

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 17, 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 Lindsey

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, February 17, 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	EXCUSED	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **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, I'll do a quick lateral to Chief Advocate Sterling Wong to get started on matrix one, mahalo.

Chief Advocate Wong: So just to begin, I'll take you guys through the legislative calendar just to give you guys a sense of where we are in session and what's driving session. We are right here, the 17th. We are looking at the lateral deadline, which is Friday. This means that all bills need to be out of there, into their last committee by this date, and then we'll be looking at the first decking deadline. So we're coming to sort of the end of the road for bills in their first chamber.

Now I will go to our package matrix and just overall our package is actually doing fairly well, actually really good. We have vehicles that are going to clear, well they should clear lateral, so we'll have bills going through session for sure. So to take you through OHA-1, budget bill, the House bill was heard already last week Friday. It has a decision making today at 2:00 p.m., so we get a sense of what the House is going to do with our budget bill. And, as I've mentioned previously, the House version of our budget bill will be the vehicle moving through session. The Senate bill, I suspect what will happen with the House bill today is that they will blank out the dollar amounts, which is what they usually do and hopefully they record the dollar amounts in the committee report, which is exactly what happened with the Senate bill, which has passed and we've gone over already, but they did blank out the dollar amounts and kept the dollar amounts in the committee report.

Our CIP bill is looking really good in the House. It's cleared JHA, so it's cleared the lateral. It's into finance, so it would have to clear the decking deadline. Unfortunately, the Senate version of the bill has not moved. Water, Land didn't hear this week, so the Senate vehicle will die, but the House vehicle is still moving.

OHA-3, expungement bill, the House version of this bill unfortunately was deferred in committee. The Senate version, however, passed with amendments, and we have what we feel is a pretty good draft that I think addresses most of the the prosecutor, the AG, and judiciary's concerns. And so I think we're pretty confident with the bill we have moving through. Again this bill has passed HMS, so it passed it's lateral deadline. We just have to clear decking and judiciary. And as mentioned last week, our resolutions haven't had a hearing yet, they're on a much later timetable, but I think all in all our package is looking pretty good with vehicles continuing through this lateral deadline. Yeah, so that's good, Madam Chair, that's the update on this agenda item and our package. I'll turn it back to you, mahalo nui.

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.

Chief Advocate Wong: Mahalo, Ka Pouhana, Madam Chair. So we'll go into the matrix right now, and just, you know, we are working with BAE Leadership and trying to improve this process, just a little update on how we present, you know, I think there's a lot of excitement to talk about. Some of the big bills like the Kaka'ako Makai bills, and some of the OHA impacted bills. But how we're presenting the matrix, what we're doing is we first talk about the bills that we're asking the Board to take positions on, so the discussion at the

first half of this meeting is specific to the motions we're asking the board to make, and then right after that, Wayne will go into some of the key bills, the OHA impacted bills, and I think you know some of the exciting bills that I think we're most interested in. So that's sort of the structure of the process we're going to be presenting, and we're definitely working, and thank you, Chair Akaka and Ka Pouhana for working with us on this and we're looking to improve this process for sure. Okay, so without further ado I'll turn it over to the star of the show, Wayne Tanaka, Public Policy Manager, thanks.

Public Policy Manager Tanaka: Thank you, Sterling, and good afternoon everyone, this is week four of the 2021 session. This is our third BAE. We've gone through pretty much all of the bills that have been introduced. You know, there may be a handful of lower priority ones that will be coming in over the next couple of weeks. But hopefully today's meeting will be a lot more briefer than the last couple of meetings. I just want to give you folks a heads up so there are, you know, we're tracking a few 100 bills. There are also hundreds of bills that we're not tracking because we didn't think they were very salient, with respect to our mission, but we do have software that is running keyword searches for keywords through all these other bills we're not tracking, so if they get amended to where they have these keywords we'll take a look. And if because of the amendments become, they become salient again, then we may be adding them to our matrix in the coming weeks. So just a heads up of what that looks like. As Sterling mentioned, first we're going to go over the new bills that we're recommending new positions on and we'll start with yeah, with that, and then we'll have to go through the bill position changes. There's only a handful, and that'll be it for all the bills that we're recommending the board make a decision on today. But after that then I'll go through all the the old bills that we already have positions on but, you know, they're kind of high profile so I think you folks might be interested in updates so you know starting with the OHA named bills, of those, starting with Kaka'ako and PLT, then I'll go through the you know, opposed bills, and so forth. So that's the order of operations for this meeting. And again, please stop me if you have any questions about anything I'm talking about. I'm, you know, I don't want to keep everyone here longer than needs to be, but I also want to make sure that everyone's with me as we go through these bills, so I'm trying to strike a balance between speed and also detail and so forth. But if I'm ever moving too fast and please let me know. So yeah and again thank you to staff working super hard over the last few weeks and also thank you Sterling for helping run this show. Finding the bills in the matrix so that you don't have to.

I'll go through the new bills that name OHA. Well, actually there's only one that we want to highlight. HB1357, this measure names OHA. It would require you know the Governor, Lt. Governor, Legislators and State Department heads to translate their offices or departments names into Hawaiian and have that displayed on the website and on their letterhead. It names OHA in that it says that they may consult with OHA prior to implementing this Hawaiian translation requirement, and we're recommending supporting this bill as another step towards normalizing Olelo Hawai'i.

The next few has to do with criminal justice, so HB796 on Page 3, item 12. It's similar to bills we've supported in the past. It requires the Public Safety Department to report on, to provide information on pa'ahou who die and their staff actually who die in custody or in their correctional facilities. It would include race information and if they redact information, it would require that they provide an explanation why they've redacted information. You know we've supported this because, you know, we really need to know more information about what's going on inside of our facilities. Anecdotally, we believe that prior to COVID, almost all the inmates who have died in custody were Native Hawaiian, but we can't say that definitively. So and we really need information, especially with the COVID outbreak and what we've been seeing in our prisons and jails over the last few months, so we're recommending supporting this bill as a way to get transparency into what's going on in our facilities.

Okay, and then there's a handful of bills, there's actually five of them. So HB1080, which is on page 6, item 20. SB776, which is page 11, item 39. SB1243, which is on page 15, item 53. And then a couple other companion bills, HB1082, which is on page 7, item 21, and then SB1245 which is on page 15, item 54. And all these, what

these bills all do is they require prior to the construction of a new correctional facility that the Oversight Commission be consulted and or the approval of the Oversight Commission be received prior to the construction of a new facility. I think you know our concerns with new facility construction is that it will basically just let the state ignore some of the necessary forms that the Commission is tasked with working on to kind of transform our criminal justice approach from a punitive one to rehabilitative one. I think this doesn't stop the construction of any new facilities, it just requires that the Oversight Commission be consulted so that they can, you know, talk to PSD, establish a record as to what they think the reform recommendations are, and that would kind of mitigate our concerns about just building new prisons and not actually dealing with the underlying systemic issues that's creating this over incarceration problem we're seeing. So we recommend supporting these bills.

Okay and then the next measure, SB1414. This is on page 16, item 60. We're recommending commenting on these. They have appropriations, so we you know, we don't want to get trapped into funding some of these programs. So what this bill would do is require the establishment of restorative justice centers in each county. We've supported restorative justice measures in the past including these ones. We're just being extra sensitive because of the COVID and impact on the economy in terms of supporting outright. But you know these centers, they apply approach is similar to like Ho'oponopono, that kind of promote community satisfaction with the justice system, fosters lasting rehabilitation for for pa'ahou, and ultimately leads to safer communities for everyone. You know, the restorative justice approach has been recommended by the Native Hawaiian Justice Task Force, by HDR85 Task Force as well, which we've you know, been major players. We would just comment and just comment on the benefits that may arise of, you know, exploring restorative justice as an alternative to incarceration and fines and so forth. So that's it for the criminal justice new bills.

Real quick I'll talk about HB680, SB982, that's on. I guess SB982 had a hearing yesterday so that's on page 143, item 559. So this would allow for alkaline hydrolysis or what's called water commission of people that passed away. This is, you know, a lot of I think our beneficiaries are interested in this as a way to kind of revive traditional practices surrounding iwi. Currently, like you know there's like you could try to do partial cremation, but that's not really consistent with what folks, you know, what used to be done. And so, because this would help, you know, facilitating the revival of, you know, traditional burial practices that have been dormant for over a century, we're recommending supporting these measures. SB982 did have a hearing yesterday and I think it passed out of the Hawaiian Affairs Committee.

So next bill I'll talk about is HB1014. This is on page 5, item 17. This has to do with pasture lands leases. You know, if we remember last year we had some concerns about measures that would force the transfer of about 100,000 acres of pasture lands from the DLNR to the Department of Agriculture. Our concerns are that even though these are called pasture lands, what they really are, they're the sites where native remnant forest still exist that haven't been touched by industrial agriculture, their adjacent to water shed areas, they have endangered species habitat, they have cultural sites, trails used by practitioners and so we're worried and DLNR is really worried about forest transfer that would take away the DLNR's ability to protect all these non pasture purposes in these lands, and so this measure wouldn't mandate the transfer. It basically establishes an advisory committee to advise on the transfer of pasture lands from the DLNR to the Department of Agriculture, and this advisory committee would specifically look at things like, impacts to TNC practices in the public trust. We're recommending commenting on this, even though it says that the committee supposed to look at impacts to traditional customary practices. It doesn't have any representation from the Native Hawaiian community on the committee. So we're commenting to suggest that they at least include, you know, someone with some expertise that can advise on the cultural aspects of what they're supposed to be advising on.

So on page 18, those are all the bill positions that we're recommending changes on. So the first one, item 66. So we're recommending change from support to comment. Initially it would have prohibited discrimination in health insurance for transgender, gender nonconforming folks by ensuring they aren't denied coverage for medically necessary procedures that would otherwise be covered for you know, cisgendered folks, and that would be consistent with, you know the stance of care that were issued by the World Professional Association

for Transgender Health. You know Hawai'i has the largest LGBTQ population of all the states. Of that population, I think like a quarter of them are Native Hawaiian, so you know this is a matter of, you know, interests and concerns to the agency. The bill has been amended now just to require an audit rather than prohibiting health insurance discrimination. The audit approach has been seen as kind of like a way to just to defer what is really, you know, recognized now is like a cost effective and also socially beneficial approach to medical insurance coverage, so we're recommending just commenting instead supporting at this point.

HB427, that's actually a companion to the bill just talked about. SB 1414, so this is the restorative justice bill. So it was monitor and we're recommending commenting on that bill, so I won't get into it.

HB808, this is number 68. This would expressly prohibit any pa'ahou from being released unless they are granted parole or a pardon, or you know, are released under the compassionate release process, which is basically for you know folks that are dying. You know, we'd note that we're recommending taking a comment position on this measure, just to note that this would tie their hands of the administration and the judiciary to address exigent circumstances, including like what we saw during the pandemic, where you know there's mass, the mass overcrowding in our prisons led to huge outbreaks that could threaten the medical infrastructure of the island for everyone, so we'd like to highlight that concern.

HB1220, this is the next measure on the position change we were monitoring. We'd like to support this bill. It would provide more guidance for the Charter School Commission, both in terms of its membership composition, as well as in its processes and procedures that follows in authorizing new charter schools. What we've seen in the last few months is kind of a lot of conflict, confusion leading to conflict about how the Charter Commission accepts applications, how they deny applications, what the processes are that they have to go through, and this confusion conflict has really taken away from the commission's capacity to oversee existing charter schools, for example. And so by clarifying some of these procedural issues, this bill would hopefully help to reduce the confusion, reduce the conflict and let the commission, do its job, which is already, you know, pretty overwhelmed in terms of how many charter schools that it has to oversee at this point. So they're already at capacity. So we're hoping this will help the Charter School Commission and our charter schools by extension, and so we're recommending supporting this bill.

I think the last one is number 70 on the bottom, so this we're supporting it in the past. What this does is it provides discrimination protections for folks who receive public housing, not public housing, who receive government housing support. So basically, like Section 8, you know if you go on Craigslist looking for a place to rent, like half the things will say no Section 8, right. So it's explicitly allowable now, this would prevent that from happening. We know that in other jurisdictions where they have enacted discrimination protections for public housing or housing assistance recipients, those recipients actually have a much better chance of actually securing housing using their assistance, so bills like this would help ensure that government investments in providing housing stability for its citizens are more effectively realized. And I also note that the data we have indicates that Native Hawaiians are more likely to receive public housing, so this will have a disproportionate benefit for Native Hawaiians. So the thing is, with this bill we're going from support to comment. It's got a new section with appropriations, and again because we're trying to be extra sensitive about the impacts of COVID on the economy, in the states funding outlook, we're you know, we're recommending just commenting instead of supporting outright.

So the first HB1264. This is item 306, on page 81. This is the Kaka'ako hotel bill. It hasn't moved. So it missed the triple referral deadline. So obviously it's going to miss the lateral deadline. So yeah, it's most likely dead unless it gets re referred or something, which is always possible.

The Kaka'ako residential bills, so HB1267 which is dead. It's on page 82, item 162 is dead more or less. I mean again, it's triple referred, hasn't moved at all. The Senate counterpart, however, did have a hearing this week. Yesterday, had a hearing in the Senate Housing Committee, Hawaiian Affairs Committee. It was passed

with amendments. We'll see what the FD1 looks like. Yeah, so that's exciting. It's moving on to judiciary, so yeah, we're reaching out to Judiciary Chair to get his take, see if there's any concerns we can address.

Next bill SB321, this is on page 108, item 412. This is the public land trust bill. It would lift the cap on the 15.1 mil. transfer funds in the CFTHA to OHA, establishes a negotiation committee and so forth. This bill has not moved. So here let me just double check this. Has not moved. Oh, it did move. Sorry, it moved out of Hawaiian Affairs, so it's going to go to Judiciary. It's going to get passed lateral and needs to be heard by a joint hearing by the Judiciary and Ways and Means. So we have a couple weeks to try and get a hearing scheduled on this bill.

Chief Advocate Wong: Madam Chair, so sorry just can I go back to the Kaka'ako Makai bill real quick and just run down some of the issues and what we're hearing and then you know, talk a little about strategy. I think, obviously this is one of the priority bills for this session. It had a quick hearing yesterday. Obviously, I think for most people who have been watching this issue and I think most of the trustees who have been here since 2012 and 2014 knew that the opposition to this measure, the quote unquote red shirts, the friends of Kewalos groups who had advocated for the original prohibition to be passed in 2006 are very organized. And we've been seeing their messaging come up on social media and we saw them come out in force yesterday in the hearing. They had a lot of testimony, probably about two to one, which I was actually really surprised by the amount of support we got, given how you know the short turn around we did, you know, Davis and his Community Outreach shop did a really good job. So we had the civic clubs, the Malama Kupuna group and a bunch of individual beneficiaries really reach out and support the bill. Governor Waihe'e also submitted very good testimony. So I thought that was good I think. So the main arguments that we're hearing and these are the same, it's basically completely recycled arguments, which is kind of interesting from 2006 and 2014. The one that seems to be getting the most traction is the no public land sales sort of argument and just to be clear we'll try to make this clearer in our testimony. But these are not public lands. The moment they were given to OHA they became trust lands. And you know, in the spirit of self determination, indigenous self determination it's really about this bill giving Native Hawaiians through our Board who are vested with the exclusive authority to manage these lands, the freedom to exercise that self determination and manage these lands, how they feel is best for our beneficiaries. The other arguments we're hearing are climate change. If you guys go to oha.org, the front page slider has some great information. Chip Fletcher, who is an expert on sea level rise, has provided, did us a report in 2012 which really show, I think there's this misunderstanding that just because our lands are closer to the ocean, there are greater impacts than surrounding areas that are allowed to do residential. Greater impacts predicted from sea level rise, and that's just not true. The 2012 report that Chip Fletcher did for our lands and KS lands shows that our lands, because they're on the landfill are higher than the rest of our neighboring parcels, and there are some weird geological issues with, you know, up mauka, that results in our parcels being impacted at worst, the same, at best. Maybe our parcels do better with sea level rise then all the way up mauka to NBC, Neal Blaisdell Center and then like the McCully area. So Sylvia had reached out to the Climate Change Commission which OHA sits on the commission of and we've been looking at the most updated maps, and they're even more favorable to us in terms of how they're predicting sea level rise to impact our properties. Actually like our properties, except for the corner of Fisherman's Wharf. Our properties look really, really good in all of Kaka'ako compared to the rest of Kaka'ako. So yeah, I think those are the main arguments we're hearing and then you know, wanted to protect the shoreline and shoreline access. Of course we don't control any of that, so. Anyways, just a brief update.

Chair Akaka: Sterling, I also will add and if you want to add on top of that too, if we want to share with our Board about the launch of the web page on oha.org/kakaakomakai2021 and it's a really good compilation of that information that Sterling had just gone over, as well as a great section regarding the myth busters. So it really answers questions that legislators and the general public would have to help mitigate that straight off. And it's really good with the maps of the area and more on what you had said Sterling, so mahalo.

Chief Advocate Wong: Mahalo, Chair for that. Big shout out to Alice's team for just putting together, you know, we do the messaging, you know the stuff with Kalani Fronda, from our land division. But really DPM makes the stuff gorgeous. So yeah, definitely you know, urge the trustees and staff to go look at that web page. Certainly, I'm sure you guys are having a friends and family and constituents and beneficiaries reach out to you guys and just that page is a wealth of information. I just urge everybody to go there. The bill is going to be heard next in Judiciary with a bunch of our other bills, so we are planning to reach out to Senator Karl Rhoads, who's the Chair of the Committee and really talk through a lot of these bills We got through our first hearing so that's exciting and hopeful for what happens next. Madam Chair, thank you for that, just a little sidetracked, but just wanted to update everybody on how this priority bill is going. I'll turn it back over to Wayne, mahalo nui.

Chair Akaka: Mahalo, Sterling

Public Policy Manger Tanaka: Thanks Sterling, very exciting hearing yesterday and if folks are interested in seeing specifically what people are saying, you can always go to the status page at capitol.hawaii.gov and then put in SB1334 and it'll show you all the testimonies. There's also YouTube videos now of every hearing, so you can also watch online too. Great testimony from Gov. Waihe'e.

Chair Akaka: as well as our Board Chair

Public Policy Manger Tanaka: Okay, so moving on HB1265. This is another PLT bill. It's on page 81, item 307. So this would increase the 15.1 million to 20 million. Among other things that we've asked for in the past, like codifying reporting and accounting requirements so forth. So this bill has not moved yet. It's double referred, so it's probably not going to make it past the lateral unless something, it gets re referred or there's a waiver of the 40 hour and so forth. But yeah, there's that bill.

HB1266, which we're opposing. This would give the CFTHA to DHHL and also lift up the PLT cap, but make sure that all of the. It would lift the PLT cap but then the PLT revenues would go to DHHL instead of OHA. HB1266 appears to be dead. It has a triple referral and hasn't moved. The SB1317 did move though, so it's gonna make it past lateral. We're still recommending opposing that bill. It does have some language that seems to indicate that we'll still be getting the 15.1, but it contemplates giving the CFTHA overages to DHHL, instead of putting it into the CFTHA, the carry over trust holding account. Because it's a legislature exercising its authority over PLT revenues that are supposed to be set aside for Native Hawaiians and it's supposed to be administered solely by OHA, we're recommending to continue opposing this measure.

Next bill, SB977. This is the PLT accounting bill that we had in our package, I think a couple of years ago. It hasn't moved as of yesterday when I checked. So yeah, it's probably not going to make it past lateral this week.

HB1298, HB1299. These are both on page 84, items 316 and 317, we're opposing them. These are the ones that would raid trust account, raid all non general fund accounts in all departments and agencies including OHA. So basically it would raid OHA's trust accounts. We're opposing both of them. They haven't moved, but they only have one referral, finance, so we just have to keep a close eye on them. Yeah, make sure we can get us out of those bills.

SB1352, this is the workforce development bill that would take the overages and put it in a Workforce Development Grant Program. We're opposing this bill because similar to the bill I just talked about, it's basically the legislature exercising control over funds that are set aside for Native Hawaiians that should be solely administered by OHA. So this bill hasn't moved it. It hopefully won't, it looks like it's double referred, so it probably won't be making it past lateral unless something happens.

I will real quick touch base on the trustee election ones. So first up, it's page 51, item 193, HB644, it's got a companion SB196. This is the Constitutional amendment for reapportionment for OHA Trustee elections, or OHA Trustee seats, sorry. The House version hasn't moved, but the Senate version did move. Yeah, so we're so it's probably going to pass and it's making it past that. It's making it past lateral so we're just going to have to watch for its, you know, to see if it gets heard. It was re referred. It used to be just referred to Judiciary, now it's going to the joint Judiciary and Ways and Means Committee. Yeah, so well, we'll keep an

I'm gonna jump to SB890, this is the urban rural districts for the OHA at large Trustees, and would also require the other trustees to basically be apportioned, you know, elected by the residents of the islands they represent. Again, we are opposing it, it's grossly unconstitutional. The house version hasn't moved. The Senate version did move out of Hawaiian Affairs, so we're going to watch for the Judiciary hearing if it does occur. Just so you know the SD1, I think I talked about it last week, requires one member for all the islands except for Lana'i and Ni'ihau. So again, it's even more unconstitutional in terms of the equal representation requirement of the Constitution.

SB195 this was the. So this is page 101, item 382. The House version did not move, let me double check to make sure. Yeah, so it's probably gonna miss lateral. The Senate version is going to the Judiciary so yeah, this is another reapportionment one that's contingent on the Constitution amendment passing. But yeah, so Senate vehicle is still alive.

Next item SB238. This is on page 105, item 396. This is the randomization of names for the OHA ballot. It has a hearing today at 10 or had a hearing today at 10, so we submitted testimony commenting on the measure suggesting that if they're going to randomize ballots, they should probably do it for everyone other than, rather than just singling out the OHA Trustee campaigns or ballots. Yeah, so I would have to check back to see what the committee did.

The next measure measure SB981, this is on page 142, item 558. This is the public funding bill for OHA Trustee candidates. The SD1 that came out of foreign affairs last week or the other week also included the randomization provisions from the last bill I talked about as an additional part to the bill. It was heard yesterday. It passed out of JDC, WAM, so I think it's going to, yeah, so it's gonna crossover. The SD1 hasn't come out or the SD2 hasn't come out, but I think from hearing them talk about it, they just want to reinsert the 15% that was blanked out in this bill. So basically trustee candidates could be eligible for up to \$22,000 in public funds, if they limit their expenditures to \$0.20 per voters or \$148,000 based on 2018 voter counts, and then if they limit how much private contributions they received to \$5000. Which is still, you know, 22,000 is a lot better than the \$1500 that trustee candidates can get, but it's still not on par with, say, the Lieutenant Governor, who can receive up to 100,000 based on the 2018 voter counts.

I'll just touch base on some other high profile bills that name OHA. Specifically, ones we're opposing so SB1. This is on page 90, item 337. This is the Aloha Homes measure we were opposing because of the provisions that would provide for long term, 99 year leases of public and potentially ceded lands that weren't part of the Aloha Homes program, and so that wouldn't be subject to any provision that recognizes Hawaiian's claims to ceded lands. We put, you know, we recognize that there are some Fair Housing Act concerns about the transfer of units language, so you know, we ask that either they provide that language for that second part for the 99 year leases, or adopt alternative language that we developed to basically say that if these long term leases will involve ceded lands, that there will be some terms and conditions that OHA can review and approve. They didn't seem too receptive to that suggestion. I think they're actually taking out the transfer units language based on what the committee chair said during decision making, but we're gonna have to wait for the SD1 to come out to see exactly what changes are gonna be made. I don't think our concerns can be addressed.

The next OHA named bill, this is HB742. This would increase the frequency of a Native Hawaiian training course. We're recommending opposing it. It basically could impact the trust funds but would also limit how

we're able to adapt to trainings. Again, I think the concern or the desires for more in depth trainings that are longer versus like more frequent. you know, shallower training, so we're opposing. The bill hasn't moved so far. Hopefully it won't, although it only has a single referral, so it's de facto gonna make it past lateral.

On a more positive note, SB1409. This is on page 159, item 628. This would give more teeth to the requirement that board and commission members attend the training course. It did pass with amendments on the Senate side. The House hasn't moved, so it's probably dead. So it looks like it will as long as a committee report comes out in time, it will make it past lateral.

Yeah, we generated this table last week, so yeah, so some of the referral status information is a little bit old, but yesterday we went through everything and kind of like made some notes of what's updated. I'll just run through a handful of other old bills that may be of interest. So I'll start with the DHHL bills. So the DHHL casino bill, HB359. As you may recall, was deferred in the House side. SB1321 was heard and decision making was deferred until tomorrow at 1:00 p.m., Thursday, so we'll see what happens. We don't have a SD1 one out yet, but I think from conversations that committee chairs are having they want to sun sunset in five years, require a super majority approval by the Hawaiian Homes Commission if they want to do any kind of gaming on DHHL lands and so forth. There still seems to be a lot of hesitation when they talked about it yesterday, so I'm not sure if they're gonna, what's gonna happen tomorrow.

On a related note, I think I mentioned last week that there were a couple of short form bills. SB85 was the first that were filled with stuff. So HB85 would let DHHL run a lottery and a bingo enterprise on DHHL lands. So the bill was deferred yesterday. I think there were a lot of concerns about the lottery being regressive, in that the money that is generated from lottery generally come from folks at lower incomes, and would also you know largely in this case be from Hawaii residents versus like a casino where you probably have tourists come from the continent and infuse their money into our economy. So the committee members weren't in favor of a movement forward. I think those concerns also translate to SB861, which is a statewide lottery for DOE, just in terms of it's a regressive nature and how and where it's going to be generating revenues from, even though you know the purpose is obviously are, you know, are worthwhile causes.

The next short form that got stuffed with stuff SB86. This will allow DHHL to set up medical marijuana dispensaries on DHHL lands, notwithstanding the limits, you know there's a numerical limit on how much dispensers we can have based on DOH. Notwithstanding those limits. I think based on the discussion, it did move out of committee yesterday based on the discussion the SD2 is going to be a pilot project and give DHHL I think eight licenses from DOH so they would fall within DOH framework. According to the DHHL testimony, you know this measure was actually considered by the Hawaiian Homes Commission to be part of their package. They declined to adopt it. I think that's why there's a little bit of hesitation on their part in terms of, you know, fully supporting it. I don't know if the deferral or potential deferral for the casino bills will make them change their position or perspective, but yeah, we're recommending continuing to monitor just based on, you know, some of the concerns that DHHL had about whether they even wanted something like this.

Still sticking with DHHL, SB1121 is on page 146, item 574. They're a couple of companions that I don't think moved, but SB1121 did pass with amendments, it would exempt DHHL from the general excise tax. We are supporting it, recommend continuing to support it. It'll let the state funds that are set aside for DHHL for housing be spent on housing rather than being recaptured by the state through the GET, and would be actually pretty substantial savings for the DHHL.

Next, measure SB1322. This is page 155, item 612. So this bill would give a seat to the DHHL Chairperson on the Hawaii Housing Finance Development Corporation, recommending supporting. Having the chair on the HHFDC board will help you know, inform the board of the partnerships and joint initiatives that DHHL and HHFDC has been working on together. Also let the Hawaiian Homes Commission Chair share his or her experiences and insights on DHHL's own projects with the HHFDC Board. And we think it's a good idea, we're

coming supporting. It passed all of the Hawaiian Affairs and Housing Committee yesterday. Same time as our Kaka'ako bill, but we'll watch for the SD1 to see what kind of amendments they put in there.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Just for your information, the Wall Street Journal this morning talked about 36 states that approve marijuana, recreational marijuana, and their land value went from 200,000 for that same land that when this bill got passed, it's now worth 2,000,000. The land is worth 2,000,000. So if and when our federal government makes it a category two and OHA, or you know the Hawaiian, DHHL owns all these lands. Can you imagine how much value is going to. We're going to have the most valuable land ever if it ever comes about. This is just as a side note, Wayne, I thought that was pretty interesting. Thank you, Chair.

Public Policy Manger Tanaka: Yeah that is interesting to see how this landscape may be changing in the next few years. Next bill page 146, item 576, this is SB1123. It would have required counties to implement infrastructure maintenance requests from DHHL within 60 days of the counties receipt of a completed application. We have concerns about the timeline, the six day timeline. It could result in short change a historic preservation review, you know, for some projects that could involve like ground disturbing or that kind of thing. Also, 60 days might not be enough time to implement appropriate protections and mitigation actions to protect historic properties, iwi kupuna, that might be impacted by maintenance actions. So we ask that the 60 day timeline not apply where there's a historic preservation review requirement and also that would be told to allow for necessary mitigation actions to take place for historic reservation purposes. I've heard that they took our amendments, so that's pretty good. We'll watch for the SD1 to see what happens.

Last DHHL bill, SB1122, item 575 on page 146, we're supporting this bill. The SB1122 passed with amendments yesterday. It has a companion that didn't move, so it's probably dead, but this bill would give DHHL basically first dibs on water credits that the county has given, you know, their constitutional priority to water and also admission, and so it would be a way to facilitate DHHL's efforts to build homesteads. Get folks off the wait list or yeah. Particularly given access to water is actually kind of a big barrier to DHHL actually. Putting in the infrastructure necessary to shorten the wait list or give out lease awards, and so that's it for DHHL bills.

There's a couple of Mauna Kea bills I'll just touch on real quick. None of them have moved. So HB703, that's on page 55, item 208. It's companion SB1299, that's on page 153, item 603. This is the one that would prohibit construction on Mauna Kea above 6000 feet in the conservation district. We're monitoring it, hasn't moved. Almost certainly dead on both sides.

SB907, this is on page 140, item 545. This is the bill that would require notice to everyone within 5 miles of a project that's undertaken by UH or DHHL of the Board of Land and Natural Resources. It would also require for Mauna Kea, a referendum vote of everyone that lives in Hawai'i Island before they do anything in the Mauna Kea Science Reserve. So recommending monitoring it. It hasn't moved, so it's probably dead.

Next opposed bill HB66, this is page 22, item 83. This is the bill that would require the BLNR to sell Sand Island. Yeah, it is probably dead. So yeah, Sand Island ceded lands, we don't want them to sell ceded lands and we would have opposed it if it had a hearing, but it didn't have hearing.

HB77, this would basically codify our ceded lands policy and specifically the exception to our general opposition to ceded land sales. We don't oppose a sale of ceded lands when there, you know, one of the exceptions is if there for the conversion of a leasehold that was given approval for sale prior to our lawsuit in 1994. So this basically qualifies that language and says for those kinds of sales they don't need to go through the legislative super majority approval requirement process and they don't have to give us notice. We did comment to testify, to ask that they still give us notice, just so that we can ensure that their interpretation of

what's allowed to be sold is consistent with our own, and so the committee took our amendments and so we'll continue commenting just to highlight that that's an important part the bill if it moves.

Next bill, HB499, this is page 40, item 152. It has a companion SB257. Both measures are moving. Both measures would allow for 40 year lease extensions for industrial resort commercial leases. I think one of them may have government leases as well. Our concern is century long leases that is foreclosed Hawaiian claims to ceded lands for that long and that may also lead to eventual elimination of ceded lands. We have been actually talking with some proponents of the bill. They agree that 40 years is too long. Unfortunately, agreements have yet to be reflected in the drafts that are moving, so we're recommending continuing to oppose. And hopefully over the next few weeks we'll be able to get these amendments in to mitigate our concerns.

So the next measure is HB81, this is on page 23, item 88. There's very similar measures, SB2, HB902. All of these bill. SB2 is definitely moving as is HB902 and so these bills would let lands that are leased or set aside to the HHFDC to be exempted from HRS 171 and the lease length limitations that that chapter contains. So essentially it would lead to potentially vast amounts of public and ceded lands being encumbered for 99 years, potentially even longer. Where as I said, the SB2, HB902 are moving, we're putting forward amendments that would mitigate our concerns, including as I mentioned earlier with the Aloha Homes bill, having it so that any lease or set aside lands to HHFDC that are ceded, that are going to exceed least lengths of 65 years, which is a standard, which is a cap found in 171. Those kinds of leases at least let OHA have a say in what kinds of terms and conditions would be in those leases that could help protect Native Hawaiian claims to the ceded lands corpus. Both measures are moving, our recommendations weren't adopted. We'll continue to advocate for them and continue to try to figure out other ways to have our concerns addressed. But for right now we're recommending opposing.

Similar measure SB725. This is on page 126, item 492, also, SB749. They both do the same thing but would expand the Hawai'i Public Housing Authorities' authority to build non low income, non public housing. Basically, big mixed use developments like is being envisioned for HHFDC. HPHA already has an exemption for lands leased or set aside for them that would let them do super long term leases. Expanding your authority to build these new mixed use commercial developments could lead to huge incentive for lands to be transferred via lease or set aside to HPHA, and then have them developed and incumbent for, you know, 99 years or longer and so recommending opposing. We did provide language to SB725 which moved. The committee declined to adopt, same thing for SB749. So continue to oppose keeping a close eye on them as they move forward. And yeah, those are the big public ceded lands bills that we're opposing.

There's one bill that has to do with the Land Use Commission, HB 260. Originally would have removed Land Use Commission jurisdiction oversight over district boundary amendments that were less than a 100 acres, up from 15 acres, so vast expand the areas of lands that can be converted from, say, rural or agriculture to urban without Land Use Commission oversight you know, as we know this is one of the few mechanisms that Native Hawaiians have to ensure that their rights are consistently and thoroughly addressed and protected in these kinds of big language changes, so we're recommending opposing that bill. A HD1 did move forward that somewhat narrowed the scope of the bill since 100 acres, it would be 50 acres if half the units are at 140% AMI or below and then 75 acres for if all of the units that will be developed as a result of the district boundary amendment would be 140% AMI or below. These are pretty vast areas of land still. Still have some concerns about potential impacts to Native Hawaiian traditional customary practices, underlying resources that could be implicated in these land use changes, you know. Again, I think in the hearing, the Land Use Commission Director actually talked about how Land Use Commission has already approved something like 40,000 units that haven't been developed, so it's clearly not the Land Use Commission that's holding up the development of housing, but other factors. So yeah, we recommend continuing to oppose that bill.

And a couple water bills. So this is HB1015, it's on page 70, item 262 and SB1169, page 148, item 584. Essentially companion bills, they would let the BLNR or DLNR directly negotiate water licenses. So long term water licenses for 30 years, potentially longer if certain amendments are made to this bill as it moves. Our

concern is that, you know, what we've seen historically is that when there is really powerful interests involved that want to say divert streams and so forth, and often they're given a lot of what appears to be favoritism by the state to the detriment of Native Hawaiian communities that rely on stream water as well as the public trust. So we've been opposing it. I've actually been working with DLNR staff on a new draft that would mitigate some of our concerns about sweetheart deals being directly negotiated, without jamming up, you know, I think some of the other water users that do have you know, that we wouldn't have problems with. For example, Waioli, Kalohui, or you know the smaller farming ranching operations. So we'll see, both measures are moving. I'm hoping, I'm actually hoping to see a draft this afternoon that I can work on and hopefully get that before some committee chairs and have our concerns addressed.

Okay, so going on to historic preservation issues. So HB497, this is on page 40, item 151. It's got companion SB567. So we're opposing this bill. Basically, if there's going to be a residential development of over one house, one residential unit, then it would prohibit counties from requiring that developers consult with or any state agency unless there's an explicit State law that says that they have to do that. A lot of the time counties will require, in addition to their processes, consultation with SHPD, consultation with OHA. It's been really useful in the past to make sure that things the county didn't know about were protected, like burials and historic properties, so we think it's not really. It's not good to kind of tie the county hands in this way. Consultation with SHPD, OHA hasn't really been an issue dealing with projects that we're aware of. It's mostly if there's delays. It's been like poor planning and that kind of thing, so recommend continuing to oppose. Both measures are moving. HD1, I think is pending for the HB497. SD1 came out of this last committee with just tech amendments, so they're both moving.

Next bill HB1311 is on page 85, item 318. SB607 is its companion. SB607 actually has a hearing in, 40 minutes ago. So this bill would say that they don't need to do 6E historic preservation review for the Leali'i affordable housing project on Maui. So you know again, we oppose HRS 6E exemptions because of the impacts there, you know, irreparable impacts it will have on for the priceless, irreplaceable historic properties sites, including iwi kupuna. I think the concern. The exemption comes out of the fact that there was an EIS done like decades ago. I think that SHPD, now that there's new technology, new information, SHPD is asking that they review and redo that EIS, archaeological inventory survey. But again, because of the irrevocable impacts that could occur if they don't apply this new technology, new information, you know, we think it's probably not a good idea for him to just get wholesale exempted from 6E. So that had a hearing today, I think Kamakana was going to testify on it, so hopefully he will report back after this meeting about what happened.

SB1292, this is on page 153, item 601. This was the bill that would exempt wells on ag. lands from Chapter 343, which could result in a whole bunch of unintended avoidable impacts to natural and cultural resources from the development of wells on ag. Lands. It did get a hearing, it passed with amendments. The SD1 is pending, so we'll see what happens when it comes out.

On the crim. justice side. The Kawaioloa bill, SB1128, which we featured in our Ka Wai Ola, in a video that accompanied the article in Ka Wai Ola. The Kawaioloa bill would set up a revolving fund so they can self sustain its strength based vocational training programs for the youth at Kawaioloa. So it passed with amendments the other day. Last week Friday, I think on the SB side, HB side I don't think it moved.

So for health, the old bills SB905. This is the bill that basically was a mental health bill from two years ago. It had a hearing on yesterday, and it passed unamended. This bill doesn't specify how many members of the State Council on Mental Health need to have a background in Native Hawaiian health and healing practices and methodologies, so it's still blank, but it's good to see that it's moving. It did get a lot of good support from medical stakeholders so that was nice to see.

For education we have our Aha Punana Leo bills. Both of them have been heard, both moving. HB546 passed out of committee, I think Friday. And then SB1384 also is continuing to move. I think that one actually made it out of judiciary, last time I checked. Actually, yes, SB1384 had a hearing today at 10 and then yeah, my staff

told me that it has been telling me that it was passed by judiciary, so we'll see if there's a SD that comes out there.

Couple others, SB50, this is the broadband task force bill. It did get a hearing and continues. Let me see. So it's it's going to make it past lateral. It just needs a WAM hearing at some point. I think the SD1 came out. But yeah, it's moving.

Okay, and then the next two have to do with the ombudsmen and the auditor, HB205. This is the Ombudsman bill. The HD1 was only amended to defected date. So yeah, no change to the bill substantially, so no change of position. Same with HB517, relating to the auditor, so clarify that the auditor can look at our records and accounts and so forth. So this one it was also just defected in terms of, the HD1 was just the defected date, so no substantial changes. Continue wanted a bill for potential impacts to our current legal discussions that we're having.

HB341, HB344, I talked about these bills last week. They would eliminate consider case and declaratory ruling mechanisms that Native Hawaiians rely on for access to justice and to uphold their rights, so both of those bills were deferred. So that's good news.

HB375 that's on page 33, item 127. SB657 that's on page 122, item for 71. Companion bills that would exempt repetitive construction projects from any permit requirement, which could mean that there would not be historic preservation review which is triggered by permits. We recommended opposing those bills, we're opposing those bills. I don't think either of them moved, so they're both probably dead, which is good.

Sorry, one last bill SB4. I forgot to put this in the housing section, but this is I think page 91, item 239. So this would prohibit any inclusionary zoning requirements for developments that are offered exclusively to state residents who will be owner occupants, who don't own other real property. There's no income restrictions or pricing restrictions or so far, just as long as they sell only to state residents, then these developments wouldn't be subject to inclusionary zoning, which is basically when the state tries to ensure that there's housing developed that's affordable for its constituency. We've opposed this kind of bill in the past, we continue opposing it this year. Basically, we don't like that it ties the hands of the counties to ensure that their developments and their limited lands are available for those who need housing. This bill has moved, so we'll see.

Just so you know the EV bill looks like it's the electric vehicle bill HB393. Looks like it's going to be dead after lateral, hasn't moved, hasn't been scheduled for a hearing.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Wayne, you went over the Ombudsman bill, what did you say about that? I missed it.

Public Policy Manger Tanaka: So it's HB205, it moved, it only has a defective date. So there's no substantive changes to the bill. It just says that if the ombudsman is given any like document or anything like that, then it doesn't waive attorney client privilege that may be attached to that document.

Trustee Ahu Isa: Okay, prohibits ombudsmen from disclosing privileged communication to others. That's what the bill does. Okay, thank you.

Public Policy Manger Tanaka: Any other any questions? Okay, I think that was a little shorter than last week. Thanks again for your patience and for following along everyone.

Chair Akaka recognizes Board Chair Hulu Lindsey.

Board Chair Hulu Lindsey: I just want to thank Wayne and Sterling for all their hard work. My goodness, these are hundreds of bills that they needed to go through and keeping up with the status of each one is so difficult, so mahalo nui to both of you, thank you.

Chair Akaka: May I have a motion to approve administration’s recommendations on new bills and positions?

Board Chair Hulu Lindsey: Madam Chair, I move **To approve Administration’s recommendations on: NEW BILLS (Items 1-65) and BILL POSITIONS FOR RECONSIDERATION (Items 66 - 70), on the OHA Legislative Positioning Matrix dated February 17, 2021, as amended.**

Trustee Waihe’e: Second

Chair Akaka: Motion has been made by Board Chair Trustee Hulu Lindsey and seconded by Trustee Waihe’e. Is there any discussion members? Seeing none, if we could please have the **roll call vote.**

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

2:48 p.m.

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

IV. NEW BUSINESS

NONE

V. ANNOUNCEMENTS

NONE

VII. ADJOURNMENT

Chair Akaka: Can I please get a motion to adjourn this meeting.

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

Trustee Waihe'e: Second

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

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

2:50 p.m.

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

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance. To all of our staff and to our public policy, huge mahalo, and this concludes our meeting and we will be ending the live stream. A hui hou kākou, mālama pono, mahalo.

Chair Akaka adjourns the BAE meeting at **2:51 p.m.**

Respectfully submitted,

A handwritten signature in black ink that reads "Brandon R. Mitsuda". The signature is stylized with a large, looped 'B' and a long horizontal stroke at the end.

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on March 24, 2021.

A handwritten signature in blue ink that reads "Kaleihikina Akaka". The signature is fluid and cursive.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment