

**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 10, 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: Trustee Waihe'e

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, February 10, 2021 to order at **1:32 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:32 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	EXCUSED	2:44 p.m.

At the Call to Order, **EIGHT** (8) Trustees are PRESENT, thereby constituting a quorum.

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

None

### III. UNFINISHED BUSINESS

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

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

**Ka Pouhana Hussey:** Thank you Chair Akaka we'll have Casey Brown, our Chief Operating Officer set context before turning it over to our staff.

**Chief Operating Officer Brown:** Mahalo Ka Pouhana, aloha Chair Akaka and Trustees. I'm gonna keep it real quick so that we don't take too much time. Wayne and Sterling are going to be here to walk us through the two matrices again in the next two topics. If you've looked at the packet you'll notice that the large matrix grew quite a bit, so we've got roughly 300 more new bills. So it's commendable for Wayne and team to do all the work and scan the legislation they have in this last week. I saw a lot of amazing work and so he's going to take us through those primarily 300 new bills in a similar fashion as before, where he will focus us on a few key topic areas. I'll kick it over to Sterling.

**Chief Advocate Wong:** Aloha Trustees, Chair, Sterling Wong, Chief Advocate for the administration. What I'm going to do is I'm going to take us through the legislative calendar to just give Trustees a sense of where we are in the session, and then I'll take us through the matrices itself. So where we are right now in the session we are on the 10<sup>th</sup>. Tomorrow's the triple referral filing deadline, which is a big deadline. That means that all bills with three or more committee referrals need to be in their second committee by this deadline. That means we're going to see a whole lot of bills die. That's why we've seen so much hearings and actions on legislation this week. Then you will see next week we have another big deadline which is the first lateral deadline, which means that you know, bills need to be into their final committee by this deadline. So this is really what's pushing and driving session right now. While we have 300 bills new in the Matrix, we're going to see that matrix hopefully shrink a bunch as bills really start to fall off in the next two weeks with these two major deadlines.

Now going into our package to give us a brief update on our package. OHA one is our budget bill. As you recall last week, the Senate version received the hearing and it moved out of Hawaiian Affairs. It was passed with amendments and they zeroed out the dollar amounts, which isn't uncommon, and shouldn't necessarily cause any concern. The House bill ultimately will probably be the vehicle, and it's only got a clear the lateral deadline next week, so we should be getting a hearing and staff will be calling Judiciary Hawaiian Affairs to make sure our budget bill does get a hearing next week to meet that lateral deadline.

Going to OHA two now, this is the CIP bill. I believe the House version did pass and is moving on to Finance and the Senate version has a hearing scheduled for tomorrow the 11th in a Water Land.

OHA three is our expungement bill. This bill did get a hearing in the House yesterday in Human Services and Health. Unfortunately, that bill was deferred. It also received a hearing on the 4<sup>th</sup> in the Senate in HMS, that bill actually did move forward, it passed with amendments. We have a sort of a draft that we've been working with and addressing a bunch of the concerns coming from, I think the City Prosecutors Office and the Attorney General's Office and I think Judiciary as well. I don't want to say I'm confident, but I'm cautiously optimistic with this bill, but it is moving forward. Looks like the Senate version is going to be the vehicle. Our last hope basically for this bill moving through session.

Then OHA four the two resolutions are related to data disaggregation. They are in a separate timeline so we're not really concerned about them moving at this point, Madam Chair, unless there's any questions about the legislative calendar or OHA package that would conclude this agenda item and I'll give it back to you so we can get to the next agenda item on the big matrix, mahalo nui.

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

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

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

**Ka Pouhana Hussey** yields the floor to Chief Advocate Wong and Public Policy Manager Tanaka to walk through Matrix 2.

**Public Policy Manger Tanaka:** Well, good afternoon everyone, it's been a busy week. I think the good news is that we got most of the oppose measures and most of the big ticket items out of the way last week. But that being said, this being the second BAE of session, we do still have another big batch of bills to go through. So we're going to have to ask you for your patience, but I'm gonna try to get through this reasonably quickly, and especially for bills that we have seen in past sessions. I won't spend too much time belaboring them, but please, please stop me. Let me know at anytime if I'm going too fast. If you're unclear on something. If you like more discussion, yeah, just please feel free. You know, and I also try to check in to make sure periodically to make sure that everyone's with me. I'm gonna go over the table changes or the bills that we want to add to the matrix or that positions on the matrix you want to change. Then I'll go through selected bills that name OHA, and then I'll go over some of the higher profile bills that we've been tracking, and also at the end, I'll touch base on some of the high profile bills that we went over last week, including bills that I think Trustees are interested in.

So first up is HB344. This is a new bill, it's not on your matrix. We're recommending a position of oppose on this bill. What it would do is it would say it would prohibit or would get rid of contested case hearings before the Board of Land and Natural Resources, the Commission Water Resources Management and in County Land Use decisions. So essentially these are mechanisms that kind of promote access to justice, especially for Native Hawaiians that are seeking to protect their Native Hawaiian Traditional Customary rights. For example, in adverse decisions. So instead of being able to request a contested case, which is a relatively accessible process to contest decisions. You have to go and get an attorney and go to court. Basically take these agencies to court, which is a much higher bar in terms of being able to vindicate your rights, so we're recommending opposing this measure. It actually is a hearing today in about 10 minutes, so we'll see what happens with this bill. So again, we're adding this to the matrix as an opposed bill. Okay, and that's the only one that we're adding.

I now have a handful of position changes, so these bills are on your matrix, but we want to change the position that's on there to a different position. So the first bill it's on page 7, item number 27, this is HB497. This bill would do is if there's a development that involves more than one residential unit, this bill prohibits any county ordinance or rule from requiring the developer to get the approval of any state agency, unless there's a state law that requires that state agency consultation. I think that the problem with this is that a lot of times counties will elect to have certain development projects, certain zoning variances, and so forth, require that those kinds of things to go to SHPD or even to OHA for additional consultation and have us approve their preservation plans, for example. And through that consultation, we're actually able to identify the historic properties that people weren't aware of. We are able to provide guidance and what appropriate protocols to follow, and so it's really when the counties elect to do this, it's a really great way to protect natural, cultural and historical resources and sites that are important to Native Hawaiians. So prohibiting the counties from imposing those kinds of requirements could have significant impacts on the beneficiaries interests, and in our experience it isn't really this kind of review and approval that delays projects. It's mostly issues with the project planner or developer poor planning, that kind of thing so it doesn't really seem to expedite I think the kind of residential

projects that they're seeking to expedite. So, this bill it's a monitor position, but we'd like to oppose this bill because of those potential impacts. It also has a companion SB567, so we'd also like to change the position on that bill to oppose.

The next bill is HB1105. This is on page 24, item 109. This bill would amend the composition. So we were monitoring it, we now we want to support it, so we want to change that position from monitor to support on the right hand side. So right now the governor can choose five out of seven members of the Board of Regents of the University of Hawaii. This bill would reduce that to one number, and then, you know, let OHA, the OHA Board. Oh, sorry, this is the Candidate Advisory Council, not the actual Board of Regents. So this is the council that selects candidates to nominate for the Board of Regents and then so the Governor has five seats on that Advisory Council. It would give us one of those seats. It would give the Board of Trustees of OHA on of those seats and so, as you know, UH, they administer lands and programs, you know lands and resources that are of importance to Native Hawaiians, such as Mauna Kea. They also you know, educational programs at UH can also impact positively or negatively you know, Native Hawaiian students, and so because it's important to make sure that Board of Regents can consider these things, it would be you know, we think it would be a good idea to have the OHA Board of Trustees be able to nominate someone on Advisory Council so that person can make sure the Advisory Council considers candidates with the appropriate background. So again, we'd like to change this bill from monitor to support. Okay, and that's all for the table changes that we have. Next I'm going to go over the new bills that name OHA. I'm not going to go through all of them, because there's actually a lot of bills that just kind of like reference us in passing. Or just, you know, just consultation. But I'm going to touch on the big ticket once.

So the first one is item 240 on page 53, SB981, and this is a Trustee election bill again. So we have a recommendation of comment based on past positions that we've taken on this kind of measure, but again, you know very much deferring to the Trustees regarding what position we'd like to take. This bill has to do with public funding for OHA Trustee campaigns. There's a little math involved, but I've tried to crunch the numbers for you all. Currently, OHA Trustee candidates if they want public funding, they can get up to \$1500, but only if they choose to limit their campaign expenditures to \$0.20 per eligible voter and also agree to limit their contributions, the money they receive up to \$1500. So what this bill would do is it would say Trustees can get a. To be eligible up to a certain percentage of their campaign expenditure limit that \$0.20 per voter and it's blank so it's not clear what that would be, but and it would let you receive \$5000 instead of just \$1500. So as an example, there is I think in 2018, there were about 740,000 voters, so 740,000 times \$0.20 is \$148,000. So that's your expenditure limit. So to get public funds, Trustees would have to limit their spending to \$148,000. In comparison, the Lieutenant Governor can spend up to \$1.40 per voter. So the Lieutenant Governor, which is also a statewide race, can spend up to \$1,000,000 to receive public funding. Also again to get public funding, you'd have to limit your private contributions to \$5000, which is more than what you limit your contributions or what Trustees limited contributions is now. In contrast, the Lieutenant governor can receive up to \$50,000. The amount of funds that you would receive in public funding. It's again blanked out, but it's also tied to what the prosecutors and county legislators would get. So it's right now prosecutors and legislators can get 15% of their spending limit. So 15% of \$148,000, which would be the Trustees spending limit, would be about \$22,000. So that's how much public funding Trustees could get if they agree to these limits. So it is an improvement, it is an increase from the \$1500. I mean if they were theoretically to put that 15%, they could make it higher or lower. So I think in, but again, it's you know it's the limits are somewhat more restrictive than, for example, the Lieutenant Governor, which is kind of what I've been using as a benchmark for a statewide race. So you know, we'd recommend commenting on that or what we've done in the past is comments on that to see if they could treat public funding for OHA candidates more commensurate with statewide races, like the Lieutenant Governor's. The bill was also amended with SD1, and so the SD1 would include that randomization bill that we talked about last week. So our comments would be also to note that you know if they're going to target the OHA campaigns for randomization, they should also look at applying that to all other campaigns as well. If everyone's okay with those comments, I'll move on.

The next bill is HB1358 on page 35, line 157. It has a companion SB1411. We'd like to support this bill, this is a historic preservation bill. It intends to increase compliance with our historic property laws. It would also try to more adequately address violations, especially with regards to violations that impact prehistoric property or pre contact historic properties. So basically, things that existed prior to 1779. So it would do this by increasing the fine for historic property violations to \$20,000. Right now it's at \$10,000. It would also require SHPD to distribute information about statutory requirements or burials and historic property protections. So again, that kind of educate, facilitate compliance. For violations that impact pre contact historic properties, it would also require us to be consulted in terms of you know what is appropriate remediation, that kind of thing. And so because this would increase, you know, hopefully increase compliance with the laws that protect, you know, historic properties and sites that are important to Native Hawaiians. We're recommending supporting this measure.

The next measure that I'll talk about it's HB249. This is on page 3, item number 11. It actually has a companion that we took a position on last week. We were just monitoring it's companion, but we want to now change that companion to support and also put support for this new bill. So this bill would broaden insurance coverage to provide access to sexual and reproductive health care without discrimination. With the COVID pandemic we've been seeing increasing for services around these kinds of things. Everything from sex abuse treatment to screening for cancers, STDs. Also, there's some issues related to domestic violence, you know, we do have the Haumea report that identified unique health disparities experienced by Native Hawaiian women, and so we you know this bill would help further those recommendations as well, and because it would increase accesses to services and protection from general discrimination that may be particularly needed by Native Hawaiians. We would recommend supporting this bill.

The the next measure is HB979. This is page 90, item number 20. It actually also has a companion that we're just monitoring last week we want to change. We want to make this bill support and we also want to change its companion SB1133 from monitor to support. So this would create a gender based analysis training program that will be run by the Hawaii State Commission on the Status of Women. It would be a curriculum for government officials to help them understand how, you know, gender can influence policy and program outcomes and ensure that decision-making can reflect the unique and diverse needs of women. And so this again, it aligns with our priority of health of Native Hawaiian women. It helps further will help further, some of the recommendations in our Haumea report particularly, yeah, without this training there are things that report that would be footed by the report in the report, so we're recommending supporting this measure and changing position on its companion to support as well.

The next bill is HB282, again also has a companion SB22 that we are monitoring. We want to support both measures now, so this would be a new position of support and a position change for SB22 from monitor to support. And so this would allow child welfare services to coordinate with providers, to provide emergency shelter to minors. This is already kind of being done, this measure just clarifies that it's legal. We know Native Hawaiian youth are disproportionately represented among those experiencing houselessness, and so this measure with the line with our advocacy to address houselessness within the Native Hawaiian community. And yeah, so again we like to support this bill and change the position on it's companion to support.

So the next few bills have to do with the Department of Hawaiian Home Lands. So I'm gonna try to clump things by subject matter, so this bill is HB359. It's on page four, item 19. It's companion is SB1321 and that's on page 60, item 279. This is the DHHL casino bill. It would allow for an integrated resort property on Department of Hawaiian Home Lands on O'ahu. It would establish a Gaming Commission and would have a tax on gaming revenues. The HB359 actually had a hearing on the fifth. Well, there's actually some really. I recommend if you get a chance to go on the House YouTube page and watch some of the discussion that happened. You know a lot of important discussion I think about the need for funding for DHHL. How DHHL kind of been despite these Constitutional obligations to DHHL and to OHA, there hasn't been these obligations haven't necessarily been fulfilled in terms of financial support. However, there I think there were some concerns expressed by both beneficiaries as well as prosecutors questioning the status of women and so forth

about possible social ills that might arise if gaming is legalized. And so ultimately, the committee chair deferred the bill. You know he did have some, really you know interesting comment to say about, swearing, taking the oath on the Constitution every year you know which requires the state to sufficiently support DHHL and how he feels like he's breaking that oath. The Vice Chair of the committee, Representative Holt, also had I think a really thoughtful statement to say afterwards. Nonetheless, they did kill the measure. And the companion SB1321 is scheduled for hearing on the 11th, so tomorrow at 1:00 PM, but I'll just say so we're recommending to continue monitoring this bill.

And we are looking at, you know, we are doing our own research about, to kind of verify some of the issues and concerns and also look at, you know, what has happened, how tribes do it on the continent just to kind of see if there's like best practices or things like that. But yeah, we're recommending monitor at this point.

Okay, next bill is HB548. This is on page 9, item 35. So it has a companion HB9 or not a companion, but it has a very similar bill, HB968. A lot of these DHHL bills were independently introduced by different legislators, so you have this kind of the same bill but in different vehicles, even in the same House or Senate. So this bill is kind of. It would add Department of Hawaiian Home Lands representation on the County Boards of Water Supply. It would also try to, and really what it's trying to do is to ensure that the County Boards of Water Supply recognizes that DHHL shouldn't be treated like any other user of water. They have priority rights under the State water code that often get frustrated because the Counties are charging them the same thing that they will charge other developers and a lot of times there's infrastructure costs too that DHHL would have to pay for if they were to develop their own water sources is very cost prohibitive. So we're recommending supporting this measure to kind of better facilitate DHHL's needs and ultimately the construction of housing that can help shorten their wait list.

I'll also note SB872, SB1122. Also these are items 255. But these would add the Hawaiian Homes Commission Chair to serve on the Water Commission. Again, Department of Hawaiian Home Lands has unique property rights to water, under the water code, but the way that the water code was administered by the Commission doesn't always protect these rights like they will, you know, even you'll have a reservation, but you know there won't be appropriate safeguards to ensure that water is there when they actually have built their homestead lands and then need water, those kinds of things, and so having the Chairperson on the Water Commission can help ensure that it considers their unique duties to the Department of Hawaiian Home Lands. We have supported this measure in the past and we recommend supporting it again this year.

Next bill is HB966, this is on page 19, item 84. It has a companion SB1120. Again, there's some copycat bills, HB753, SB1120. Oh wait, sorry, HB753. So basically this would exempt DHHL from paying school impact fees. We're recommending supporting this, school impact fees actually can be pretty significant for DHHL development projects. You know, everywhere you know if for example, on Maui, I think it's like 5000 per lot. So for 160 houses in Pu'unani, that would cost them about \$865,000. We would like to support this. You know, we would note that for affordable housing developers they can get exemptions from school impact fees, DHHL however is not considered affordable housing developer even though their developments are essentially affordable housing, it just has to do with the wait list so they can't discriminate on the wait list based on income, so they're excluded from the protection, you know the kind of the incentives or givebacks under 201H. Also, DHHL does have DOE schools on DHHL lands that they're not getting compensated for, and DHHL also already kind of plans for needed educational facilities when they do development. When DHHL develops lands, taking that into account, not burning the DOE with additional school costs. So we'd like to recommend supporting this measure.

The next measure, HB967. This is on page 19, item 85. There's a couple of companion slash copycat bills SB881, SB1121. These bills would exempt the Department of Hawaiian Home Lands from the general excise tax. Again, this is comparable to the exemption that affordable housing developers, affordable housing projects receive. It would provide pretty significant cost savings for DHHL. I think they in their testimony, they were saying like potentially up to 9.5 million. Also too, I think you know the state provides DHHL with funding and

then so I think the idea is that funding should go towards the development of housing and the shortening of their wait list. But this GET is basically the state just taking back, you know, the 4% or 5% of what it sets aside for DHHL. So this would let DHHL spend those moneys it receives from the state on housing as intended versus, you know, giving some of that money back to the state so we recommend supporting this bill.

And finally for DHHL, HB969. This is on page 19, item 87. We're actually recommending just commenting on this bill, even though it is part of DHHL's package. There's some language in here that says that for infrastructure maintenance requests, the County has to implement those requests within 60 days. You know we don't have a issue with deadlines being placed in the County to do maintenance, except in instances where a permit is required, that could potentially trigger a SHPD review, historic preservation review, which we do have concerns about. So our our comments would be that you know if they're going to set this time limit to make it so it doesn't apply to the timeline for SHPD, historic preservation review if that's required.

So next up, there's a couple of Mauna Kea bills that we're actually just recommending monitoring on, but I thought I would highlight them for the Board. First HB703, this is on page 11, item 46. Its companions SB1299. This bill prohibits any new construction or ground disturbing activity above 6000 feet on conservation lands on Mauna Kea after this year, after December 31st. Except for actions that involve decommissioning telescopes. Obviously we've had significant concerns about the over development of Mauna Kea to the detriment of the care of this extremely sacred place. But stopping all development may have unintended consequences, including with regards to, maintaining you know facilities infrastructure that's necessary for, that practitioners use that's necessary to manage public access, keep you know, keep impacts down. So we recommend just monitoring this bill, just see what happens. I don't think it moved, so it's yeah, the triple referral bill is probably not gonna make it yeah.

There's another bill, SB907. This is on page 52, item 237. We're also recommending monitoring this bill. This would require the Hawaiian Homes Commission, UH, Board of Land and Natural Resources, if they want to do a project, a construction project, they have to give 30 days notice to all residents within five miles of the project and if someone doesn't like the project then they have to have a referendum and have all adults living in that five mile radius to take a vote before they can move forward. For Mauna Kea, it would require a referendum of all residents on Hawai'i Island, all adult residents on Hawai'i Island. Again, we're just recommending monitoring this bill. You know, I think public notice and participation is something that you know we think is important. But I mean, I think you know, as we discussed last week, it would be pretty cost prohibitive to implement. Yeah, and sometimes when we comment on things like this it ends up getting, we get added to the measure, so we recommend just kind of monitoring and seeing what happens. I don't think it's yeah.

The next bill is HB467. This is on page 6, item 24. There's also a bill HB1012, which is on page 20, item 93. There's also an old bill from last week that we are just monitoring SB1166. All these bills basically would let DLNR. Sorry and the SB1166 we're just monitoring so we want to comment on that one. Change to comment and we want to comment on on those other three that I just mentioned. And they all did the same thing, basically it let's the Board of Land and Natural Resources reduce or waive rent for leases if the lessee, if the leases require, like you know, substantial demolition or maintenance of properties on the leased lands by lessees. So the States basically saying we can't do this infrastructure upgrades or get rid of these old buildings, so if you guys do it we will give you a break on your rent. So we want to comment on this, like we've commented in previous years and we don't have. Lot of these lands could be public land trust lands, 20% of the revenues of those lands have to be set aside for under the public interest for OHA and Native Hawaiians. We don't have a seat at the table to negotiate these rent reductions or waivers, so our comments would basically be to say you can do rent reductions or waivers, but only after you've accounted for the 20% that need to be set aside to OHA, especially if it's gonna be like 20 years worth of rent.

Okay, the next couple, actually next one I want to talk about is are these, we got to water. HB1015 it's on page 21, item 95. It has a companion SB1169 and there's a few others. Other bills as well that try to basically give the Board of Land and Natural Resources authority to directly negotiate long term water licenses. It's so these

bills are trying to address a few things. First, the public auction process that's currently required isn't super applicable to a lot of water sources like you know there's limited access to a lot of these historic infrastructure. People aren't gonna, you know, because of property ownership and so forth. You're not gonna get more than one bidder. So yeah, tries to get around public auction process by letting the DLNR directly negotiate with potential licensees. It clarifies these bills. Also clarify that you know any kind of this disposition of water should be considered water license, and that's important because the Department of Hawaiian Homeland's is entitled to 30% of all water license revenues, but historically we've seen a lot of leases, land leases, easements, easements for land that essentially let private entities get water like divert water, but then because they're not called water licenses, there's no revenues that you know flows to DHHL as it should, and also finally what they try to do is address some valuation issue. So without a public auction, or even if it were a public auction, you need to appraise fair market value of like public resources that are going to be leased or you know, encumbered. But there's no real fair market for water. Like water is a public trust resource. It's not commodified like land is, and then so to varying degrees they provide guidance for the BLNR to consider when setting the license rent in directing negotiating these directly, these long term water licenses. So we want to comment like the big concern is, you know there's legitimate issues that need to be addressed. I think the big one of the big concerns is transparency and how these licenses are negotiated, how they're valued, what's considered in setting the terms and conditions of these licenses, what's considered in selling license rent. Especially these guidelines are, their permissive, they basically say, oh, the board may consider you know things like how much water is going to be diverted, how much water is going to be left in the streams, you know what's the avoided cost to the licensee, like, in other words, how much we have to pay to get water from a different source. Things of that nature. But because it's non binding it's hard to tell you know whether or not these licenses will be appropriate and there will be appropriate conditions for rent and so forth, and so our comments and I've been talking to a lot of you know, water experts about you know how we can kind of deal with this. You know the concerns that arise out of, you know, demonstrable historic dispositions have more or less favored large scale water diverters to the detriment of Native Hawaiian communities and public trust. And so our comments recommend that for any directly negotiated water license, there be 30 at least 30 days public notice, including, you know, putting it on the Lieutenant Governor's website, circulating in the statewide newspaper, circulating in the County newspaper of the County where license is going to happen. Like the notice will also be sent to anyone who requests information on water licenses or a heads up on water licenses, also to any known Kuleana rights holders, to any known pertinent rights holders, holders of water use permit applications. Also notice to DHHL and to OHA and in this notice you want to make sure that this information specific to some of the guidelines I mentioned. So it has to say you know how much water is going to be licensed? How much water is going to be diverted from any stream? How much water will remain in the stream? What is avoided costs to the licensee? What is the anticipated benefit, economic benefit that they may receive? And so those kinds of things. And if that information isn't known or hasn't considered and then those will have to say we don't have this information. We also recommend approving a provision to require that these water licenses be approved by a super majority of the board, of all the seats of the board, so not just members present, but because the board is seven seats, they only need to have five of the board members approve any license agreement which actually isn't that big of a hurdle, like as we've seen with the East Maui Water RPs, like those all got super majority approvals to go forward, even as controversial as they were, but we still, you know, I think we can still point out that, that could be appropriate safeguard against you know those occasions where there might be somewhat inappropriate decisions, negotiations on these water licenses. So yeah, that's the idea for the commenting on these under this bill. I know that water has been kind of a controversial. I mean, yeah, it's always going to be controversial in any, especially in an island setting, but it's been particularly high profile recently, so I want to make sure that you folks are okay with that approach.

Okay, again, stop me and then yeah and then at the end too let me know if you have any questions, but okay, so the next couple of bills have to do with historic preservation, and they're both oppose. So this is HB1311, page 32, item 146. It's got a companion SB607. This would, basically there's a project Lealii affordable housing project that has a deadline for construction 2022. It would remove that deadline, but it would also exempt the project from having to do an EIS, like it will extend it from historic preservation laws Chapter 6E. We've always opposed exemptions like exemptions to Chapter 6E. I mean without those protections, adequate



archaeological inventory survey, mitigation that kind of thing. Then it could be, you know, the irrevocable loss of Native Hawaiian cultural historic sites, Iwi Kupuna, that kind of thing. So we recommend opposing this bill.

Next bill, SB1292 is on page 59, item 270. We're also recommending opposing this bill. It would exempt the drilling or construction of a well on land leased from the Department of Agriculture from Chapter 343, as long as the well would support agriculture or food production. Now again, environment impact statements Chapter 343, that's a major way to make sure that agencies take a hard look at the environmental and cultural impacts of the things they permit or that they do. It's also a way for the public for us to ensure that these impacts are properly assessed. We have always opposed exemptions to 343. And wells I mean that can wells can be pretty significant impact, so you're drilling deep in the ground, you could impact aquifers that feed groundwater sources that have that you know in turn feed springs, or ground discharge in the ocean environment, estuaries, of course Iwi and so we recommend opposing this bill is.

A couple of fishing bills, so actually I'll talk about it, HB1020. This is on page 21, item 98. It's got a companion SB1174 and we want to support these bills. I'll just highlight them because these are actually being pushed by all the communities that are working on community based subsistence fishing areas. This would allow for adaptive management. So right now to pass rules you have to go through a pretty exhaustive process that can take like anywhere from 5 to 15 to 20 years, which really doesn't make sense because things change pretty quickly in the ocean environment and so. And this is kind of like it's called adaptive manage, so being able to change resource management strategies in a more timely manner, that's kind of like what we're seeing as the future of how we're going to sustain our resources, and it's something that's you know, in other places people have been exploring other jurisdictions. And so what this bill would do is instead of having to go through the full chapter 91 process, which is, which is that 10 year long process. I mean theoretically it's faster, but in practice it takes a long time. It would let rules be changed if by the board as long as they go through 30 day or 30 day public notice period and then have a public meeting. And then they can change rules on their own and it would become effective for two years. It's a little bit faster process hopefully so that communities can respond to the rapidly changing ocean environment. It might also I think maybe mitigate some of the concerns that folks have about rule making generally, like people feel like you know, once there's a rule because it takes so long to change it and it's permanent, it's stuck. But if we can change this rule more quickly. If the rule ends up having unintended consequences and it's easier for people to change it back you know, so hopefully rule making won't be such a scary thing. It'll get people to kind of see you know the benefits of having appropriate management of our resources. So yeah, so a lot of community based subsistence fishing area or a lot of communities looking for CBSFAs, that kind of thing. They want to push for something that can be more responsive, especially after seeing what happened with like Haena where it took, you know like almost 20 years. Yeah, so we recommend supporting along with those folks.

Just to highlight, so there is a bill to SB1400 this is on page 63, item 291. It got a lot of attention so I just want to raise it, bring it up for your folks consideration. We're recommending opposing this bill, which I think is already dead. I think the introducer said he's not going to move it forward. Yeah, but it would establish a Moku Manu Marine State Management Area. No take of no fishing whatsoever. No exception for Native Hawaiian cultural practices. It would be a pretty huge area from Mokapu to Moku Manu. Because it would close such a large area off to fishing, it might impact a number of Native Hawaiian traditional customary practices that could still be exercised. The state can't regulate these traditional customary practices and rights out of existence, but because you know, practitioners would face, you know people going to yell at them, like they might get arrested and might get sited you have to go to court. They might just keep them from wanting to continue those practices in this place, and so we would recommend opposing this bill unless and until they provide explicit exceptions, exemptions for Native Hawaiian cultural practitioners. But again, I think it's dead. But I just wanted to highlight because it had a lot. It's dead because there is a lot of attention, not just from Native Hawaiians, but from all segments of the community.

Okay, so that's it for water ocean stuff. I'll touch on some criminal justice measures. So first is HB1079. It's on page 23, item 105. SB1244 is a companion. There is also similar bills HB1111, SB1260, so these have to do with pretrial reform. These are actually recommendations of the HCR85 Criminal Justice Task Force, and also I think the HCR137 Pretrial Reform Task Force. These recommendations weren't incorporated in the big omnibus bill that created the Correctional Systems Oversight Commission. Because you know, folks weren't sure if they're going to be, if it was political feasible to time. But essentially, what this does is it creates presumptions of release for pretrial defendants. So basically, folks have been accused of a crime but haven't convicted, you know, we've talked before about the significant impacts that pretrial detention can have. Cash bail can have folks that can't afford bail or you know they get picked up for you know something and they basically have to miss work. They can't take care of the kids, they can't do their jobs, that kind of thing. It can be a real punishment for people that haven't even, you know, been convicted of anything and largely because they can't pay bail, and so this would create a presumptions of release, but not for a whole slew of crimes, so not for assault, not for terroristic threatening, not restraining order violations. I think it's pretty tailored to avoid, you know, applying this presumption or applying pre trial release to crimes I think people associate with, you know, being dangerous community. Also, there's rebuttable presumption so basically if there is a risk of flight, risk of danger as a community, then you know folks will still be detained. It does also too, these bills talk about making sure you know, if folks are released that they be released under leased restrictive conditions to ensure their reappearance. Yeah, so again, you know, kind of mitigate the impacts of pretrial detention. Oh yeah, and it also eliminates monetary bail, sorry I forgot. So for certain traffic offenses, nonviolent misdemeanors, some misdemeanors, with a whole bunch of exceptions again it would eliminate the use of money bail which means yeah, which again would kind of address that inequity that arises when people with all the money can buy their way out of jail, whereas people who don't have money are stuck there and would have to deal with the consequences of that. So yeah and so we recommend supporting that bill.

Okay, this is a health related bill, HB536. This is on page 7, item 31. Actually, a beneficiary called me after talking to one of the Trustees. This bill we're recommending comments on it. This bill would require the Department of Health to issue a certificate of birth for stillborn children. Right now, parents of a stillborn child, they basically have to apply to get a certificate of fetal death, which is, it's not really, you know after talking to the beneficiary and doing a lot of research, you know there's actually a lot of cultural perspectives on stillborn children. I mean Haloa for example is kind of a big one I'm sure everyone is familiar with. You know lots of discussion about how stillborn children like you know they become Mo'o or they became Aumakua. So this bill would kind of be very consistent with that cultural perspective of treating stillborn children as children and giving them a birth certificate. It does have appropriations, so we wouldn't be outright supporting it. But I think we will just lend that culture perspective, and so we will be commenting on that bill.

Next bill SB285, this has to do with education. It's on page 40, item 220. It is actually kind of an exciting one, so when and I don't know how enforceable it is, but it basically would say that you know committees when they consider the DOE's budget, you have to make specific determinations. Or actually, when it considers bills that impact DOE's budget, they have to consider like the impacts of the budget on Native Hawaiian students, on Special Ed students. Whether certain areas are going to be disproportionately impacted. For example, rural communities, if there's going to be gendered impacts, that kind of thing, and so we're recommending supporting this, we think it will help provide transparency on how DOE's budget is developed, especially with regards to how it might address or not address the needs of Native Hawaiian students. We also think it would help shed some light on how weather and how you know the recent ruling Clarabal is going to be implemented, which we still have questions about. Just as background, Clarabal was the Hawai'i Supreme Court decision that recognized that there is a Constitutional requirement that the state provide access to Hawaiian education, and in that case, Hawaiian emersion education, and so we're still trying to figure out and reaching out to see, you know, what is that going to look like in terms of the DOE and its programming. So we're recommending supporting that bill.

So that's it for the new bills. Okay, there's a couple of, there's actually one bill position for reconsideration that we didn't talk about. So if you recall earlier, we took new positions on some bills, but then they had

companions that we're monitoring, and then we wanted to change that to like support or comment, and so I'm not going to talk about those again. But the one that we didn't talk about was SB221, this is page 67, item 301. So this would let the Governor's Coordinator on Homelessness to work with the Interagency Council on Homelessness to further work with the City and County of Honolulu and the other Counties to coordinate their services and shelter facilities as well as coordinate with nonprofit organizations and service providers to meet, you know, to kind of better address their houselessness population, address their needs. We're recommending supporting this. We're a member of HICH, the Hawaii Interagency Council on Homelessness. We are, you know, we know our beneficiaries are disproportionately experiencing or at risk of experiencing houselessness. We've advocated for a long time to address the needs of those beneficiaries. We think that, you know, as a member of HICH we can actually play a good role in this coordination process to make sure that the needs of the Native Hawaiian community are met and addressed, so we recommend supporting this measure. And so all the other bills in that bills for reconsideration section we've already talked about. Yeah, so that's it for the new stuff. I thought I'd just take some time to touch base.

**Chair Akaka** recognizes Trustee Ahu Isa.

**Trustee Ahu Isa:** Yeah, sorry Wayne, did you go through SB816? Did you touch on that one, sorry.

**Public Policy Manger Tanaka:** I mean, that's a statewide lottery. Yeah, so we're just monitoring the lottery bill and the statewide gaming bills and we're paying particular attention to the DHHL ones.

**Trustee Ahu Isa:** I like this one because it's education and it's Senator Kidani's bill, and I like lottery. You know, we've got to look at ways to raise money and it will help our children. So can we just do monitoring till the next committee? Referred to JUD/WAM.

**Public Policy Manger Tanaka:** Yeah, it has a public hearing scheduled for today at 3:05, before the Senate Education Committee, and then after that it has to go to Judiciary and Ways and Means. So yeah, I'm looking at the testimony now, DOE is just commenting. You know, there is definitely concern about cuts to the Department of Education. I mean we can take a look and see if, you know, there's actually a short form bill that just got scheduled for a hearing that would authorize a lottery and bingo for DHHL, so we can take a look at that one too. It's a short form, so it actually hasn't been stuffed with stuff, but it is a proposed SD1 to provide for bingo and lottery stuff and we can. I mean I was planning to take a look at that once we you know once it came out of committee.

**Trustee Ahu Isa:** Okay, I was just curious, thank you. Thank you, Chair.

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

**Board Chair Hulu Lindsey:** Wayne, have you been following Senate Bill 195 and 196 regarding reapportionment and including OHA Trustees?

**Public Policy Manger Tanaka:** Yes, so we talked about these last time, I was actually going to touch base on them, so actually Everett just sent me a rundown. So SB196, so that this was the Constitutional amendment for reapportionment, to allow for reapportionment. You know, we submitted admin testimony prior to last BAE's meeting to comments, but you know, based on our discussion, we're going to oppose it. It did pass out of Hawaiian Affairs as a SD1. It doesn't really change, I think address are substantive concerns, it just you know, it says that all the current trustees, all the Trustees serving at the time of the election after apportionment would end. It specifically says you know, like the districts that you establish have to have the same average number of residents within the basic island unit. But then there's still the constitutional concern about how you're going to. Like just because all the districts in Maui are the same doesn't mean, I mean you have to have the same amount in the other districts to right, each trustee has to represent the same number of people, so there's still like kind of this constitutional issue that would require either the Trustee, the Board Trustees to

greatly expand, which would impact you know, our trust funds and you know, among other things. Or it would just be unconstitutional. And SB195, there is no real substantive changes in SD1, but they also passed out of Hawaiian Affairs.

**Board Chair Hulu Lindsey:** Yeah, but when they do districts, isn't that going to affect our beneficiaries in who they want to serve them?

**Public Policy Manger Tanaka:** Yeah, but so they create districts like Senate districts or where the beneficiaries that live in the district vote for their district trustee, versus the current situation we have now which is where everyone can vote for every trustee. Yeah, and I think you know, I think there are points raised in the last discussion about the board being a statewide board would preclude folks from being able to vote for trustees and that you know could affect them if you're not in that trustees district. There's also concerns were raised about how this could result in a very Oahu centric board because O 'ahu Trustee, O'ahu just because the districts have to all be the same. So if you have a Moloka'i district for example, then every district has to be the same size as that district so O 'ahu would have like 20 trustees, versus one trustee from Moloka'i.

**Board Chair Hulu Lindsey:** But they're still keeping the number nine.

**Public Policy Manger Tanaka:** SB195, they keep the number nine. Yeah so that one is almost impossible to implement. SB196 just keeps a nine number of minimum, but guarantee if they're going to do it, it's gonna be more than nine because it's just the way population is distributed.

**Board Chair Hulu Lindsey:** Okay, I think it's gonna die, thank you.

**Public Policy Manger Tanaka:** Yeah, I'm pretty sure it's gonna die.

**Chair Akaka** recognizes Trustee Lee.

**Trustee Lee:** Mahalo, Wayne so I had a couple of questions about some of the new bill positions. So the first one is HB545, which is on page 8 item number 34. It has two companions, HB679 and SB717. It's about digitizing DHHL. But it doesn't talk about funding.

**Public Policy Manger Tanaka:** Right, yeah.

**Trustee Lee:** So they're going to try and require DHHL to perform this massive task, but they're not going to give DHHL money to do it. I mean not that they give DHHL money now, but. Is that one of the things that we're monitoring?

**Public Policy Manger Tanaka:** Yeah we're monitoring it, we actually talked to Lehua with DHHL who is their leg. point person about these bills. And yeah, so we're working with them if they you know, I think if they were they have significant concerns then we can kind of, you know, if it's gonna impact their ability to serve their beneficiaries, their waitlisters, and you know, we would be concerned. It looks like it did pass the first committee, so it's gonna make it past the triple referral. But I mean yeah, that's a good point. And if folks would like us to comment on that, I think yeah, there might be a potential risk that they say, oh you guys care about so much trouble that you guys give DHHL money.

**Trustee Lee:** Okay, right, well we're not mandated by law to give DHHL money, the legislature is, there's a big difference. But point taken, I just wanted to know. Okay, the next one is House Bill 748, item number 55 on page 13, which repeals the Aha Moku Advisory Committee and we're monitoring. I'm curious why we're just monitoring because OHA played a huge role in getting this passed.

**Public Policy Manger Tanaka:** We did, we've actually supported bills that would get the legislature to fund them like they promised they would. So like we actually floated them for the first couple of years based on understanding that the leg. would take over and they never have really. Again, the concern is if we start saying, oh, you know like keep the Aha Moku Advisory Committee, then we're gonna get sucked again into, like them trying to commit us to spend our funds. I think this is more a statement bill.

**Trustee Lee:** That answers my question, Wayne. And then House Bill 1018, which is on page 21, item number 96.

**Public Policy Manger Tanaka:** Okay, yes.

**Trustee Lee:** Lay nets and we're just monitoring this one.

**Public Policy Manger Tanaka:** Yeah, all this bill does is it gives authority for DLNR to issue permits for the use of lay nets.

**Trustee Lee:** For a fee.

**Public Policy Manger Tanaka:** So they have to go through rule making to establish those fees. I think we'd probably engage with them on the rule making side. I mean, I guess we could push for a statutory fee exemption, but.

**Trustee Lee:** For a lot of Native Hawaiians this isn't a business. This is how they feed their families. And now the state's gonna say, well now you got to pay too. You know, a lot of people that use this as sustenance is because they cannot afford to go grocery shopping. So now your telling them now they cannot afford to go fishing either. They cannot afford to feed their families. That's a concern.

**Public Policy Manger Tanaka:** That's a very legitimate concern. If you like us to comment just to say that you know there should be a fee exemption for Native Hawaiian subsistence, or even maybe even just noncommercial, although that would be hard to enforce because everyone would say their noncommercial. Yeah, maybe like a exemption for Native Hawaiian traditional customary netting practices.

**Trustee Lee:** Yeah, because when I looked up Native Hawaiian gathering rights, it specifically says land, so it would be difficult for somebody to claim that.

**Public Policy Manger Tanaka:** You can absolutely claim TNC for the ocean. I mean we have like a long history of advocating for TNC protections in ocean settings. I mean it's used successful as defense in court, I know that.

**Trustee Lee:** Okay

**Chief Advocate Wong:** Do you want to bifurcate this after or do you want us to?

**Trustee Lee:** No, Wayne's answering my questions Sterling. That addresses my concern. And then the last Wayne is SB715 on page 46, item 210. So it's authorizing revenue bonds for DHHL, well, for Pueo Development on DHHL. Is one of the things we're monitoring is who's going to pay the debt service on this

**Public Policy Manger Tanaka:** As far as I can see, there's no debt service that doesn't specify.

**Trustee Lee:** I just want to make sure that that's something that we're also monitoring when we're monitoring this bill, because they already have, oh well OHA paid the last debt service so OHA can pay this one too. Oh,

by the way, you're not getting a \$3 million, and we're going to keep you at 15.1 million, but we're gonna let DHHL issue all revenue bonds they want because you're going to pay the debt service. That's something we absolutely need to pay attention to.

**Public Policy Manger Tanaka:** Yeah, agreed.

**Trustee Lee:** That was all for the new bills, Thank you Chair.

**Chair Akaka:** Mahalo Trustee Lee, and mahalo Wayne for powering us through this. At this time we're going to take a short recess.

**SHORT RECESS at 2:49 p.m.**

**MEETING RESUMES at 3:02 p.m.**

**Chair Akaka:** Wayne if you can continue, mahalo.

**Public Policy Manger Tanaka:** Okay, sure, so I just wanted to note, so there was a question about HB850. This is item 221, it's basically, it would set up a task force between the Department of Transportation and DBED, Department of Business Economic Development and Tourism to come up with a plan to provide equitable broadband access for historically marginalized, under served, or unserved rural communities, and it requires a task force to apply for federal monies to provide for such access. We're recommending support. This is an old bill, so I just want to touch on it because I don't think I talked about it last time. You know we're supporting it, we know that most Native Hawaiians live in rural locations, rural locations are disproportionately Native Hawaiian. So you know, like for example, Waimanalo, Kualapu'u, Nanakuli on this island. So like the rural areas are where Hawaiians reside, and unfortunately these are the areas that lack access, consistent access to reliable broadband and so we're supporting because we feel like this could help support those communities and those beneficiaries.

**Chair Akaka** recognizes Vice Chair Lindsey.

**Vice Chair Lindsey:** Thank you, Madam Chair. Yeah, you know, my thought on a bill like this, or you know anyone that creates a task force is ensuring that the composition of the task force has someone on there that's going to represent the interests of our beneficiaries. To Wayne's point, many of our Native Hawaiian communities would fall under this category of being rural. I'm not saying this particular task force or the bill doesn't have that, but I would hope we're taking a look at that in our analysis, that there's somebody on there that we're potentially going to be able to work with to advocate for the interest of our people, especially on important issues and many others that the task force is being formed for. Thank you, Madam Chair.

**Public Policy Manger Tanaka:** There's no specific you know OHA representation on the task force. I think by its very nature, it's targeted at rural and underserved communities. So by its very nature the task force is going to be serving Native Hawaiians pretty directly. I can talk to administration about whether you know we have staff capacity to maybe put someone on the task force or suggest that as a part of our supporting testimony. We can figure out if you've got staff and expertise and capacity.

So this is on the old position bills, there's a typo for item 350, HB423, relating to the Department of Environmental Protection. It says support, it is supposed to say monitor. I think maybe someone was just changing the position on the tracker and then accidentally put like a wrong position in but it should be monitor. Its companions monitor. I don't know why it says support. But just so we're not taking action on these old bills,

so it shouldn't affect the motion or anything today. But I just wanted to note that for the Trustees and thank you, Trustee Lee, for pointing it out.

So I'm just going to touch base real quick on some of the old bills, especially the ones that you know that name us, so that we're opposing, so HB66. This would require the sale of the ceded lands in Sand Island, we're opposing it, it's triple referred. It did not get a hearing so scheduled by today, so unless they do some magic waiver stuff to waive the 40 hours and it's gonna be dead by tomorrow. Although bills can always get resurrected, you know, short forms get stuffed or those get replaced. So I mean for now it's dead.

SB2, HB81, this would make it so that lands set aside, at least HHFDC could be exempt from 171 could get leased for 99 years and so forth we're opposing those bills that HB81 the House side. It has a triple referral and hasn't been scheduled, so it is probably going to be dead. SB2 did move, passed with amendments out of the Water, Land and Housing Committees in the Senate. We're still waiting for the SD1 on that.

SB725 which is on page 119 is a very similar measure SB749. These would expand the authority of the Hawai'i public Housing Authority to build non low income units. So build like market rate or both market rate units. We're opposing because we think it's going to create a lot of pressure to just set aside leased lands to public lands including ceded lands to SPHA. And they're just gonna get into these big, you know, encumber these projects with 99 year leases because they're also exempt, with respect to those lands from the normal 65 year cap on public land leases, both measures are moving. So HB81 didn't get a hearing and it's triple referred, so it's probably dead. SB725 is what I was talking about HB81. It has a hearing tomorrow. We submitted testimony on that one. SB749 also passed with amendments out of housing. I haven't seen a SD1 yet.

HB205, which is the bill that says information that should be the Ombudsman, is privileged and doesn't waive attorney client privilege and so that passed with amendments and it's on it's way too Judiciary and Hawaiian Affairs in the House. HD1 hasn't come out yet.

HB 517, that's the auditor bill. It also passed out. It's also on its way to Judiciary and Hawaiian Affairs in the House. Also hasn't had the HD1 yet. We're keeping an eye on those, you know, for potential impacts to our current dispute with the auditor.

HB 260, this is the Land Use Commission bill, it would take away the Land Use Commission's oversight over district boundary amendments up to 100 acres and so that's concerning because the Land Use Commission is like one of the major ways that we are able to, that practitioners are able to assert their rights and practices and get them affirmatively protected through conditions in these in these kinds of things. So this bill, it did have a hearing satisfied on yesterday. It passed with amendments, it just passed yesterday so there's no HD1 out yet.

HB341, this is a declaratory action. It would take away declaratory ruling petitions and it would make declaratory rulings unappealable from agencies, which is, you know, declaratory rulings are how, similar to the first I talked about today, but it's one of the ways that Native Hawaiians can get access to justice. To ensure that agencies apply the law. Laws that may be, you know, protecting their interests to specific situations. But we are opposing this bill. It got heard. Its decision-making is scheduled for one hour ago. So yeah, we'll see if it makes it out of committee.

Let's see SB690. That's the CBSFA bill. It was actually being heard when we were meeting last week. It got deferred in the Water Land Committee in the Senate. House side still hasn't moved, but it's still alive.

HB499, this would allow for the DLNR to issue 40 year lease extensions for any commercial industrial resort leases of public lands. So we have been working with some of the proponents of the bill to address their concerns, which are that ceded lands could be encumbered for 100 plus years. They actually seem amenable

to reducing the 40 years to like 20 years, and we have some other safeguards to ensure that these properties are protected against sweetheart deals that might arise from these extensions, which the HB499, it passed out of Water Land and it has a hearing I think today at two. We did offer specific amendments. The Water Land share encourages to offer specific amendments for the Consumer Protection and Commerce Committee, so we have that in our testimony hoping they consider it. SB257 passed with amendments and its on its way to Judiciary but don't have a SD1 yet.

Out of the three mental health bills, so this would make people with experience in Hawaiian healing methodology is experiencing familiarity with you know, culturally grounded, mental health programming services. It would require, requires those individuals to be on the State Council Mental Health. So SB905 is only one that's moved so far. It doesn't say three Members actually, it just has a blank. A blank amount of members of the State Council has some of that Hawaiian background. It has a hearing scheduled for next Tuesday, and the House version is probably dead because of the triple referral.

SB4, this is the inclusionary zoning bill. It prohibits inclusionary zoning for certain types of so called affordable housing developments. It ties the hands of the counties to ensure that developments do provide housing that's priced at what our beneficiaries need. It had a hearing in the Senate Housing Committee. It passed with amendments but we don't have a SD1.

And then our Office of Youth Services, the Kawailoa bill, to set up a revolving fund for the kind of strength based vocational training programming that's been proven really successful in both Kawailoa and, you know the correctional facilities. So that one has a hearing in the Senate side. Sorry SB1128 and HB974. The Senate side SB1128 has a hearing tomorrow, so we're excited about that.

So Kaka'ako hotel bill is probably dead. Triple referred in the house, never got a hearing. Same thing for the Kaka'ako residential bill. This is HB1267, it's probably dead. SB1334 though, on the Senate side SB1334, it has a hearing scheduled for next week the 16th before the Hawaiian Affairs and Housing Committee in the Senate. So excited for that one.

**Chief Advocate Wong:** Madam Chair, just really briefly, so SB1334. This is the big residential bill, so for lifting the residential prohibition on our Kaka'ako Makai lands. We will be doing a bunch of community outreach and you know, on our social media and Ka Wai Ola will definitely be focusing on this bill as well. We're already seeing pop up on social media, opposition to this already and we know there's a lot of discussion about this one at the legislature currently. But just to maybe linger a little bit on this one, SB1334. This is the residential Kaka'ako Makai bill.

**Chair Akaka:** Mahalo for that elaboration, Sterling.

**Chief Advocate Wong:** Okay, I'll throw it back to the Wayne.

**Public Policy Manger Tanaka:** So SB321, this would lift the \$15.1 million cap. It would transfer the CFTHA to what's in the carry forward trust holding account to OHA. Set up the Negotiation Committee and so forth. It had a hearing in the Hawaiian Affairs Committee. It passed with amendments. I think the amendments blanked out the amounts, like the the minimum, so we had a minimum of 15.1 million essentially and so it blanked out that minimum. It would also now incorporate some language from Act 304 from 1990, which is the big historic agreement we came to regarding what revenue streams should be subject to, you know, Native Hawaiian share with Public Land Trust. It talks about sovereign versus proprietary revenue streams, so it reflects that language which is interesting. I think Sterling pointed out this is the first time Act 304 has ever been talked about on a PLT bill. We had one of our staff go and dig through all the testimony from the past few years. And yeah, it is the first time ACT 304 has ever been mentioned, so that's interesting.



**Chief Advocate Wong:** Yeah and Madam Chair, just to add, Act 304 was a huge accomplishment for OHA and created a formula for the first time that provided a calculation for our revenue stream and caused a lot of problems and lawsuits as well, the famous Healy ruling. That the Attorney General is now supporting Act 304 language, and there's sort of dueling testimonies from two different Attorney Generals on two different PLT bills, but it's very interesting and something that we're going to keep our eyes on moving forward.

**Public Policy Manger Tanaka:** The two opposed bills considering PLT, so this is where the Public Land Trust revenue set aside for OHA would instead be transferred to the Department of Hawaiian Homelands. The HB was triple referred. Didn't get a hearing scheduled, it's probably dead. The SB was heard in the Hawaii Affairs hearing It was passed with amendments. What the committee chair said was indicated her intention to replace with language from SB321, but the SD has not come out yet. So until that happens, we're still opposing this bill.

SB977 this is the PLT accounting bill. So it codifies the accounting requirements under 178. It says that UH, yes has to account for public land trust revenues and so forth. That bill has not had a hearing yet. But it's only double referred in the Senate, so it's still technically alive.

HB1298, HB1299, were opposing those. Those would sweep up some of our trust accounts, along with all other non general fund accounts across the entire state. We're opposing those. Neither has got a hearing. And let me see there. But there are only single referred to FIN, so we'll see if they ever move.

SB1352, so this is the bill that will take the overages that would go into the into the CFTHA and then the legislature would direct those overages to a workforce development training program which we're opposing because the legislature should not be directing how public land trust revenues aside for Hawaiians are spent, but yeah, OHA is the Constitutional, has a Constitutional program to make those decisions, so that has not moved yet, but it only has a double referral, so it's still technically alive. All these double referral bills have to make lateral which is next Friday as Sterling said. So there's another week to keep an eye on them.

SB691, that's the bill that would place the Kaho'olawe Island Reserve Commission in OHA which we opposed, was deferred yesterday. And there's the Aloha Homes measure where we have concerns because there is a section within the Aloha Homes bills. Sorry HB607, SB1. There's a section in there that would let lands be set aside or leased to the HHFDC, and then leased for a super long, like there's no limit to how long could be leased. So probably 99 years actually no, it specifies. Sorry my mistake, it specifies those lands can be set aside for 99 years, which we don't like, especially since it doesn't have any kind of recognition of Native Hawaiian claims to the ceded lands that could be leased for that long. SB1 was scheduled for hearing and then it was pulled from the agenda. So yeah, so I'm not sure what's going on with that. The House version, HB607 is triple referred and doesn't. So because it hasn't had a hearing, it's probably not gonna move.

SB238 this is the one about randomization of the names of OHA Trustees. We were going to comment and say we should do that for all races, not just OHA races. So that measure passed with amendments, but the SD1 doesn't really have any substantive changes. So our comments are still the same because it hasn't really substantively changed.

SB 890, which we're opposing. This is the one that would create urban rural districts for the OHA at large Trustees and then basically require reapportionment of all the Trustees. So it would be the the four at large would be urban rural district representatives. It changes it so that there's nothing that addresses our concerns. It actually says it has to have a minimum one member on Moloka'i, which we did point out like the original draft would have got rid of the Moloka'i seat. But like I said, if you make one seat for Moloka'i then that means each Trustee has to represent you know the population of Moloka'i, which means it will be like I don't know like 50 Trustees. I got to look at the population numbers, but it would blow up our Board. And then the bill increased

the frequency of Native Hawaiian training course which we're opposing. It hasn't moved, only a single referral though.

And then the HB800 SB1409, which we're supporting, which talks about like if you're serving on the board or commission and you don't go to training course after two years then you have to get reconfirmed or you have to take the course. So neither of those bills moved.

So there's some discussion about that Trustee Lee brought up about HB393. This is about saying that there should be no sales of electric vehicles by 2030. It has been amended, so there's no deadline anymore. It's just a blank date it. It changes the goals, so basically I think it wants all light duty ground transport vehicles and state to be clean by 2045 and all state light duty transport vehicles to be clean by 2035. And those are just goals. I don't know if they are enforceable or anything, but we'll keep an eye on that. I talked to the research folks to see what kind of questions we could be asking in terms of validating or verifying Trustee Lee, these concerns.

HB524 the feral chicken feeding bill is dead, so we don't have to worry about that one. I looked at testimony everyone was like, yeah, this is completely unenforceable and also a waste of time so they killed it. And then finally there's questions last week about SB179, which is the East Kaua'i Irrigation System. It would transfer that system from DLNR to the Department of Agriculture. So as background, the East Kaua'i Water Users Co-op was running system for like about 20 years. They're having too much of a hard time trying to get a water lease, water license so they just dissolved in last year, December 2020, and actually prior to that even what's happened is the DLNR, because it's on DLNR lands has been managing the irrigation system, but not to convey water just to keep it from being stagnant and breeding mosquitoes, that kind of thing. And so DLNR is saying, you know they can't do anything. They're not in the business of conveying water, like it's costing them half a million a year just to do what they're doing to keep it like from completely going to disrepair. And so they're very supportive of transferring to the Department of Agriculture, you know, I think the system used to serve DHHL, but then a reservoir, something happened and no longer does. You know some folks do think that the irrigation system should not be brought back online. You know they're concerned about the historical impacts to stream flow and public trust purposes and beneficial uses of stream flow from water that's diverted to feed the system. But you know, we've never taken the position that all diversions have to stop. In fact, we've always consistently said that it's more about being able to share the water, making sure that the public trust is properly administered and how it is distributed. So I don't think we would necessarily know oppose transferring authority over the system to the Department of Agriculture to the extent that they can maybe help you know some of the small farms that are served by the system. I think we just have to keep an eye on it and the Department of Agriculture to make sure that they are considering the public trust in the State Water Code and in the Constitution when they bring the system back online, so we'll continue monitoring this bill.

That's it for the old things. If anyone wants to revisit anything else, I'm more than happy to talk about it.

**Chair Akaka:** Mahalo, Wayne, is there any further discussion trustees? Okay, well turning it then back to Ka Pouhana to provide overview of how to proceed next then.

**CEO Hussey:** Thank you, Trustees, I just want to ask for your indulgence for administration. We've been going for two hours now and I just want to be sure that we're clear about what the next steps are and what sequence those steps occur so that administration can be sure we're prepared for bifurcated action, those kinds of things so I appreciate your indulgence. So, based on administration's understanding, the first motion would be to put up the approved administration's recommendation on Matrix 2. Once that action is there, then trustees would identify any line items that they would like to bifurcate and separate from the Matrix to discuss separately. Once that action is taken, then the trustees go back to the main motion and the matrix minus the bifurcated items and vote on that. The 4th action in administration's mind is that then the trustees take each bifurcated action by subject, or by line item, and goes ahead and makes the motion and debates the position, knowing that if the motion is defeated, you will have no position on that item. So I just wanted to check for clarity if that

is correct, so that administration can be sure we are prepared to help manage and monitor all of the discussion items for the trustees. So do we have the correct understanding?

**Chair Akaka:** Mahalo, Ka Pouhana, yes.

**CEO Hussey:** Thank you for indulging us.

**Chair Akaka:** May I have a motion to approve administration's recommendations on new bills and positions.

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

**Board Chair Hulu Lindsey:** I move **To approve Administration's recommendations on: NEW BILLS (Items 1-26, 28-108,110-199, and 201-300) and BILL POSITIONS FOR RECONSIDERATION (Items – 301-305), along with the following revisions:**

**ADD items**

- **HB344, as OPPOSE**

**CHANGE items:**

- **27, HB497, from MONITOR to OPPOSE;**
- **109, HB1105, from MONITOR to SUPPORT;**
- **200, SB567, from MONITOR to OPPOSE;**

**on the OHA Legislative Positioning Matrix dated February 10, 2021, as amended.**

**Chair Akaka:** Mahalo, Trustee Hulu Lindsey, is there a second?

**Trustee Ahu Isa:** Second

**Chair Akaka:** Alright, it has been moved by Board Chair Hulu Lindsey and seconded by Trustee Ahu Isa. Is there any discussion on this? Seeing none, can 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			X			
CARMEN HULU	LINDSEY	1		X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E			X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

3:31 p.m.

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

IV. NEW BUSINESS

None

V. ANNOUNCEMENTS

**Board Chair Hulu Lindsey:** Just the BOT meeting tomorrow which I announced earlier.

VII. ADJOURNMENT

**Chair Akaka:** I will entertain a motion to adjourn.

**Board Chair Hulu Lindsey:** So moved

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

**Trustee Waihe'e:** Second

**Chair Akaka:** Alright, this meeting is adjourned unless there is 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:** [  ] **UNANIMOUS** [  ] **PASSED** [  ] **DEFERRED** [  ] **FAILED**

**Chair Akaka:** The meeting is now adjourned, mahalo members and mahalo to Wayne, Sterling and our CEO for powering through, and everyone for your patience in this process. So mahalo members and all in attendance and all live streaming, a hui hou kākou, mālama pono, aloha.

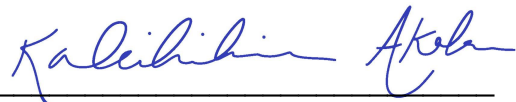
**Chair Akaka** adjourns the BAE meeting at **3:34 p.m.**

Respectfully submitted,

Handwritten signature of Brandon R. Mitsuda in black ink, written over a horizontal line.

Brandon Mitsuda Trustee Aide  
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on March 17, 2021

Handwritten signature of Kaleihikina Akaka in blue ink, written over a horizontal line.

Trustee Kaleihikina Akaka  
Chair  
Committee on Beneficiary Advocacy and Empowerment