

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

March 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:

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

EXCUSED: NONE

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, March 10, 2021 to order at **1:33 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:33 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	1:45 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. APPROVAL OF MINUTES

A. February 10, 2021

Chair Akaka recognizes Board Chair Hulu Lindsey.

Board Chair Hulu Lindsey: I move that we approve the minutes of February, 10th, 2021.

Chair Akaka: Mahalo, Chair, is there a second?

Trustee Ahuna: Second

Chair Akaka: It's been moved by our Board Chair Hulu Lindsey and seconded by Trustee Ahuna. Can I please have a roll call.

							1:37 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
<i>VICE CHAIR</i> KEOLA	LINDSEY			X			
JOHN	WAIHE`E						EXCUSED
<i>CHAIR</i> KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

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

IV. UNFINISHED BUSINESS

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

Chair Akaka yields the floor to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey yields the floor to Chief Advocate Sterling Wong.

Chief Advocate Wong: Hello everybody, just to go over the legislative calendar to give us a sense of where we are right now. We are obviously right here and we're staring down at the triple referral filing deadline, which is technically the 19th but the filing is the 18th, so all bills that have three or more hearings, committee referrals, need to be into there second committee by Friday and then they'll look at a lateral deadline to get into their last committee in order to make second crossover. Also note the budget crossover deadline was moved

back from last week just because of the expedited schedule so they moved it back, but that's just for the state budget not for our budget.

And then to go into our package and speaking of our budget, OHA-1, HB204, which is the vehicle for our budget had a hearing yesterday in the Senate Hawaiian Affairs Committee and my understanding, the committee report has not been released, either the the new draft of the bill but from the decision making discussion during the hearing our understanding is that the amendments will be zeroing out the dollar amounts from the bill putting those dollars in the committee report and I think there's a defective date. But I'm not sure, we're going to actually have to wait for the committee report to be filed. And it shouldn't be necessarily alarming that they zeroed out the dollars from the budget, that is a normal protocol every year for our budget for that to happen. It's actually a big anomaly that it didn't already happen in the House that the bill, I think we mentioned this last week that the bill came over from the House clean with an effective date is super unusual. So now we have an SD1 and what that's gonna mean is that unless WAM amends the bill to put the dollars back in and effect the date, this bill will most likely go to conference now so that the House and the Senate can work out the differences on the bill. There is still a way this bill skips conference and that's if WAM does effect the date, put the dollars back in and the House agrees to that draft, then it skips conference. But we're probably looking at conference now and also be mindful that it seems like the Judiciary budget and the CIP State budget are all sort of being managed the same way. So I don't think there's any disparate treatment between our budgets and everybody else is so I think that's encouraging.

Going to OHA-2 the CIP bill for Wahiawa is dead and then as mentioned previously, our expungement bill OHA-3 is dead. The good news is that our resolution on data governance is actually moving. We had a hearing yesterday for the Senate resolution in Government Operations and that passed unamended so that's really good and then the HCR3 resolution has a hearing tomorrow at 10:30 in a committee called Pandemic and Disaster Preparedness. So we will be testifying on that and update the Board next week and those resos. have to clear this deadline on the 24th so we are looking good to clear that lateral deadline, then we would just need a hearing following that to make the crossover.

Madam Chair, unless there was questions about the calendar or our OHA package, that will conclude my presentation on this agenda item, 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 Public Policy Manager Tanaka.

Public Policy Manger Tanaka: This is Week 9, we made it through crossover and this week is a triple referral deadline, so as predicted we're getting lots of hearing notices, lots of testimonies. Fortunately, I think a lot of bills that are on your matrices now will be gone next week because our tracker will take out the bills that missed crossover. So yeah, so this week I'm just gonna go over a handful of the old OHA bills first, which are old OHA named bills first, which compiled on the OHA named bill table that you have. Then we'll jump to the big matrix, with some table changes. And those are actually resos. that do name OHA, but I'll just do those after with the other new bill positions and bill positions for changes. And then of course, as usual, I'll run down through the new bill positions, changed positions, and surviving bills of note that don't name OHA.

I'll just give an update on is SB1334, that is our Kaka'ako residential bill. You might have seen in the news. It got quadruple referred after crossover and unfortunately we weren't able to even get a single hearing and so it's gonna miss the triple referral deadline and it's pretty much dead for session. Sterling, did you want to reflect on anything with regards to our Kaka'ako bill.

Chief Advocate Wong: Thanks Wayne, Madam Chair, I mean I would just say you know, we knew this was going to be a challenge to get this bill through this session and we're definitely in for the long haul. I did want to recognize everybody's hard work, especially Chair Hulu Lindsey and yourself Trustee Akaka for I mean, the amount of meetings you guys took along with Sylvia our CEO and Kalani was kind of remarkable. How much work we put in and I definitely wanted to give credit as well to our community engagement and the DPM staff because we launched a campaign on this bill that I think is going to be able to carry us for the next couple of years with messaging and stuff that's I thought was pretty remarkable at the last minute. But you know, we're in it for the long haul. We knew this was going to be challenging. I'll leave it at that I don't know if Sylvia or anybody else has mana'o but yeah.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Maybe we can consider what happened in 2011 and 2014, that OHA does really need to look at hiring a lobbyist or having somebody that can speak to us because it's not only gaining access to the legislators. I speak from experience being in their 8 years. They know the lay of the land, they know everything that's going on so they can inform us not only on our bills, on everything how people feel about it. It's just a suggestion because we did get to all other things through other times and we did use a really good, I hate to call them lobbyist, but a spokesperson for us. Our board, I'm not talking about the administration, CEO or them. I'm talking about the Board of Trustees. We don't even have a PR person to help us maneuver through this and it's very tricky. Now we've got new members, so maybe we can educate them on something else which lobbyist, everybody uses it if you really, really seriously consider a bill that you want done.

Chair Akaka: Mahalo for your mana'o Trustee Ahu Isa. I will note, to repeat Sterling, we did have a great number of meetings with our legislators, so it's not a matter of access per say. We did meet with many and those that are chairs and vice chairs of various committees. Those in support and those not in support. It's been clear through the news coverage that, like many things, it's having the proper information and sharing our story so that the greater community, along with our legislators have the correct information.

Ka Pouhana Hussey: Chair, if I could follow up on some observations. Trustees, for me this kind of work is not necessarily in my wheelhouse. You know, give me a spreadsheet and I'm your girl. But what I saw was a tremendous working relationship with Trustees and with our message and with the video, the work product, the maps, the fliers, the Ka Wai Ola issue that gave what we hope Administration and for the Trustees, all of the information to be able to have the conversations in your spheres of influence and in your conversations. We're not all in the same conversations and Administration hope that in addition to the efforts that our Chair and our BAE Chair put forward, that work products were there for you to have your own conversations in your own spaces of influence to get our message out and to honestly take the high road in some of this. Take the high road in our message and take the importance of that. And so for me that was very rewarding to see our Trustees and our Administration working really closely together for common purpose, for our beneficiaries and for the fiduciary responsibilities that we know the Trustees have. So thank you for that opportunity. A lot of hard work and very proud that our people came, you know our staff came, they brought it on. They brought in all the technical skill, the aloha, the savvy, so thank you for allowing us to be a part of that effort.

Chair Akaka: Absolutely, mahalo Ka Pouhana and mahalo to each and everyone that made all of this groundwork possible from the past up until now. We're creating the groundwork for the foundation for tomorrow and we truly feel the momentum. And as our Chair's statement in the media was, we remain steadfast and we move forward. There's going to be challenges up ahead, but we remain positive and optimistic, and again, it's about sharing our story and having others learn of our intentions and feel more comfortable with what we're doing, so mahalo everyone. I believe then we should continue then Wayne.

Public Policy Manger Tanaka: The next bill, PLT related is SB321. As you know this is the bill that would lift the 15.1 million dollar cap, establish a floor that's not specified, but would be higher than 15.1 million, transfer

CFTHA so forth. This bill is triple referred after crossover and it has not had a hearing scheduled. So it's probably gonna miss the triple referral deadline this week and it's probably gonna die, so that's not good.

With respect to the OHA campaign bills, SB238. This was the BOT randomization bill. That bill is still alive. It's passed with amendments. We're still waiting for the committee report on the HD1. But it's passed out of the Judiciary and Hawaiian Affairs Committee in the House and it's on its way to Finance.

SB981, this is the public funding for OHA campaign bill. This also passed with amendments out of JHA and it's on its way to Finance, so we're still waiting to see what the HD1 looks like otherwise I'll just highlight SB1409. This is the Native Hawaiian training course compliance bill. It passed with amendments out of JHA yesterday. We don't know, we don't have the draft yet, but from the Committee Chair's comments, it sounds like they're going to offer a video recording option. Which we may have some concerns about because with a video recording, there's really no way to tell if anyone actually watches the video. So let's see what happens. What comes out of committee and then adjust accordingly.

And then finally, the Mauna Kea task force resos. So this is HDR41 and it has a HR33. So that passed. So the HR is power ready since it's just a single body reso. HDR crossed over, it's been referred to Water Land and Judiciary in the Senate. It hasn't had a hearing scheduled yet. I'll just note, I think Speaker Saiki is already looking for applications to be members of the task force under HR33. I'm not sure how that would be affected if HDR4 is passed or amended, but just to note, it's something that we might want to take up in the ad hoc committee and that's it for the opening bills.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Wayne, you know the bill that's random and about the county. Can explain when it says the next election, the three at large, one will be the lowest vote count will be for two year term and the others will be for four year term. Is that what the bill says?

Public Policy Manger Tanaka: Let me double check. That wasn't my read of it.

Trustee Ahu Isa: I did read it, it was in Civil Beat or somewhere that it's two or was it from Leimomi Khan. Somebody told me the lowest number of votes going to be two year term at large.

Public Policy Manger Tanaka: Yeah, I don't see that in this bill. It just says the names of candidates will be placed in ballot group by residence requirement or lack thereof and that the groupings, the names will be placed in random order within those groupings.

Trustee Ahu Isa: When we vote by island, you know the one precinct.

Public Policy Manger Tanaka: Yeah, the reapportionment vote by island bills, the at large district bills, those are all dead.

Trustee Ahu Isa: They're dead, thank you.

Public Policy Manger Tanaka: So we'll jump over to the big matrix. I do have three at table changes. These are actually basically all Kaka'ako resos. and so they do name OHA, but I'll just talk about them now. So the first is HCR129 or and HR111. And there's also a very similar measure on the Senate side, SCR216. So all of these resos. They set up task forces to discuss the future of development in Kaka'ako Makai and including a discussion on a possible land exchange. So identifying public lands that OHA would might want to exchange our Kaka'ako Makai lands for. The SCR also talks about reviewing the Kaka'ako Master plan. The task force would be comprised of representation from HCD, OHA, Board of Land and Natural Resources, the Senate,

the House and the Kaka'ako Makai Community Planning Council. And we're recommending a position of oppose on these resolutions. Our understanding is that we wouldn't be interested in an exchange of lands. It just kind of kicks the issue to another area. We have to start all over with planning with community outreach. We'd have to deal with potential opposition to how we would want to develop those exchange lands and then it's not clear what would happen if you know, we do see opposition and then you know, then we'll just start this whole process over again. We're also concerned that it gives non Hawaiian organizations like the Kaka'ako Makai Community Planning Council a seat at the table, especially since they haven't really, they really only expressed concerns about how our uses of Kaka'ako Makai will impact their views, and so like giving them a seat at the table on how the state should better manage its obligations to Native Hawaiians is probably inappropriate. So we would recommend opposing these resolutions.

Chair Akaka recognizes Trustee Ahuna.

Trustee Ahuna: Could it be a possibility to actually hold onto our lands, but because we didn't get our entitlements to look at what is the overall cost of our lands, keep our lands and add more, another land to it to reach our 200 million dollar settlement. Would that be a possibility too? So we can maybe stay at the table.

Chair Akaka: Wayne, would you like to elaborate on that, or Sterling?

Chief Advocate Wong: Trustee Ahuna, I think that's a great question. You know, but that discussion can happen outside of I think this resolution and certainly if legislators want to have that discussion, they can have that with us. I think our main concern is that this resolution specifically talks about an exchange rather than just sort of an open ended how can the state meet better its legal obligations to Native Hawaiians. I'll be honest, the inclusion of a non Hawaiian organization into this discussion about how the state meets its legal obligations to Native Hawaiians, I think is sort of a major precedent and it's super inappropriate, and I think as others have pointed out, no other developer has had to have this sort of community input, whatever into how it manages its land so I'll leave it at that, but certainly I think those sort of discussions can happen Trustee Ahuna.

Trustee Ahuna: Thank you so much. I just want to make it clear so our people out there can know and understand why we do certain things, they're all wondering right now and they're all concerned. There's a lot of things that went on this past weekend and they have concerns, but thank you so much, Sterling.

Chair Akaka: Yeah, thank you. Thank you, Sterling and thank you for that question Trustee Ahuna. I think a lot of it as well, is the blaring feeling that we are not being treated fairly and that our neighbors surrounding us have all these abilities yet we are asking to build a couple of towers that do not inhibit the views of those mauka of us, yet there is so much opposition and we are creating a plan to have an environment where everyone can live, work and play that reside, work and play there and it truly would add value to the community there and we would have a Hawaiian sense of place that is one that we can cherish. And again, it's about sharing your story and we are open to good options. However, this is not a good option. This is the best thing we have going for us and this is about self determination, self sufficiency, productivity so we can do even more for our people, mahalo.

Chair Akaka recognizes Vice Chair Lindsey.

Vice Chair Lindsey: Thank you, Madam Chair. My question is so if the recommended position of oppose is voted on and approved then the resos. pass, does OHA participate in these working groups?

Chair Akaka: Yes, but Sterling do you want to elaborate on that?

Chief Advocate Wong: I think that's a great question Trustee Lindsey, and I've actually been thinking a lot about that and to me and I don't know if Wayne or I'm trying to look who else is on the call. But my my thing is

you know, the big thing like what makes this and we keep saying that these are not public lands, these are trust lands. There's only one entity that can make a decision on what to do with these lands, whether they should be exchanged or not, I mean. And that's the nine Trustees on this call, and that's what makes these public lands. That's what makes these lands trust lands. And it's up to the Board whether they want to ultimately participate in this discussion about the lands you have exclusive authority over, that's up to the Trustees. That's not up to anybody else. Like the legislature can do whatever they want and talk about everything they want to do with our lands. You're the only nine that have a say in what happens with these lands. And for me, that's the most important thing. That's what makes our lands trust lands and not public lands, and whether you guys want to participate in this reso. if it does pass, that's completely up to you folks, mahalo.

Chair Akaka recognizes Vice Chair Lindsey.

Vice Chair Lindsey: Thank you, Madam Chair. I guess my comment is I look to the value of OHA being a part of any and all discussions on this issue that is so important to us, and I just question being, I'm not exactly clear why, and again, I know what our priorities are. I get it, I've heard everything that was said about this issue leading up to this, I just question why we would walk away from any discussion on this issue that's so important to us. Thank you, Madam Chair.

Chair Akaka: I think it's a question of strategy having. Yes, we want to be a part of the conversation, but for it to be done in this manner, it's others driving what should be our decision, welcoming that.

Vice Chair Lindsey: Thank you, Madam Chair.

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Thank you, Madam Chair. I think Trustee Lindsey is misunderstanding our opposition versus our participation, because the two are not the same issue. We are apart of this discussion in opposing the bill because our administration will be at the table expressing why we are opposing this bill, and that will get across to the legislators that this isn't their kuleana, it's ours. And I'm sure that will be a part of their testimony as they oppose this bill. Should the bill pass unamended, they have to include us because that would be the law. Then it would be up to the nine of us to decide whether we actually want to participate. I'm guessing we're going to want to. We're not going to let somebody talk about our lands without us being at the table. But just because we oppose it, doesn't mean that we're not taking our seat and voicing our concerns. We're doing, it by opposing the reso. Thank you, Madam Chair.

Chair Akaka: Mahalo, Trustee Lee. Is there any further discussion or questions? Alright, then Wayne if you could continue, mahalo.

Public Policy Manger Tanaka: So that's it for the measures we wanted to add at the table, so we'll jump over now to the big matrix and I'll start with the new bills. The first is HCR74.

Chair Akaka recognizes Trustee Akina.

Trustee Akina: I apologize, I have been unable to disable my mute button for a moment that's why I am a little late and jumping into the conversation, Madam Chair. May I respond with respect to HCR129 and SCR216.

Chair Akaka: Yes

Trustee Akina: I think it's very important when we express ourselves that we point out the major reason that we oppose the resolutions. Which is they are giving jurisdiction or authority, kuleana to parties that don't own this land or that are not responsible for it, and we believe that the Board of Trustees has exclusive rights to determine what happens to this land. That said, I just would caution us on bringing in subsidiary reasons such

as stating that those who are not Hawaiian should not have a say in giving input. I want us just to be careful about making such references because they could work against us in terms of being good neighbors in the area and winning the goodwill of those who surround the area. That's all I wanted to say.

Chair Akaka: Any other further discussion or mana'o on this? Alright then Wayne, if you can carry on.

Public Policy Manger Tanaka: So again HCR74. This is on page one, item six. It has a counterpart HR63 and then there's a Senate single body resolution, SR60. These are the year of the limu resolutions. What they would do is establish 2022 as the year of the limu. It was actually drafted as being supported by folks at Kua'aina Ulu 'Auamo and the Limu Hui and a number of other Native Hawaiian practitioner groups and community groups. As you know, limu is you know, pretty significant. Traditionally it's used for food, for medicine, for religious purposes. It's also an important part of the ecosystem and is also an ecological indicator of ecosystem health. Unfortunately, you know over the years, there's been a lot of limu knowledge that's lost and practices that are have been forgotten and this has hindered efforts to protect, you know this pretty critical you know, culturally and ecologically critical resource. And limu is often also overlooked in land use decisions, in resource management decisions, and then oftentimes, or that can result in the need for legal intervention, including, you know, historically by OHA. So you know, we think supporting this reso. could promote a broader and greater understanding of Hawaiian culture as it relates to limu. The importance of limu you know to our environment and also help you know transmitting knowledge to future generations into lahui. So we're recommending supporting these resos.

The next one to go over, some nominations for the Kaho'olawe Island Reserve Commission. So the first is GM683 and we're recommending supporting all of these. So the first one GM683. It's to have Michelle Pescaia to KIRC. She's a Moloka'i cultural practitioner, well known Hawaiian language speaker, scholar. She has a lot of experience in project management, budget management, reporting staff supervision. She spent 14 years on the Moloka'i Island Burial Council and she's been a member of the Protect Kaho'olawe Ohana since 91. So it's like 30 years and so we think she would be a good addition to KIRC.

The next one right below JM684. This would appoint Anela Evans to KIRC. You know you may have heard of her. She's a cultural practitioner from Lana'i. She's super broad knowledge of Hawaiian history, of culture, language. She has 30 years experience with hula. She's also been a number of PKO for 16 years. So again, we would recommend supporting her as a good addition to KIRC.

And finally, right below that is GM685. This would nominate Dr. Benton Pang to KIRC. He has experience with ecological restoration, with Hawaiian ecosystems. His PhD is in Hawaiian ethnobotany and ecological restoration of dry forest ecosystems. We think he'd be able to provide a lot of technical assistance and to KIRC. Also, he also published, I think two reports that made it into the Kaho'olawe Island Reserve plans, so he contributed the threatened and endangered species protection plan and environmental natural resources protection plan to the reserve plan. So we're recommending supporting his nomination.

We do have four bill position changes we're recommending. First is SB36. This is a rental discrimination protection bill. We're recommending a change from comment to support. You know, we like this bill. You know we have studies that show that when you do have Section 8 discrimination protections then recipients of Section 8 and other public housing support are often a lot more successful in securing housing. We weren't supporting this bill outright though because of appropriations. Those appropriations have been removed so now recommending a change from comment to support since it won't impact the general fund.

The next bill, SB257. This bill would have extended, allow the DLNR to extend any commercial industrial resort or government lease except for UH leases for 40 years and so we're really concerned that it would pretty much open up vast lots of public and ceded lands to be encumbered by private entities for 100 plus years at a time. So we're very concerned about that. Fortunately, Ways and Means Committee amended it to narrow it down to only five parcels in Waiakea that are owned by DHHL. And there's actually some technical issues with the

language of the bill that I'm not sure would make it work. I don't think we would wanna necessarily comment on how to fix the bill that we're not super excited about, but because you know the vast majority of our concerns have been addressed, we're recommending a change from oppose to just monitor.

Next bill, it's SB607. We were opposing it. It was a bill that would have exempted the Leali'i affordable housing project from Chapter 6E, which is a historic preservation chapter in the HRS. The exemption from 6E has been removed, so we're recommending just monitoring this bill since it no longer raises concerns.

And finally, SB808. It's a school facilities agency bill. Originally just intended to clarify some of the authorities of the School Facilities Agency. Most recently, it's been amended to exempt lands that the agency holds and holds title to from Chapter 171, except for the super majority legislative approval requirement for the sale of public lands, that would still apply. So it's a little harder, it will be a little harder for the School Facilities Agency to lease lands out for, you know, a century at a time when it's only when this authority would only apply to lands that it's holding title to. The other bills we're concerned about with that any lands leased to agencies like the HHFDC to be subject to the 99 year leases or longer. So we're recommending commenting. Just to express concerns regarding continual additions to 171 exemptions that may lead to chipping away of the ceded lands corpus, especially when you know the recipient agencies don't have any comparable limitations as in Chapter 171 in regards to lease lengths and public auction and those protections. So recommending commenting on this bill.

I'll just rundown through, highlight some other notable bills that don't name OHA. So these are all going to be old positions, so we have already, we're not recommending changes to any of these bill positions. I'm just going to give a quick status update on things that are alive. I'll go through the DHHL bills. SB86, the medical pakalolo dispensary bill for DHHL, that one crossed over but it has a quadruple referral in the House and hasn't had a hearing. So it's dead.

HB753, this bill would exempt DHHL from school impact fees and let it dedicate more of its funds to actually you know, fulfilling its mission. This bill's alive. It has a hearing on Friday in Ways and Means, so that's and we're supporting this bill.

SB1121, this will exempt DHHL from the GET. This is also crossover. It has a double referral, doesn't have a hearing yet, but it's only double referral so it doesn't need a hearing this week to the House Judiciary and Hawaiian Affairs Committee and the House Finance Committee.

SB1123, we're commenting on this bill. It would require county maintenance requests from DHHL to be implemented within 60 days. It got triple referred in the House. It did crossover, but got triple referred and so it hasn't had a hearing scheduled, so it's probably going to die.

And then SB1122. Similarly, its got triple referred and hasn't had a hearing scheduled. We were supporting this bill. It would give DHHL first dibs and county water credits, provide for representation of DHHL on the County Boards of Water Supply. It got triple referred hasn't got a hearing so it's dead.

And then finally HDR76 and it's a single body counterpart, HR64. This is a act 14 resolutions, so kind of creates a group to assess whether you know whether and how act 14 has accomplished what it was meant to accomplish, which is to address the inappropriate and uncompensated use of DHHL lands by the state. Those resos. have not been scheduled for hearing yet, but they have, resos. have a longer deadline and these are also only double referred so yeah, so there's still time for those to move.

With regards to ceded lands, there is actually two bills that are moving and they just had hearings this week. SB2 and HB902. Both of these bills will let lands that are leased or set aside to the HHFDC to be exempt from Chapter 171, so essentially they'll be no limits on how long these things can be leased for, you know, no public auction requirements. None of those protections are 171 and so we are super concerned about that. The vision

that's been driving these bills is for HHFDC to require lands, public lands and likely ceded lands by lease or set aside and then leased amount for 99 years at a time, which is, you know, it's tantamount to a sale. I think I mentioned last week, tribes on the continent have been caught knowing that for 40 years now that 99 year leases are basically a loss of land like a permanent loss of land. Recent in this week's hearings. While the bills haven't been getting a lot of attention before, I think folks have been engaged in other lease extension, like the lease extension bill I was talking about have been, now been made aware of these bills and so like there is like 100 plus pages of testimony. Almost all except for like four in opposition to these bills. But there's still. They were both passed out of committee and you know, we did offer, we have been offering amendments to mitigate our concerns about potential loss of ceded lands. Unfortunately, it doesn't seem like the committee chairs are open to them.

Similarly SB749, this is item 176, on page 70. This would allow the Hawaii Public Housing Authority to build non income restricted housing. So basically build market rate housing. We're in opposition to this bill. We're very concerned because HPHA already has the ability to get lands leased to them or so set aside to them and then be exempt from 171 and lease them out for you know, however long and so it's kind of like a alternate vehicle for these 99 year lease proposals. Also to you know, we weren't super concerned with HPHA's authorities in so far as they were limited to just building, you know, essentially public housing, very low income housing, housing for veterans, for elderly. This bill would vastly expand their authority though, and create a lot of pressure to you know, get public and ceded lands. Lease them out for you know, century at a time to developers to build market rate housing. And so we're also opposing this measure based on our ceded lands concerns. Similarly HB499, this is, oh sorry. And then the HPHA bill that I just mentioned has a hearing tomorrow in the House Housing Committee.

And then HB499, this was a companion to the lease extension bill that I talked about where we change our position because it was vastly, the Senate counterpart was vastly reduced in scope. This one is not been reduced. It got a lot of opposition when it had a hearing on Monday, but the committee passed it out nonetheless. The committee chair didn't note any amendments to address our concerns either with this bill, which again would let any lease, any commercial industrial resort government lease, including leases like Pohakuloa, to be extended for 40 years at a time.

And finally SB176, this is the Sand Island bill. It's intended according to its preamble, to let the lessees at Sand Island acquire the fee ownership of their leased lands, which are ceded lands. In effect though, it's a lot broader than that, it would let any industrial lessee of public lands acquire a fee to their lease, so we're very concerned and opposed by this bill. Fortunately, it has been quadruple referred in the House, so it's technically alive, but it's not gonna make triple referral, and so it's probably, it's gonna die.

On the historic preservation front, HB497. We also opposed this bill. This bill would restrict counties from requiring developers of residential developments from consulting with state agencies. Unless there's a state statute that says that they can do that. Again you know, our counties often do ask developers to consult with us, to consult SHPD to address the historic preservation issues and impacts and we are able to provide helpful information that I know for example, identifying historic properties or burials that the developers weren't and the counties weren't even aware of. So it's a valuable process to let the counties, or valuable mechanism, when counties ask developers to consult with us and this would take that away. So we're opposing this bill. It has a hearing on Friday in front of the Senate Water Land Committee, so we'll be testifying on that one.

And then also too for historic preservation, HB1311. This is a companion to the Leali'i 6E exemption bill that we talked about in the bill position changes. We're still opposing this bill. It has, it doesn't have an outright exemption to Chapter 6E, but provides for kind of a watered down phase historic preservation review process that doesn't even have the minimal protections of a programmatic agreement that's in Chapter 6E for phase review projects. Fortunately, during decision-making on this bill, it had a hearing yesterday. The committee chair indicated that they were going to amend it just like the other bill is amended. So hopefully when the SD1

comes out we can, it will take away those 6E provisions. And we can drop our oppose, but we'll just wait till the Senate draft and the committee report comes out before we do that.

On the criminal justice front. I'll just highlight SB1128. This is the Kawaihoa bill that would set up a revolving fund for the strengths based vocational training program for the youth that are at Kawaihoa, the Hawaii Youth Correctional Facility. It has crossed over, it has a double referral, hasn't had a hearing yet. It has until next week to get a hearing to make lateral and we're in strong support of this bill.

For housing, there's a bill SB4 that we're opposing. This would prohibit any inclusionary zoning requirements for certain residential developments, which kind of ties the hands of counties from ensuring that units are built that are actually needed by their residents. We're in opposition to this bill. It did crossover, but got a triple referral and hasn't had a hearing scheduled. So unless it gets referred or a committee waves, then it's gonna be dead this week.

In terms of health, SB905, this is the bill that's basically a kind of a repeat of our leg. package bill from two years ago. It would establish a certain number of seats under the State Mental Health Council to have representatives that are experts or experienced in Hawaiian health practices and approaches. It has been triple referred unfortunately in the house, so it's probably going to be dead.

On the education front, HB546 and SB1384. These bills would both allow for the Aha Punana Leo representative on the early learning board to have a longer tenure on the board. They both crossed over. We have a hearing tomorrow on the SB in the House Education Committee, so that's exciting. We're still waiting for the HB to have a hearing scheduled. It's been double referred to Education and Judiciary in the Senate, so it has till next week to make lateral.

Yeah and then the broadband bill is SB850. It has a hearing today, so this would create a broadband task force to look at you know, expanding broadband access in rural areas which is where majority, like majority of the population of rural communities are Native Hawaiian so we're supporting this bill. It has a hearing today and so after that it has to have two more committee hearings by Consumer Protection Commerce and Finance, and so it needs to have its, assuming it passes out today, will have to have been heard by CPC next week before lateral deadline.

Chair Akaka recognizes Trustee Ahuna.

Trustee Ahuna: Aloha, first of all, thank you for all you guys have been doing. I think you guys have been doing a wonderful job. You know, this past week I've been getting calls from our beneficiaries. A big concern is what happened at our Kaka'ako site, you know, how they just put it down. This is in regards to SB2, HB902, SB749 and HB499. These are all of our ceded, 99 year lease bills. One of the concerns is we already have a program that they set out, it's called Hawaiian Homelands, 99 year leases and they can't even do any to get our people on the land, and now they're starting something totally new. So the questions that they're coming to me with and I want Wayne if you can explain this, can OHA take a bigger opposition stance first, is that possible?

Public Policy Manger Tanaka: Yeah, so we have been submitting written testimony on these bills and testifying in person on all of them except for HB499. Also, getting questions from folks, so I explained to them what our concerns are with these bills when they ask and reach out. I know our community outreach folks and even myself have been asked about like why we haven't been doing more with like for example our social media accounts that have a lot of followers and I defer to Community Engagement Administration as to you know, if and when we want to use those assets, I think because we had a lot of irons on the fire, especially up to now. Until yesterday we were trying to be cautious about being too strident in opposition. You know we can talk about, you know, administration side about, you know whether there's additional things we can do.

Provide more education, more engagement or outreach I mean on these bills and why they're so important to oppose.

Trustee Ahuna: Thank you, Wayne. Just one last quick question and I just want to make sure that our people, our beneficiaries get educated on these things so they have a understanding that we already are opposing this. What has been the response to our legislators to our opposition and the last question would be what happens if the bill passes? What else can we do?

Public Policy Manger Tanaka: Okay, those are actually really good questions, thank you. So far legislators have been not receptive to our opposition or to our, you know, proposed amendment to mitigate our concerns. But one really concerning thing is, they're talking a lot about the Mission Act and saying the Mission Act talks about the Public Land Trust and says one of the purposes of the Public Land Trust is to provide home ownership on a widespread basis as possible, and that's concerning to me because it really conflates two different issues. The ceded lands issues, and then the Admission Act, the Public Land Trust. So like how I've been thinking about it is, you know, it's like the ceded lands is like someone stealing your car, right? Like you know, I'm not even being hyperbolic, but like these lands were taken literally, you know, at gunpoint. The Queen knew that her people were willing to die if they fought back against insurrectionist and she knew they probably would, because the US military was backing them up at the time, and so she surrendered them extreme duress and those issues and claims have never been addressed. So to go back to the car analogy, the ceded lands issue is like the car being stolen. The Admission Act and the Public Land Trust issue is like the person that now that stole your car is now saying okay I'll give you 20% of what I make when I rent this car out to other people. So when they talk about housing, when you talk about the Mission Act, they're talking about the rent money. Or you know that rent money that you get from the car, not the fact that the car was stolen in the first place. And then you know, when you sell that, if that person that took the car sells the car or you know rents out for 100 years, which is basically selling the car. Then you'll never get a chance to deal with the fact that the car was stolen. And so that's kind of like what you know, what really concerns me when they try, when they conflate Hawaiian ceded land concerns with the Public Land Trust. I'll just add that they're not taking great care of the car. They're not changing the oil and they're not actually giving 20%. They're giving more like 10%, but just to play with that analogy a little bit more. The other thing they talk about also is like about Hawaiians having housing needs, like disproportionate housing needs which you know, I think it kind of sidesteps the issue and also doesn't address the fact that HHFDC can't provide housing just for Hawaiians. Like that was why they took out the transfer units to OHA language from the Aloha Homes bill. And I think when you think more critically about it, like if it wasn't really not for the loss of lands in government and governance due to overthrow, then I don't know if Hawaiians would have a, would be houseless, disproportionate housesless or facing housing insecurity in Hawai'i. And you can kind of really trace that. We've actually been doing a little research to trace the loss of governance and lands and how that directly leads to today and the challenges that we see not just in housing, but you know all kinds of different areas. And the other thing, the other response and the only response I've been getting from like HHFDC about why our amendments aren't acceptable is that would create, that the developers they are talking to say it would create too much bureaucracy for them, which it's hard for me to understand because our amendments essentially all the ask is that if there are ceded lands that are going to be leased for more than 65 years that the OHA Board of Trustees approved terms and conditions to those leases that can preserve Native Hawaiian claims, and there's some examples, but there's nothing concrete. So like you know, rights of first refusal, set asides of revenues or equity recaptures to support Hawaiian programs, reservation of the rights of a Native Hawaiian self governing entity. But nothing concrete or specific, just examples that's in our proposed language, and so really there's, if they come up with a good agreement that we're agreeable to then it's just, you know, six days Sunshine Notice to the Board, then the Board can take action on and approve, and it doesn't have to take years like you would need for infrastructure development for EISs, for all those other things. Yeah, and the other thing that I pointed out to them is that you know, we care a lot about housing. Housing is a huge issue for Hawaiians, and OHA has invested over \$40 million over the last decade and all kinds of programs that seek to address the housing security and houselessness issues in the community, and so I can't imagine that OHA is going to necessarily

want like just jam all these a good project up that's gonna provide housing. We just need address our concerns regarding to the ceded lands and protect the claims of Native Hawaiians with ceded lands.

Chair Akaka: Mahalo, Wayne, I think you're doing a good job at explaining. Housing is a priority and we are fulfilling our kuleana by submitting written testimony and like you had mentioned earlier, a lot of our attention has been focused on Kaka'ako Makai and our other bills, and that also includes the option of housing, hence the lifting of the height restriction. But I believe that our Ka Pouhana also wanted to share something.

Ka Pouhana Hussey: Thank you, Chair, I wanted to respond to Trustee Ahuna. We've been having, if you want to call them quiet conversations or continued conversations and I think with housing in the Legislature to talk about. We have a board position to oppose. It is imperative for us to oppose the 99 year and the alienation, but that doesn't mean we can't continue to work together and find out in a collaborative way who has kuleana for what and so we have presented a collaboration discussion map focusing on two things. One is housing delivery and one is occupancy ready and so we don't have broad delivery right. Those are DHHL, HHFDC, HCDA. There are others who are in the home delivery space. We can absolutely support occupancy ready people who can afford down payments, first last month rent, have financial literacy, have debt recovery repair is able to provide for their families. So on the beneficiary side, we can absolutely work together to have programming for occupancy ready beneficiaries, occupancy ready constituents, whether it's a DHHL house, HHFDC house, a regular house or rental. We can provide that kind. But that's not only our responsibility, there are others whose responsibility can be about occupancy ready. So sometimes I think it's perceived that our opposition, our strong opposition and our rightful opposition on 99 years, it's either or rather we are saying it's and. We're opposing this because it's an absolute erosion of the corpus and we're willing to find solutions that makes sense for everybody, but it's not our kuleana to deliver housing, but we absolutely can have our beneficiaries be occupancy ready and that is everything from ability to afford, be able to do first and last month financial literacy, all of those things. So the meetings that we are pitching and setting up, can we all get together and agree on the end piece. You guys work on housing delivery. We will work on getting our beneficiaries, and your constituents by the way, occupancy ready. So it's exciting, but it's hard work to set up this kind of design and it's often interpreted as oh OHA you guys are only oppose oppose oppose and that's not the case. We absolutely have to oppose at a minimum an in written and more needed as Wayne has pointed out, verbally. We have to be on record to specifically say why we oppose that, but what is also important is we are on record to say there are different ways to approach this. There are different ways that we can put in some safeguards as to these processes. So I appreciate that Wayne and our team is always in the mindset okay, and, instead of 99 you know or. So that conjunction of or versus and is a critical piece in OHA moving forward. But sometimes it appears as if OHA is just saying no and not being helpful and that's completely not the case, and so I want Trustees to know for sure that we are in an and conjunction kind of peace. We want to work with the state, but we absolutely have to oppose these 99 year or any action that alienates our claims.

Trustee Ahuna: Thank you so much. Beneficiaries were wondering and we needed to get this out. Thank you so much.

Chair Akaka: Mahalo for that elaboration Ka Pouhana. Sterling, did you want to share more on this?

Chief Advocate Wong: Yeah, I just want to say one thing. I think that the state right now is willing to have discussions with us about how to meet the housing needs of our beneficiaries because there's an overall housing crisis. But what the state is not discussing with us at all is how they're going to protect the Ceded Lands Corpus and how they meet this need, and I think the Supreme Court told us in 2008 that you know, the state can't or shouldn't diminish the Ceded Lands Corpus because it disadvantages Native Hawaiians in our discussions with the state about any sort of reconciliation about how to get our car back, you know. And nobody in the state wants to talk about that, and that's sort of the elephant in the room. They want to talk to us about how they can use our lands to meet everybody's housing needs, but they don't want to talk to us about how we get the car back, and the state has passed laws including Act 195 in 2011. Committing itself to a

reconciliation process with Native Hawaiians and it's failing to do that in 10 years. The Supreme Court when it had its decision in 08. It named a bunch of other acts that the state has passed, committing itself to that reconciliation. As far as I'm concerned, when I look at what happened with Kaka'ako Makai and these 99 year lease bills, these are broken promises stemming back from the first promise that the state is built off of that Native Hawaiians were going to have our ancestral lands manage in a way specifically to benefit Native Hawaiians, and it's a longstanding broken promise at every step of the way, so I'll just leave it at that. I look at these 4-5 bills for the rest of session with Kaka'ako Makai dead as probably the biggest lift we have for the rest of the year, trying to kill them. And certainly we can work with the state. Whether these bills die or not, about how the state can help Native Hawaiians meet our housing needs, mahalo.

Public Policy Manger Tanaka: Yeah, and so just to follow up on Sterling's note and also on Trustee Ahuna's second question as to what happens if the bill passes. I think one of the reasons for our existence as an agency is to act as as like a placeholder for a future Native Hawaiian self governing entity and any kind of government needs a land base and the ceded lands are going you know, essentially the land base for a future Hawaiian Nation, whatever form it takes. And so as a existential matter, we may have to, if this bill passes and it doesn't have amendments, we're going to have to monitor closely what HHFDC does with any ceded lands they may acquire. So that's gonna mean you know, monitoring all their development proposals and RFPs which is gonna take a lot of staff time. Like we're going to have to try to negotiate our claims, which you know, hopefully they'll be open to, especially with like some of the road mapping and things like Ka Pouhana was talking about. But if they keep up this pattern of just ignoring our claims, you know we may have to make that difficult decision as to whether we want to intervene in some other way as part of our fiduciary, you know, obligation. Our Leali'i lawsuit in 94, it lasted 15 years. I don't know how much it costs exactly, but I'm sure it costs a lot of trust dollars to pursue which we had to do because it was the Ceded Lands Corpus. And then too, the you know if anytime we have to draw a line then we're gonna get portrayed as obstructionist or anti housing or so forth. This is why I'm thinking about you know practically down the line if these bills pass, you know the amendments that we proposed which is just to give the Board of Trustees a seat at the table when the state is disposing of stolen Hawaiian lands for 99 years at a time. I think that's a good way to avoid all of that, because with terms and conditions that we approve, that could be maybe even built off of the road map that Ka Pouhana was talking about. Like terms and conditions we approved at least will be, you know, will proactively have a chance to make sure that there's no conflict as these development proposals go forward, which I think everyone would want. So yeah, I mean hopefully we can get, if not stop these bills from moving at least get some of the amendment language into them. I also want to appreciate Trustee Ahuna. I think you mentioned about one of the things we've been, I've been trying to tell folks in the housing arenas that I think it's really important anytime we talk about the housing needs of residents. We start a conversation with a discussion on DHHL and what the state could do better to support DHHL and its mission. It's if you can knock their wait list down significantly, that's a huge chunk of our affordable housing needs that would be addressed. And it would definitely go to local residents and not, you know, folks from the continent or elsewhere that want to move here and have a lot more cash in hand equity to do so. A lot of these 99 year visions you could even have DHHL do them and accomplish them through DHHL, and guarantee they'll be able to. Either local resident, local residents or Native Hawaiian, or help bring Native Hawaiians home from the continent which would also be not a bad thing either.

Chair Akaka: Alright, Wayne, did you want to continue?

Public Policy Manger Tanaka: I'm pau, just open to questions or anything else, comments.

Chair Akaka: Alright then, may have a motion to approve administration's recommendations on new bills and positions.

Trustee Ahuna: So moved

Board Chair Hulu Lindsey: Second

It has been moved by Trustee Ahuna and seconded by our Board Chair Hulu Lindsey.

Trustee Ahuna: Chair Akaka, I'd like **To approve Administration's recommendations on: NEW BILLS (Items 1-26) and BILL POSITIONS FOR RECONSIDERATION (Items 27-30), along with the following revisions:**

ADD Measures

- HCR129, as **OPPOSE**
- HR111, as **OPPOSE**
- SCR216, as **OPPOSE**

On the OHA Legislative Positioning Matrix dated March 17, 2021

Board Chair Hulu Lindsey: Second

Chair Akaka: Mahalo, Trustee Ahuna and mahalo, Board Chair Trustee Hulu Lindsey.

Is there any other wonderful discussion members on this? Seeing none, can I please have a roll call vote Brandon?

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

2:46 p.m.

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

V. NEW BUSINESS

NONE

VI. ANNOUNCEMENTS

Chair Akaka: Members, are there any announcements at this time?

Trustee Ahuna: I just want to say thank you to our Administration's staff for the Kaka'ako Makai.

Trustee Ahuna gives them a thumbs up.

Chair Akaka: Mahalo, Trustee Ahuna. Yes, a lot of hard work and effort has been put forth through various parties here and the collaborative effort is a beautiful thing, so we will go forward.

VII. ADJOURNMENT

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

Trustee Ahuna: So moved, Madam Chair.

Trustee Waihe'e: Second

Chair Akaka: It's been moved by Trustee Ahuna and seconded by Trustee Waihe'e. Is there any other discussion that anyone would like to do before we close? Alright then, we'll have a **roll call vote** to adjourn.

							2:48 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA	1		X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

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

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono. Happy St. Patrick's day.

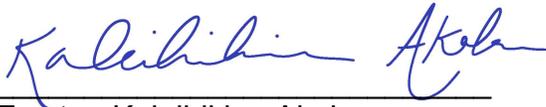
Chair Akaka adjourns the BAE meeting at **2:49 p.m.**

Respectfully submitted,

A handwritten signature in black ink that reads "Brandon R. Mitsuda". The signature is stylized with a large initial "B" and a long horizontal stroke extending to the right.

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 8/4/2021.

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