MEETING OF THE COMMITTEE ON
BENEFICIARY ADVOCACY AND EMPOWERMENT

DATE: Wednesday, October 24, 2018
TIME: 10:30 a.m.
PLACE: OHA Boardroom
          Nā Lama Kukui
          560 N. Nimitz Highway
          Honolulu, Hawai‘i 96817

AGENDA

I. Call to Order
II. Approval of Minutes
       A. September 26, 2018
III. Public Testimony
IV. New Business
       A. Action Item BAE 18-03: 2019 OHA Legislative Package
***
V. Community Concerns
VI. Announcements
VII. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Albert Tiberi at telephone number: 594-1754 or by email at: albert@oha.org no later than three (3) business days prior to the date of the meeting.

*Notice: Persons wishing to provide written testimony are requested to submit thirteen (13) copies of their testimony to the OHA Pouhana / CEO at 560 N. Nimitz Highway, Suite 200, Honolulu, HI 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally at the meeting may do so within a five (5) minute limit.

**Notice: Trustees may establish or revise an OHA position on ANY proposed bill / resolution / executive message currently moving through the state legislature or other relative elected body. The Matrices, which are available for public review in the meeting room at this stated meeting, provide a brief description of each bill, the bill’s number, the bill’s title, the bill’s intent, and the proposed and specific OHA position on each measure, current through 10/23/18. However, the Trustees both in committee and as the Board of Trustees (BOT) reserve the right to discuss any and all bills on the Matrix, as well as those that time does not permit to be placed on the Matrix, in order to discharge their fiduciary obligations as Trustees of the Office of Hawaiian Affairs.

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

[Signature]
Trustee Robert K. Lindsey, Jr.
Chair, Beneficiary Advocacy & Empowerment

10/17/18
Date
KA HÅLÅWAI O
KE KÔMIKE BENEFICIARY ADVOCACY AND EMPOWERMENT

LÅ: P8'akolu, 24 'Okakopa 2018
HOLA: 10:30 a.m.
KAHI: Ka Lumi Hålåwai Nui 'O Mauli Ola
Nå Lama Kukui
560 N. Nimitz Highway
Honolulu, Hawai‘i 96817

Papa Hana

I. Ke Kåheoa no ka Ho’omalu
II. Ka ‘Apono ‘ana mai o ka Mo’olelo
  A. 26 Kepakemapa 2018
III. Ka ‘Olelo Hō‘ike a ka Lehulehu
IV. Ka Hana Hou
V. Ka Mea Ho’apono BAE 18-03: Nå Pila no OHA ma ke Kau ‘Aha ‘Olelo -2019†
VI. Nå Mana‘o Laula‘o o ka Lehulehu
VII. Ka Ho’oku’u ‘Ana

Ina ua koi ke kākau ma moli o kekahi ‘ano kāna, e ho‘onaopopo aku ia Albert Tiberi i ke kāheoa ‘ana ia ia ma ke kiaʻi helu kelepona: (808) 594-1754 a e lekaullia paha ia ia ma albert@oha.org ma mua o 3 mau lā hana ma mua o ka lā o ka hālåwai.

* He ‘Olelo Ho‘ola‘aha: Ua noi ia nā mea e ‘i‘ini nei e hā‘awi i ka ‘Olelo Hō‘ike i kākau ‘ia iholo e hā‘awi e ho‘ona paha mai i nā kope he ‘umikāmākolu (13) o ka ‘Olelo Hō‘ike i kākau ‘ia iholo i ka Pasha o OHA ma 560 N. Nimitz Hwy., Suite 200 Honolulu, Hawai‘i 96817, e kelepona paha ia BOTmeetings@oha.org he 48 mau hola ma mua o ka hālåwai. O nā mea e ‘i‘ini nei e ho‘i mana‘o ma ka hālåwai, hiki ke hana ma ‘ohana o ‘elima (5) minutes.


† He ‘Olelo Ho‘ola‘aha: No ka ho‘omalele ‘ana o nā mea hou a ke kōmike, e kāpa‘ia ‘ia ka lulu 72-hola e like me ka mea i pa‘i ‘ia iholo i loko o kā OHA BOT Operations Manual, Paukū 49.

10/17/18
Lā

Kahu Waiwai Robert K. Lindsey, Jr., Luna Ho‘omalu
Ke Kōmike Beneficiary Advocacy and Empowerment
STATE OF HAWAI‘I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES
October 24, 2018 10:30 a.m.

ATTENDANCE:
Chairperson Robert K. Lindsey, Jr.
Vice-Chairperson Dan Ahuna
Trustee Keli‘i Akina
Trustee Peter Apo
Trustee Carmen Huiu Lindsey
Trustee Colette Machado
Trustee John Waihe‘e, IV

ADMINISTRATION STAFF:
Anuhea Patoc, PP
Jim McMahon, ADV
Jocelyn Doane, PUBL
Miles Nishijima, LPD
Kamaile Maldonado, PUBL
Wayne Tanaka, PUBL

EXCUSED:
Trustee Leina‘ala Ahu Isa
Trustee Rowena Akana

GUESTS:

BOT STAFF:
Kama Hopkins
Kauikeaoalani Wailehua
Lopaka Baptiste
Davia Price
Claudine Calpito
Lady Elizabeth Garrett
Alvin Akee
Maria Calderon
Paul Harleman
Liana Pang
I. CALL TO ORDER

Chair Lindsey (CL) calls the Committee on Beneficiary Advocacy and Empowerment meeting to order on Wednesday, October 24, 2018 to order at 10:33 a.m.

CL calls for a Roll Call. Below is the record of members PRESENT:

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<th>MEMBERS</th>
<th>AT CALL TO ORDER (10:33 am)</th>
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At the Call to Order, SIX (6) Trustees are PRESENT, thereby constituting a quorum.

CL requests a motion:

To waive the OHA Board of Trustees Operations Manual practice at which materials will be distributed at least 72-hours prior to the meeting where said materials will be reviewed, discussed, or acted upon regarding items:

IV. New Business
A. Action Item BAE 18-03: 2019 OHA Legislative Package

Trustee Ahuna (T. Ahuna) – moved
Trustee Machado (T. Machado) – second

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II. APPROVAL OF MINUTES

II. Approval of Minutes
A. September 26, 2018

CL calls for a motion to approve the minutes of:

September 26, 2018

T. Ahuna – moved
T. Machado – second

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

72-Hour waiver passed at 10:35 am.

MEMBERS

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Item II. A. passed at 10:35 am.

III. PUBLIC TESTIMONY
No public testimony.

CL calls on OHA Administration to present items IV. A.

IV. NEW BUSINESS

A. Action Item BAE 18-03: 2019 OHA Legislative Package

CL calls on Miles Nishijima (MN) to present item IV. A.

MN calls Jocelyn Doane (JD) and Wayne Tanaka (WT) to the table to present item IV. A. Action Item 18-03: 2019 OHA Legislative Package. *(Please see attached – Action Item BAE 18-03: 2019 OHA Legislative Package.)*

Trustees asked clarification questions regarding the package and discussed some of those clarifications. Trustees thanked JD and WT for the presentation.

Trustee Akina (T. Akina) asked if it would be beneficial for OHA to hire a lobbyist. Discussion followed amongst Trustees and staff regarding this question. T. Akina asked if this could be an item that could be further discussed in the new year. CL agreed to put the item on the agenda.

T. Akina notes that this does not have an effect on his potential vote on the Action Item, BAE 18-03. He looks forward to the discussion in a subsequent BAE Committee meeting.

CL calls for a motion to approve Action Item BAE 18-03: 2019 OHA Legislative Package:

T. Ahuna – moved
Trustee Waihe’e (T. Waihe’e) – second

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BAE COMMITTEE MEETING Page 4 of 6 Minutes for 10/24/18
Item IV. A. passed at 10:51 am.

CL thanks JD and WT again for the presentation and moves on to item V.

V. COMMUNITY CONCERNS

None

VI. ANNOUNCEMENTS

BOT Meeting tomorrow.

VI. ADJOURNMENT

CL asks for a motion to adjourn.

Trustee H. Lindsey – moved
T. Machado – second

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BAE Committee meeting adjourns at 10:53 am.
Respectfully submitted,

Jeremy K. Hopkins
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on 1/30/19.

Trustee Robert K. Lindsey, Jr.
Chair
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):
- Excused Absence Memo – Trustee Leina’ala Ahu Isa
- Excused Absence Memo – Trustee Rowena Akana
- Action Item BAE 18-03: 2019 OHA Legislative Package
DATE: October 24, 2018

TO: Trustee Robert Lindsey
Committee on Beneficiary, Advocacy and Empowerment, Chairperson

Trusted Dan Ahuna
Committee on Beneficiary, Advocacy and Empowerment, Vice Chairperson

FROM: Trustee Leina'ala Ahu-Ika

RE: BAE Meeting – October 24, 2018

Aloha,

Please excuse my absence for the upcoming BAE meeting scheduled for Wednesday, October 24, 2018. Should you have any questions or concerns please feel free to contact my office staff.

Mahalo.
To: Trustee Robert K. Lindsey, Jr., Chair
   Committee on Beneficiary Advocacy and Empowerment
From: Trustee Rowena Akana
Date: October 23, 2018
Re: Excused Absence

Please be advised that I am unable to attend the BAE committee meeting on Wednesday, October 24, 2018 at 10:30 A.M.

Mahalo!
OHA
Action Item
Committee on Beneficiary Advocacy and Empowerment
October 17, 2018

BAE #18-03

Action Item Issue: To support the inclusion of new legislative proposals in the 2019 OHA Legislative Package

Prepared by:
Jocelyn M. Doane
Pou Kākoʻo Kulekele Aupuni, Public Policy Manager

Reviewed by:
John James McMahon
Ka Pōhaku Kihi Paia Kū, Counsel for Policy and Compliance Services

Reviewed by:
Kawika Riley
Ka Poukihi Kū, Chief Advocate

Reviewed by:
Kamanaʻopono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

Reviewed by:
Trustee Robert Lindsey
Luna Hoʻomalú o ke Kōmike BAE
Chairperson, Committee on Beneficiary Advocacy and Empowerment
I. **Action**

To support the following new legislative proposals and approve their inclusion in the 2019 OHA Legislative Package (See referenced attachments for text of the proposals):

**OHA-1 OHA Biennium Budget Bill Fiscal Year 2019-20/2020-21**: OHA’s budget bill requests $3,980,579 in state general fund appropriations each fiscal year to support OHA’s budget plans for the upcoming biennium. This request is $942,700 more per fiscal year compared to what OHA received in the previous fiscal biennium, and includes $562,130 more for personnel. While still maintaining the three historical provisos (social services, legal services, and education improvement), OHA-1 also requests $500,000 in general funds for housing improvement programs. This bill proposes matching OHA trust fund resources with the requested state general funds. By passing this measure, the state would reaffirm its commitment to address the needs of Native Hawaiians by supporting programs and operations that will directly benefit OHA’s beneficiaries. (Attachment A)

**OHA-2 Criteria and Prioritization of Facilities Funding for Public Charter Schools Resolution**: Addressing public charter schools’ facilities needs has been a critical and longstanding issue for the charter school community and its supporters. Currently, start-up charter schools must pay for their substantial facilities lease and rental costs, and conversion schools may have to pay for substantial maintenance, repair and facilities costs, using their already-stretched per-pupil operational funds. These costs are not borne by schools under the Hawai‘i Department of Education. Despite strong support and demonstrated need, efforts to seek appropriations for charter schools’ facilities costs have not been successful. In recognition of the need to provide facilities funding for charter schools, an existing statute already contemplates legislative appropriations and bond authorizations to cover charter school facilities costs, tasks the State Public Charter School Commission with the development of criteria for the distribution of appropriated facilities funding, and further establishes and tasks the Facilities Funding Working Group to advise on the prioritization of funding distribution, pursuant to such criteria. This concurrent resolution highlights the charter school facilities funding statute, and urges the State Public Charter School Commission to prepare a report to the 2020 State Legislature on its criteria for facilities funding distribution, as well as the prioritization of funding as advised by the Facilities Funding Working Group. This resolution would also urge the Commission, with input from the Working Group, to provide to the legislature proposed recommendations and legislation, including recommendations relating to funding expenditures for lease and rental payments. (Attachment B)

**OHA-3 Annual PLT Accounting**: Act 178 (Session Laws 2006) requires the state, through the Department of Land and Natural Resources (“DLNR”), to provide an annual accounting of the total revenues generated from the use of Public Land Trust lands. The annual reporting must include the amount of revenues transferred to OHA and the amount retained by the state. However, reporting and transferring has been inconsistent, and no one in the state is actively verifying the accuracy of individual agencies’ reporting and transferring of revenues to OHA. This measure would codify Act 178’s reporting requirements, with supplementary provisions to 1) explicitly reaffirm that all state Public Land Trust revenues must be accounted for and reported on, regardless if such revenues
are subject to OHA’s pro rata share; 2) explicitly reaffirm that UH is also subject to Act 178’s reporting requirements; and 3) require the DLNR to identify and provide a rationale why for any instance where 20% of the revenues received from Public Land Trust lands are not transferred to OHA. (Attachment C)

OHA-4 Membership on Hawai‘i State Mental Health Council: This measure would require three of the 21 members of the Hawai‘i State Mental Health Council (“Council”) to have demonstrated knowledge or work experience involving Native Hawaiian concepts of well-being, culturally-grounded mental health methodologies, or traditional healing or health practices. Data shows that the Native Hawaiian community may suffer from significant mental health-associated challenges, with Native Hawaiians demonstrating high rates of childhood abuse, suicidal ideation and suicide attempts by both adults and keiki, feelings of hopelessness, self-harm, postpartum depression, kūpuna depressive disorders, and negative self-health assessments by wāhine. Unfortunately, many Native Hawaiians facing mental health challenges may find that culturally-grounded mental health programs or treatment opportunities are not consistently available, despite the recognized potential of such mental health approaches to significantly improve their mental and emotional well-being. As an advisory body to the Department of Health on the state’s mental health policies and infrastructure, the Council has the potential to promote the development and implementation of culturally-grounded mental health policies and programs that can systemically address the mental health-associated challenges of the Native Hawaiian communities as well as the broader public. Accordingly, requiring three members of the Council to possess expertise or experience in Native Hawaiian cultural concepts, mental health methodologies, or traditional healing or health practices may help to significantly improve the mental health status of the Native Hawaiian and broader communities. (Attachment D)

OHA-5 Unsecured Bail Short Form Bill: In 2018, all of Hawai‘i’s jails were overcrowded and operating over capacity from at least 27%, and in more cases 50-85%; Native Hawaiians disproportionately bear the burden of Hawai‘i’s jail overcrowding issues. Many of those awaiting trial are in jail simply because they are too poor to afford bail, even when they pose little to no potential flight risk, and pose no threat to individuals or the community. Such individuals may lose their jobs, homes, and even custody of their children, due solely to their inability to post cash bail. This measure would seek to provide relief to Hawai‘i’s jail overcrowding issues while mitigating the unnecessary harms that cash bail may inflict on indigent individuals awaiting trial. OHA-5 is still being refined in close consultation with legal experts and others, and preliminary Board approval of this “short form” bill is being requested to move forward with these efforts; the measure will be brought back for Board review and approval once final language has been prepared. (Attachment E)

II. Issue

Should the OHA Board of Trustees support the new legislative proposals and approve their inclusion in the 2019 OHA Legislative Package?

III. Discussion


From July through September 2018, OHA Public Policy staff collected more than 70 legislative proposals from staff, key stakeholders, experts, and community leaders. These proposals were vetted, filtered, and developed into the legislative proposals offered in this Action Item for inclusion in the 2019 OHA Legislative Package.

**Editing note:**
With this Action Item, we also ask the Board of Trustees to authorize staff (1) to make, as appropriate, technical, non-substantive changes for style, clarity, consistency, and accuracy to all of the legislative proposals in the 2019 OHA Legislative Package and (2) to add or amend preamble language in the measures for framing and editorial purposes.

IV. **Recommended Action**

To support the new legislative proposals and include those new proposals in the 2019 OHA Legislative Package.

V. **Alternative Actions**

A. To support only selected new legislative proposals and include only those selected new legislative proposals in the 2019 OHA Legislative Package.

B. To not approve any of the new legislative proposals and not include any of the new legislative proposals in the 2019 OHA Legislative Package.

VI. **Funding**

No funding is required.

VII. **Timeframe**

Immediate action is recommended.

VIII. **Attachments**

A. OHA-1 (Attachment A)
B. OHA-2 (Attachment B)
C. OHA-3 (Attachment C)
D. OHA-4 (Attachment D)
E. OHA-5 (Attachment E)
A BILL FOR AN ACT

RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.

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

PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the Office of Hawaiian Affairs Appropriations Act of 2019.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

"Means of financing" or "MOF" means the source from which funds are appropriated or authorized to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

A general funds
T trust funds

"Position ceiling" means the maximum number of permanent and temporary full-time equivalent positions authorized for a particular program during a specified period or periods, as denoted by an asterisk (*) for permanent full-time equivalent positions and a pound (#) sign for temporary full-time equivalent positions.
"Program ID" means the unique identifier for the specific program and consists of the abbreviation for the Office of Hawaiian Affairs (OHA) followed by the organization number for the program.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized from the means of financing specified to the Office of Hawaiian Affairs for the fiscal biennium beginning July 1, 2019, and ending June 30, 2021. The total general expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the numbers indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.
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PART III. PROGRAM PROVISIONS

SECTION 4. Provided that the general fund appropriations in part II of this Act shall be expended by the Office of Hawaiian Affairs.

SECTION 5. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $415,000 in general funds and $415,000 in trust funds for fiscal year 2019-2020 and the same sums for fiscal year 2020-2021 shall be expended to provide for social services, including referral services and case management, to at-risk Office of Hawaiian Affairs beneficiaries to immediately address unexpected crises; provided further that program activities shall be designed with an overall objective to provide financial assistance to improve stability during emergency situations; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $615,000 in general funds and $615,000 in trust funds for fiscal year 2019-2020 and the same sums for fiscal year 2020-2021 shall be expended to
provide for educational improvement programs for Native Hawaiian students; provided further that program activities shall be designed to help Native Hawaiian students succeed academically; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any expenditures for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $524,400 in general funds and $524,400 in trust funds for fiscal year 2019-2020 and the same sums for fiscal year 2020-2021 shall be expended to provide for legal services and legal representation to Office of Hawaiian Affairs beneficiaries for:

(1) The assertion and defense of quiet title actions;

(2) Assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water;

(3) Land title assistance, including review of title and genealogy;

(4) Preservation of traditional and customary practices;

(5) Protection of culturally significant places; and

(6) Preservation of Native Hawaiian land trust entitlements;
provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be made in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 8. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of $500,000 in general funds and $500,000 in trust funds for fiscal year 2019-2020 and the sum of $500,000 in general funds and $500,000 in trust funds for fiscal year 2020-2021 shall provide for housing improvement programs to assist Native Hawaiians, including those that are homeless, at-risk of homelessness, in transitional housing, in unstable or unaffordable rentals, and/or in pursuit of homeownership to increase their capacity to attain housing stability. Programs shall be designed with an overall objective to address barriers that hinder Native Hawaiians from obtaining stable housing; provided that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

PART IV. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE
SECTION 9. Provided that whenever necessary, the board of trustees of the Office of Hawaiian Affairs or the board's designee may transfer sufficient funds and positions between programs for operating purposes; provided further that these transfers shall be consistent with legislative intent; and provided further that the Office of Hawaiian Affairs shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the regular session of 2020 and 2021.

SECTION 10. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, the legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 11. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the Office of Hawaiian Affairs is authorized to
correct these errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 12. This Act shall take effect on July 1, 2019.
WHEREAS, there are thirty-seven public charter schools in Hawai'i serving nearly twelve thousand students statewide; and

WHEREAS, these public charter schools are a part of the state public education system under the authority of the Public Charter School Commission and the Board of Education; and

WHEREAS, public charter schools provide unique and valuable educational opportunities by exploring, developing, and implementing innovative education strategies, such as the integration of Hawaiian language, values, and history into culturally enriched curricula; and

WHEREAS, public charter schools such as Ke Kula 'O Nāwahilokalani 'ōpū'u Iki Lab Public Charter School have earned international recognition for their incorporation of indigenous language and values into high-quality academic programs, and have ranked among the top-performing public schools in student American College Testing scores, graduation rates, and rates of college matriculation; and

WHEREAS, the role of public charter schools as "innovation labs" for public education informs their potential to improve education standards in schools throughout Hawai'i's public education system; and

WHEREAS, there are two types of public charter schools in Hawai'i: start-up charter schools that must procure their own operating facilities, and conversion charter schools that were
converted from traditional Department of Education schools with
pre-existing facilities; and

WHEREAS, according to the Public Charter School
Commission’s past testimonies to the Legislature, lease or
rental payments constitute a substantial portion of the
facilities expenses incurred by public start-up charter schools,
who collectively spent over $5.3 million on rent or lease
payments for school facilities in school year 2015-2016; in
2016-2017, both public start-up and conversion charter schools
spent an approximate total of $10.4 million on rent and lease
payments, repair and maintenance, and utilities payments; and

WHEREAS, while section 302D-28, Hawai‘i Revised Statutes,
mandates that non-facility general fund per-pupil funding amount
for public charter school students be equivalent to the non-
facility general fund per-pupil base funding amount provided for
traditional Department of Education schools, there is no
provision to ensure equitable state funding for public charter
schools’ unique facilities expenses; and

WHEREAS, public charter schools, and start-up public
charter schools in particular, have accordingly had to use a
significant amount of their already stretched per-pupil
operational funds to pay for their facilities expenses; and

WHEREAS, the lack of consistent state funding for public
charter schools’ facilities expenses may significantly limit
their capacity to develop and provide innovative curricula for
their students, as well as serve as “innovation labs” for
traditional Department of Education schools; and

WHEREAS, section 302D-29.5, Hawai‘i Revised Statutes,
requires the Legislature to consider making an appropriation and
bond authorization to the Public Charter School Commission for
the design, planning, construction, repair, and maintenance of
public charter school improvements; expand or improve
instructional space; provide for food services; and provide
restroom facilities; and

WHEREAS, despite the plain language of section 302D-29.5,
which contemplates appropriations for the costs of instructional
space, restroom facilities, and other improvements necessary or
incidental to a public charter school's educational mission,
questions have been raised regarding whether the scope of section 302D-29.5 includes appropriations for lease or rental payments; and

WHEREAS, section 302D-29.5 tasks the Public Charter School Commission to develop criteria to determine the distribution of any funds appropriated for public charter school facilities expenses, to include distribution based on the need and performance of the charter schools, overall benefit to the surrounding community, amount of risk and availability of recourse to the State, and whether a particular charter school received facilities funding through other state funding, including grants-in-aid or a separate appropriation; and

WHEREAS, section 302D-29.5 further establishes a Charter School Facilities Funding Working Group within the Department of Education, to act in an advisory capacity to prioritize the allocation of general fund appropriations and bond proceeds for public charter schools to expend based on the criteria established by the Public Charter School Commission; and

BE IT RESOLVED by the [originating chamber] of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019, the [non-originating chamber] concurring, that the Public Charter School Commission is requested to report on the criteria developed by the Commission, and prioritization advised by the Charter School Facilities Funding Working Group, for charter school facilities funding pursuant to section 302D-29.5, Hawai'i Revised Statutes; and

BE IT FURTHER RESOLVED that the Public Charter School Commission, with input from the Charter School Facilities Funding Working Group, provide any proposed legislation and recommendations, including any recommendations related to funding expenditures for lease and rental payments under section 302D-29.5, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson and Executive Director of the Public Charter School Commission, the Board of Education, the Director of Budget and Finance, the Comptroller, the Superintendent of Education, and the
Chairperson of the Board of Trustees of the Office of Hawaiian Affairs.

OFFERED BY: ____________________________

By Request
A BILL FOR AN ACT

RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

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

SECTION 1. The legislature finds that in 1978, the state constitution was amended to include article XII, sections 4, 5, and 6, which established the Office of Hawaiian Affairs and its board of trustees.

Sections 4, 5, and 6 of article XII of the state constitution provide:

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which
shall be held in trust for native Hawaiians and
Hawaiians. There shall be a board of trustees for the
Office of Hawaiian Affairs elected by qualified voters
... as provided by law. ... There shall be not
less than nine members of the board of trustees;
provided that each of the following Islands have one
representative: Oahu, Kauai, Maui, Molokai and
Hawaii. The board shall elect a chairperson from its
members.

Section 6. The board of trustees of the Office of
Hawaiian Affairs shall exercise power as provided by
law: to manage and administer the proceeds from the sale
or other disposition of the lands, natural resources,
minerals and income derived from whatever sources for
native Hawaiians and Hawaiians, including all income and
proceeds from that pro rata portion of the trust referred
to in section 4 of this article for native Hawaiians; to
formulate policy relating to affairs of native Hawaiians
and Hawaiians; and to exercise control over real and
personal property set aside by state, federal or private
sources and transferred to the board for native Hawaiians
and Hawaiians. The board shall have the power to exercise
control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

Act 273, Session Laws of Hawai'i 1980, enacted section 10-13.5, Hawai'i Revised Statutes, to implement the Office of Hawaiian Affairs' pro rata share and provide that "[T]wenty per cent of all funds derived from the public land trust . . . shall be expended by the [Office of Hawaiian Affairs] . . . for the purposes of this chapter."

Following a series of lawsuits concerning the Office of Hawaiian Affairs' constitutional pro rata share of all funds derived from the public land trust, the legislature enacted Act 178, Session Laws of Hawai'i 2006. Act 178, which took effect on June 7, 2006, specifically acknowledged that "the State's obligation to native Hawaiians is firmly established in the state constitution. (See Haw. Const. art XII)" and included a stated purpose of providing "interim measures to ensure that an adequate amount of income and proceeds is made available to the [Office of Hawaiian Affairs] from the pro rata portion of the public land trust, for the betterment of the conditions of native Hawaiians."
Act 178 carried out this interim purpose by requiring "the income and proceeds from the pro rata portion of the public land trust under article XII, section 6, of the state constitution for expenditure by the office of Hawaiian affairs for the betterment of the conditions of native Hawaiians for each fiscal year beginning with fiscal year 2005-2006 shall be $15,100,000." Specifically, Act 178 noted this interim amount was "[until] further action is taken by the legislature for this purpose." This $15,100,000 was based, in part, on certain ancillary receipts from the state airports.

The second purpose of Act 178 was to identify "revenue-generating public trust lands and the amounts derived from those lands by requiring that the department of land and natural resources provide an annual accounting to the legislature." Accordingly, section 5 of Act 178 requires that no later than January 1 of each year, the department of land and natural resources, with the cooperation of the department of budget and finance and any other state department or agency that uses or manages public lands, provide an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year. Section 5 of Act 178 also requires that with
respect to each receipt, the department of land and natural
resources must identify:

(1) The total gross amount;

(2) The amount transferred to the Office of Hawaiian
Affairs;

(3) The amount retained by the State;

(4) The account or fund into which the amount specified in
paragraph (3) was transferred or deposited;

(5) The parcel of land subject to section 5(f) of the
Admission Act that generated the receipt, whether by
tax map key number, department of land and natural
resources inventory number, or other recognizable
description; and

(6) The state department or agency that received the total
gross amount identified in paragraph (1).

In addition, section 5 of Act 178 requires that the
accounting indicate whether any parcel of land described in
section 5(f) of the Admission Act was sold or exchanged in the
prior fiscal year and, if so, the amount of consideration that
the State received for the respective parcels. Section 5 of Act
178 also requires that the department of land and natural
resources consult the Office of Hawaiian Affairs in determining the method in which the accounting must be conducted.

In order to effectuate Act 178, the then-governor of the state issued Executive Order No. 06-06, which established the procedures by which all state agencies collecting receipts for the use of public land trust lands must account for, set aside, and transfer to the Office of Hawaiian Affairs receipts from public land trust lands, subject to enumerated exceptions.

Based on the annual accounting of the amounts derived from the public land trust conducted pursuant to Act 178, and as supplemented by additional research commissioned by the Office of Hawaiian Affairs of receipts from the public land trust in fiscal year 2015-2016, the minimum amount of total gross public land trust receipts from sources to which the Office of Hawaiian Affairs has made a past or current claim was found to be $174,816,220 in fiscal year 2015-2016. Twenty percent of this amount from fiscal year 2015-2016 is $34,963,244, considerably more than the $15,100,000 that the Office of Hawaiian Affairs receives annually pursuant to Act 178. However, despite its "interim" nature, Act 178, Session Laws of 2006, remains in effect setting the Office of Hawaiian Affairs' annual income and proceeds from the public land trust for the betterment of the
conditions of native Hawaiians at $15,100,000, pending further legislative action on the subject.

While accounting information gathered pursuant to Act 178 has already proven valuable to illustrating the need to revisit and revise the $15,100,000 amount transferred annually to the Office of Hawaiian Affairs, full compliance with Act 178 is critical to informing future discussions and determinations of what constitutes a fair, revised amount of native Hawaiians' share of all funds derived from the public land trust. However, deficiencies in reporting and accountability have been identified by the Office of Hawaiian Affairs and its contractors over several recent years, including the State's failure to fully account for gross receipts from the public land trust, and the State's apparent reluctance to completely report public land trust receipts of certain agencies, including the University of Hawai'i. Such deficiencies will likely continue without further clarification, supplementation, and codification of the reporting requirements of Act 178.

Accordingly, the legislature finds that it is now in the best interests of the Office of Hawaiian Affairs, its beneficiaries, the State, and all citizens of Hawai'i to amend the Hawai'i Revised Statutes to clarify, supplement, and codify
the reporting and accountability foundation established by Act 178.

The purpose of this Act is to:

(1) Codify the accounting and reporting requirements set forth in Section 5 of Act 178, Session Laws of Hawai'i, with modifications to:

(a) Emphasize that the University of Hawai'i is subject to the requirements;

(b) Emphasize that all public land trust revenues must be accounted for, including those revenues that a department or agency's believes may not be subject to the Office of Hawaiian Affairs' pro rata share; and

(c) Require the department of land and natural resources to consult with the Office of Hawaiian Affairs to ensure that the accounting is accurate and inclusive;

and

(2) Require certain explanations and determinations regarding the amount of revenues transferred to the Office of Hawaiian affairs.
SECTION 2. Chapter 171, Hawai'i Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§171- Public land trust; reporting. Notwithstanding the provisions of section 5 of Act 178, Session Laws of Hawai'i 2006, no later than January 1 of each year, the department of land and natural resources, with the cooperation of the department of budget and finance and any other department or agency that collects receipts from lands within the public land trust that is described in section 171-18, including the University of Hawai'i, shall provide an annual report with an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year. With respect to each receipt, the department of land and natural resources shall identify:

(1) The total gross amount of revenue generated from the use of the public land trust, regardless of whether the revenue is subject to the Office of Hawaiian Affairs' pro rata share;

(2) The amount transferred to the Office of Hawaiian Affairs;

(3) The amount retained by the State;
(4) The account or fund in which the amount specified in paragraph (3) was transferred or deposited;

(5) The parcel of land subject to section 5(f) of the Admission Act that generated the receipt, whether by tax map key number, department of land and natural resources inventory number, or other recognizable description;

(6) The state department or agency that received the total gross amount identified in paragraph (1); and

(7) For each receipt where the transferred amount identified in paragraph (2) was less than twenty per cent of the total gross amount identified in paragraph (1), an explanation of why the state department or agency identified in paragraph (6) did not transfer the full twenty per cent of the total gross amount of revenue; for example, that federal or state law precludes any portion of the receipts from being used directly to better the conditions of native Hawaiians, or the transfer of any portion of the receipt will cause the State to renege on any pre-existing pledge, rate covenant, or other pre-existing obligation to
holders of revenue bonds or other indebtedness of the State.

The accounting shall also indicate whether any parcel of land described in section 5(f) of the Admission Act was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the State received for the respective parcels.

The department of land and natural resources shall consult the Office of Hawaiian Affairs in determining the method in which the accounting shall be conducted and in ensuring that the accounting is accurate and inclusive of all receipts generated by the public land trust. Prior to finalizing its annual report described in this section, the department of land and natural resources shall provide the Office of Hawaiian Affairs a draft of the report and shall allow no less than thirty days for the Office of Hawaiian Affairs to provide a written response, which shall be published as an addendum to the report."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: ___________________________

By Request
A BILL FOR AN ACT

RELATING TO THE COMPOSITION OF THE STATE COUNCIL ON MENTAL HEALTH.

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

SECTION 1. The legislature finds that there is an urgent need to promote community-centric and culturally-integrated mental health policies for Native Hawaiians. The legislature further finds that Hawai'i's exceptionally diverse population also has the potential to benefit significantly from mental health programs and approaches that incorporate cross-cultural values, practices, and understandings, including in particular those of Hawai'i's host culture.

Today, Native Hawaiians are born into and are raised against a backdrop of historical injustice and social, political, and cultural disruption. The physical decimation of entire communities, alienation from the land, the deprivation and destruction of natural and cultural resources and sites, linguistic suppression, cultural devaluation and misappropriation, and systemically biased socioeconomic structures have impacted generations of Native Hawaiians over the past two centuries. Unfortunately, the resulting
disintegration of ancestral knowledge and disconnection from culturally-grounded understandings and relationships have perpetuated and exacerbated the serious negative mental health-associated outcomes now seen in the Native Hawaiian community, including: high rates of suicide and suicide attempts, including alarmingly high rates of suicidal ideation and suicide attempts among 'ōpio, or youth; high rates of alcohol and drug abuse; child abuse; school adjustment problems; disproportionate interactions with the criminal justice system; and certain specific psychological and psychiatric mental illnesses.

The legislature finds that a growing and well-established body of literature, as well as case studies and highly successful examples of culturally-grounded mental health programming, shows that the promotion and integration of cultural traditions and sacred places, access to lands and natural resources, a strong indigenous identity, and cultural participation may be necessary for improving Native Hawaiian mental health stability and success. In addition to providing Native Hawaiians with culturally based curative methods, traditional Hawaiian healing practices benefit Hawai‘i’s ethnically diverse population as well by offering alternative treatment options. However, Hawai‘i’s current approaches to
improving mental health do not provide Native Hawaiians or others with consistent opportunities to participate in holistic mental health programs that incorporate such culture-based knowledge, values, and activities. The legislature finds that encouraging the systemic exploration, development, and implementation of such opportunities throughout the State's mental health infrastructure may be critical to providing substantial and much-needed relief to the mental health-associated burdens that impact the Native Hawaiian community in particular, as well as many other residents of the State.

The legislature finds that the state council on mental health is responsible for advising, reviewing, and evaluating the allocation and adequacy of mental health services in the State. Accordingly, requiring the council to include members with knowledge of or work experience involving Native Hawaiian concepts of well-being, culturally-grounded mental health methodologies, or traditional healing or health practices can help to systemically advance the culturally-grounded policies and programs that are critical to meeting the dire mental health needs of Native Hawaiian community members and others.

Therefore, the purpose of this Act is to require at least three members of the state council on mental health to be
reserved for individuals with demonstrated knowledge of or work experience involving Native Hawaiian concepts of well-being, culturally-grounded mental health methodologies, or traditional healing or health practices.

SECTION 2. Section 334-10, Hawai‘i Revised Statutes, is amended to read as follows:

"§334-10 State council on mental health. (a) There is established a state council on mental health. The council shall consist of twenty-one members appointed by the governor as provided in section 26-34. In making appointments to the council, the governor shall ensure that all service area boards of the State are represented, and that a majority of the members are nonproviders of mental health or other health services, and that a majority of the members are not state employees. The number of parents of children with serious emotional disturbances shall be sufficient to provide adequate representation of such children in the deliberations of the council. The council shall be composed of residents of the State, including individuals representing:

(1) The principal state agencies with respect to mental health, education, vocational rehabilitation, criminal justice, housing, and social services;
(2) Public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

(3) Adults with serious mental illnesses who are receiving, or have received, mental health services;

(4) The families of such adults or families of children with serious emotional disturbances; and

(5) The Hawaii advisory commission on drug abuse and controlled substances who shall be a person knowledgeable about the community and the relationships between mental health, mental illness, and substance abuse.

(b) The council shall elect a chairperson from among its members. All members shall serve without compensation but shall be paid their necessary expenses in attending meetings of the council.

(c) At least three members of the council shall have demonstrated knowledge of or work experience involving Native Hawaiian concepts of well-being, culturally-grounded mental health methodologies, or traditional healing or health practices as evidenced by:
A college or university degree in a relevant field, such as psychology, social work, public health, nursing, Hawaiian studies, health administration, or medicine, with a focus on Native Hawaiian and indigenous health, transgenerational trauma, or traditional healing or health practices such as ho'oponopono, la'au lapa'au, or lomilomi;

(2) Work history that demonstrates an appropriate level of knowledge of or involvement in Native Hawaiian and indigenous health, transgenerational trauma, or traditional healing or health practices such as ho'oponopono, la'au lapa'au, or lomilomi;

(3) Health, social, or legal work history addressing Native Hawaiian inequities; or

(4) Substantial community experience as a Native Hawaiian traditional and customary practitioner in healing treatments, techniques, services, or practices.

The council shall advise the department on allocation of resources, statewide needs, and programs affecting
two or more service areas. The council shall review and comment
on the statewide comprehensive integrated service plan and shall
serve as an advocate for adults with serious mental illness,
children with serious emotional disturbances, other individuals
with mental illnesses or emotional problems, and individuals
with combined mental illness substance abuse disorders.

If the department's action is not in conformance
with the council's advice, the department shall provide a
written explanation of its position to the council.

The council shall prepare and submit an annual
report to the governor and the legislature on implementation of
the statewide comprehensive integrated service plan. The report
presented to the legislature shall be submitted at least twenty
days prior to the convening of each regular session."

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval,
provided that the composition of the state council on mental
shall comply with the requirements of section 2 of this Act
beginning on July 1, 2020.

INTRODUCED BY: ________________________________
B. NO.

By Request
A BILL FOR AN ACT

RELATING TO BAIL.

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

SECTION 1. The purpose of this Act is to effectuate the title of this Act.

SECTION 2. The Hawaii Revised Statutes is amended to conform to the purpose of this Act.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: ________________________________

By Request