:** Yes

**Trustee Lee:** Point of order, Madam Chair. The Board has agreed upon no position. We've taken no vote so there is nothing to reconsider.

**Chair Akaka:** Okay, mahalo

**Board Chair Hulu Lindsey:** So can she amend the motion that is sitting on the floor right now that was made by Trustee Waihe'e and seconded by me. By asking our reconsideration of those bills. You're muted Trustee Lee, I'm asking your opinion.

**Trustee Lee:** Trustee Lindsey there is nothing to reconsider, we haven't agreed upon anything. You keep saying can we ask to reconsider, we haven't agreed to anything. There's a motion to agree to something, but we have yet to agree to anything. I don't understand what we're going to reconsider.

**Board Chair Hulu Lindsey:** The motion that we are going to vote on if we don't reconsider includes the bills that she wants us to reconsider on.

**Trustee Lee:** So Trustee Lindsey, reconsider means changing our mind. We haven't agreed on anything yet, so there's nothing to reconsider. That's why Trustee Akina asked us to bifurcate out the bills that he wanted to bifurcate so we don't make any decision on those at this time. But you're asking us to reconsider something that we haven't done yet.

**Board Chair Hulu Lindsey:** Okay

**Public Policy Manager Tanaka:** Madam Chair, if it's alright I can make a suggestion about how to move forward. So we have a motion that passed to bifurcate out Trustee Akina's bills, and so if Trustee Alapa would like to bifurcate those out, then we can take the big vote, and assuming that passes, we'll take the big vote on

everything except for the bifurcated out measures and then we can have motions on the bifurcated out measures. One to deal with Trustee Akina’s bills and one motion to deal with Trustee Alapa’s bills.

**Chair Akaka:** Alright then, is there a motion to bifurcate?

**Trustee Alapa:** I’d like to make the motion to bifurcate.

**Chair Akaka:** Is there a second?

**Trustee Ahu Isa:** I’ll second

**Chair Akaka:** Is there any discussion members?

**Trustee Ahuna:** Kaua’i, we’re a CBSFA and just to add more layers on top of it is.

**Trustee Lee:** What are we bifurcating, Madam Chair? There was a motion to bifurcate and a second, but what are we bifurcating?

**Board Chair Hulu Lindsey:** Senate Bill 690 and Senate Bill 496

**Trustee Lee:** Is that correct because Trustee Lindsey wasn’t the maker of this motion, Trustee Alapa was, are those bills correct?

**Trustee Alapa:** Yes, **Senate 690 and HB496**

**Chair Akaka:** May I please have a **roll call vote**.

							5:03 p.m.
<b>TRUSTEE</b>		<b>1</b>	<b>2</b>	<b>‘AE (YES)</b>	<b>A’OLE (NO)</b>	<b>KANALUA (ABSTAIN)</b>	<b>EXCUSED</b>
LEINA’ALA	<b>AHU ISA</b>		<b>2</b>	<b>X</b>			
DAN	<b>AHUNA</b>				<b>X</b>		
KELI’I	<b>AKINA</b>			<b>X</b>			
LUANA	<b>ALAPA</b>	<b>1</b>		<b>X</b>			
BRENDON KALEI’ĀINA	<b>LEE</b>				<b>X</b>		
CARMEN HULU	<b>LINDSEY</b>			<b>X</b>			
<i>VICE CHAIR</i> KEOLA	<b>LINDSEY</b>			<b>X</b>			
JOHN	<b>WAIHE`E</b>			<b>X</b>			
<i>CHAIR KALEIHIKINA</i>	<b>AKAKA</b>			<b>X</b>			
<b>TOTAL VOTE COUNT</b>				<b>7</b>	<b>2</b>	<b>0</b>	<b>0</b>

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

**Chair Akaka:** Okay, now that the items are bifurcated, let’s go back to the main package and take the **vote**.

To approve Administration's recommendations on:  
NEW BILLS (Items 1 – 271, excluding items 24, 54, 94, 204, 260), along with the following revisions:

**ADD bills:**

- HB245, as COMMENT
- HB705, as MONITOR
- HB974, as SUPPORT
- SB725, as OPPOSE
- SB749, as OPPOSE
- SB977, as SUPPORT
- SB1021, as SUPPORT
- SB1128, as SUPPORT
- HB616, as COMMENT

**CHANGE items:**

- 74, HB607, from COMMENT to OPPOSE;
- 102, SB1, from COMMENT to OPPOSE;
- 85, HB644, from COMMENT to OPPOSE;
- 140, SB196, from COMMENT to OPPOSE;
- 87, HB658, from COMMENT to OPPOSE;
- 139, SB195, from COMMENT to OPPOSE;
- 231, SB890, from MONITOR to COMMENT;
- 150, SB238, from MONITOR to COMMENT;
- 75, HB615, from MONITOR to COMMENT

on the OHA Legislative Positioning Matrix dated February 3, 2021.

							5:06 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

**Chair Akaka:** Moving on to roman numeral number six on the agenda, members are there any announcements at this time.

**Public Policy Manager Tanaka:** Madam Chair, now that we bifurcated those bills, we probably want to take a roll call vote on those bifurcated bills, and I'm not sure if Trustee Alapa would want to make a motion to specifically change the recommendation on the bills she bifurcated.

**Chair Akaka:** Is there a motion?

**Trustee Lee:** I move that we approve Administration's recommendations on:

**NEW BILLS:**

- Item 24, HB260, as OPPOSE
- Item 94, HB800, as SUPPORT
- Item 260, SB1409, as SUPPORT

**Trustee Waihe'e:** Second

**Chair Akaka:** It has been moved by Trustee Lee and seconded by Trustee Waihe'e. Is there any discussion members?

**Trustee Ahuna:** Yes, can I get a point of clarification. So on item 24, HB260, is that correct we are opposed?

**Public Policy Manager Tanaka:** Madam Chair, Yes, HB260 would be the bill that makes it so the Land Use Commission only weighs in for district boundary amendments that are a 100 acres or more. So you remove Land Use Commission participation in the district boundary amendment process for district boundary changes from 25 acres to 100 acres.

**Chair Akaka:** Is there any further discussion on this? Brandon if we could please have a **roll call vote**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA				X		
DAN	AHUNA				X		
KELI'I	AKINA				X		
LUANA	ALAPA				X		
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E	2		X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				<b>5</b>	<b>4</b>	<b>0</b>	<b>0</b>

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

**Public Policy Manager Tanaka:** So did Trustee Alapa want to make a motion to change the position from our recommendations on those bills from oppose to monitor? If so, we can go with this motion, otherwise we can go with motion four which would be to confirm administration's recommendations.

**Chair Akaka:** Trustee Alapa could you please provide clarification.

**Trustee Alapa:** Yes, I wanted to consider our position from oppose to monitor for both HB496 and SB690.

**Public Policy Manager Tanaka:** Okay, so that would need a motion and a second and then you can take the roll call vote.

**Chair Akaka:** Is there a motion?

**Trustee Alapa:** Yes, motion to change.

**To CHANGE Administration's recommendations on NEW BILLS:**

**Item 54, HB496, from OPPOSE to MONITOR**

**Item 204, SB690, from OPPOSE to MONITOR**

**Chair Akaka:** Is there a second?

**Trustee Ahu Isa:** I'll second.

**Chair Akaka:** Is there any discussion members?

**Chair Akaka** recognizes Trustee Akina.

**Trustee Akina:** I have to confess that this is the first time that the matter has come to my attention. So I'm going to support the Moloka'i Trustee in terms of her beneficiaries, recognizing that we're not changing a position so much as giving ourselves time to consider this by monitoring it.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Thank you, Madam Chair, I rise to strongly speak against this motion at this time. While I appreciate Trustee Alapa's input from her constituents in relations to Mo'omomi, this has statewide impact. Every island, every beach, every water, every Native Hawaiian. So while I appreciate what Mo'omomi wishes to do, the fact that this impacts the entire state and decades of work of some of these communities such as Miloli'i, just as one. I strongly oppose this motion, thank you, Madam Chair.

**Chair Akaka** recognizes Vice Chair Lindsey.

**Vice Chair Lindsey:** Thank you, Madam Chair, I also rise to speak against this motion. I am in full support of communities having their voice heard during the CBSFA process. I just don't think the solution offered in these bills is the way to empower those voices. Like Trustee Lee said, while Moloka'i is certainly being affected by the CBSFA proposal in front of them, communities across the state, including communities on Hawai'i Island would be affected should this bill pass, thank you, Chair.

**Chair Akaka** recognizes Board Chair Hulu Lindsey

**Board Chair Hulu Lindsey:** Yes, I just want to testify that I participated in the Haena as well as the Mo'omomi communities in fighting really, really hard for their voices to be heard, as to how their ocean fronts were to be managed and I can really relate and as a result I cannot go against this. I oppose this bill because I know how hard the communities that I was apart of, really worked hard to get that kind of right to govern their area, so just my opinion.

**Chair Akaka** recognizes Trustee Ahuna.

**Trustee Ahuna:** I am also going to vote no on this matter, and the people of Kaua'i, you know, I think we have different issues and I can really relate to Trustee Alapa and the issues that they are having on Moloka'i. I just wanted to share a story. One time during our OHA issues, we had an issue about they wanted to do a two mile fishing zone around Ni'ihau, and it was really hard for me as the Kaua'i Trustee but the voices, there were a lot of voices against it and it was hard because the people that was for it was our people of Ni'ihau. But later I realized that the right choice is the collective and I truly have to say no to this because I have to support the people of Kaua'i and continue to support them, so thank you.

**Chair Akaka:** Mahalo, any further discussion? A'ole, seeing none, may I please have a **roll call vote**.

							5:19 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2		X		
DAN	AHUNA				X		
KELI'I	AKINA					X	
LUANA	ALAPA	1		X			
BRENDON KALEI'ĀINA	LEE				X		
CARMEN HULU	LINDSEY				X		
VICE CHAIR KEOLA	LINDSEY				X		
JOHN	WAIHE'E				X		
CHAIR KALEIHIKINA	AKAKA				X		
<b>TOTAL VOTE COUNT</b>				1	7	1	0

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

Chair Akaka recognizes Trustee Lee.

Trustee Lee: I move that we approve Administration's recommendations on:  
**Item 54, HB496, as OPPOSE**  
**Item 204, SB690, as OPPOSE**

Chair Akaka: Is there a second?

Trustee Waihe'e: Second

Chair Akaka: Okay, it's been move by Trustee Lee and Seconded by Trustee Waihe'e. Is there any discussion members? Alright, seeing none, may I please have a **roll call vote**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
KELI'I	AKINA					X	
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE'E		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				<b>8</b>	<b>0</b>	<b>1</b>	<b>0</b>

5:22 p.m.

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

VI. ANNOUNCEMENTS

None

**Chair Akaka:** Alright, mahalo everyone. Moving on to roman numeral number six on the agenda. Members are there any announcements at this time.

VII. ADJOURNMENT

**Chair Akaka** recognizes Board Chair Hulu Lindsey

**Board Chair Hulu Lindsey:** Madam Chair, I move that we adjourn.

**Chair Akaka:** Is there a second?

**Trustee Waihe'e:** Second

**Chair Akaka:** The motion has been made to adjourn by Trustee Hulu Lindsey and seconded by Trustee Waihe'e. Is there any discussion? Seeing none, may I please have a **roll call vote to adjourn**.

							5:23 p.m.
<b>TRUSTEE</b>		<b>1</b>	<b>2</b>	<b>'AE (YES)</b>	<b>A'OLE (NO)</b>	<b>KANALUA (ABSTAIN)</b>	<b>EXCUSED</b>
LEINA'ALA	<b>AHU ISA</b>			X			
DAN	<b>AHUNA</b>			X			
KELI'I	<b>AKINA</b>			X			
LUANA	<b>ALAPA</b>			X			
BRENDON KALEI'ĀINA	<b>LEE</b>			X			
CARMEN HULU	<b>LINDSEY</b>	1		X			
<i>VICE CHAIR</i> KEOLA	<b>LINDSEY</b>			X			
JOHN	<b>WAIHE`E</b>		2	X			
<i>CHAIR KALEIHIKINA</i>	<b>AKAKA</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

**Chair Akaka:** The motion has passed for us to adjourn. The meeting is now adjourned, mahalo members for sticking through this and to all of our staff on and to our Ka Pouhana and to all that are tuning in to live-stream through our nice and long meeting today. So please everyone take care, a hui hou kākou, mālama pono, aloha.

**Chair Akaka** adjourns the BAE meeting at **5:24 p.m.**

Respectfully submitted,

A handwritten signature in black ink that reads "Brandon R. Mitsuda". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Brandon Mitsuda Trustee Aide  
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on March 10, 2021

A handwritten signature in blue ink that reads "Kaleihikina Akaka". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Trustee Kaleihikina Akaka  
Chair  
Committee on Beneficiary Advocacy and Empowerment