

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

April 28, 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
Nakoa, Keone, D.C. Bureau Chief
Chak, Kevin, IT

EXCUSED: NONE

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, April 28, 2021 to order at **1:30 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:30 p.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
VICE-CHAIR	KEOLA	LINDSEY	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **NINE**(9) Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

None

III. APPROVAL OF MINUTES

None

IV. 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, we'll ask Chief Advocate Sterling Wong to walk us through the matrix.

Chief Advocate Wong: Aloha mai kakou, so Chief Advocate Sterling Wong for the Administration. I'll take us through the calendar just to give us a sense of where we are in session. Today is the 28th so we're right here on this recess date sine die is tomorrow, so session ends tomorrow. It is a shortened session. It came fast, so we're almost done tomorrow with that just to go over our package. As you know, OHA-1 is our budget bill and the vehicle was HB204. The House vehicle, it did pass yesterday. Floor vote in the House and in the Senate. I'm just going to go over the changes from the CD1. These are the changes from the initial bill so these are the changes from our ask. I had gone over these last week, but just to go over them again. As the Trustees will recall, you know the SD2 took out 1.4 million basically in operations and personnel. But it did add back in an extra \$500,000 in a proviso for housing needs. There was an addition of \$200,000 for a CLA review follow up and then remarkably thanks in large part for our Chair, \$3,000,000 from Act 37, the money that was being held up because of the state audit was put into this budget with a housekeeping measure to address the lapsing issues. So all altogether we are getting about 2.254 million for each of the next two fiscal years in the budget and as the Trustees will recall our initial ask was for a little over 3,000,000 as is our base budget, the CD1 is about \$780,000 short of that. Having said that, you know the bill passed both floors and now we are off to the Governor. He can either veto the bill, pass it, let it pass without his signature or he can actually line item veto specific appropriations. He has a deadline of June 21st to release his list of bill he intends to veto and then he has until July 6th to sign bills or let them pass. So we will definitely be keeping the Board up-to-date. What we will be doing definitely our budget bill as with all the other bills going to the Governor is filling out what's called comments and recommendations or CNR forms that all state agencies have the opportunity to fill out to give their formal positions to the Governor on so we will be definitely filling out a CNR encouraging the Governor to pass out our budget bill. But again very exciting our budget bill is on its way to the Governor.

OHA-2 died, that's the CIP for Wahiawa. OHA-3, are expungement bill has also died. OHA-4, as mentioned too I think the Board last week, CR5 was our vehicle and it passed without any amendments so that reso. was adopted. So what we'll be doing now with that reso. is it's fully adopted so we'll be sending letters to the Governor obviously urging him to convene this working group.

So in closing Chair Akaka, we had four measures in our package have passed, which I think is overall really good even considering the lumps we took. All in all, I think a successful session, we look forward to updating the Board fully after the Governor signs all the bills that date on July 6th passed to provide an overview. If there are no questions Chair Akaka, that closes our presentation on this agenda item. I will turn it back over 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: Thank you, Chair Akaka and we will lateral it to both Wayne and Letani who will be pulling up the matrix.

Public Policy Manger Tanaka: Good afternoon Trustees. So as Sterling mentioned mentioning sine die is tomorrow. So congratulations to everyone for getting through this leg. session. It's been a pretty wild ride. Even without you know the COVID pandemic. So today we actually just have one table change and no new positions otherwise that will be recommending action on. But first, before I get there, I will go over the OHA named bills of note that passed and some that didn't pass, and then we'll go to the table change and we'll talk about the rest of the bills and resos. of notes from this session.

For the OHA named bills in terms of Kaka'ako and Public Land Trust related measures. HCR129, which was the working group to discuss you know future development of Kaka'ako Makai, possible land exchange for Kaka'ako Makai lands which we opposed did not pass. So it did die as we expected. The HR111, which is a single body counterpart was adopted by the House so we will be drafting a letter to the task force indicating our inclination not to participate in their discussions.

Another bill HB1019, which is actually a very interesting one. This is a bill that would authorize commercial ocean tour fees. So essentially what it does is it sets up for five years a special fund that would be used to support things like compensatory mitigation for you know permitted actions that impact the marine environment, other marine resource management activities, including stuff like installations, that kind of thing. The special fund would collect money from certain fines from aquatic resources facilities leases from permits that require compensatory mitigation and also it would collect \$1.00 from every passenger or customer who books a trip on a commercial tour boat. So anyone that goes on a boat that has a commercial operator permit in state waters will have to pay \$1.00 into this special fund. Except 20 cents of that \$1.00 and 20% of the leases of aquatic resources facilities will be explicitly transferred to OHA as ceded lands revenues which is interesting. It's a whole new public land trust revenue source tied to tourism and tied to you know the tourism industry's use of our submerged lands, which are actually also considered ceded lands as well as public land trust lands, so that's super exciting you know, there are some questions about you know whether this will count towards the 15.1 overage and whether you know any extra fees that it will be transferred back to the CFTHA and so forth. But we'll be talking about that with Corp. Counsel and so forth, but super interesting. I'm gonna keep an eye on how this how this plays out and hopefully the Governor signs it and we were supporting that bill during session.

For DHHL bills that name OHA. SCR165 and SR130 were adopted. This resolution would urge the U.S. Congress to reduce the blood quantum requirement for successors to Department of Hawaiian Home Land leases to be 1/32nd, rather than the current 1/4th. This is consistent with Act 80, which passed in 2017, which we supported. We were supporting this reso. as well. We did support the reduction in the blood quantum requirement for successors because of you know concerns raised by many, many beneficiaries of and homesteaders who were worried that you know when they passed on they would not be able to transfer leases that had otherwise been in their family for generations potentially. We also know the concern that you know if the successorship blood quantum requirement is relaxed and perhaps you know, there are some concerns that would delay the opening of homesteads for waitlisters, but you know our position then was and as it continues to be, is that it's probably better to address the wait list by appropriately supporting the Department of Hawaiian Home Lands rather than by you know, kicking existing homestead families off of their lots. So that resolution was adopted and we'll be going to Congress and the copy will be sent to the OHA Board Chair. So that's why it's on this matrix.

Other OHA measures that I want to highlight now. They kind of either require OHA to join a task force or otherwise follow up. So first is SB1409. This is a training course compliance bill. The CD1 was adopted. It was amended to allow board and commission members to view a recording of a training course rather than physically attending if they cannot attend and that would satisfy their training course requirement, so we'll be working with the University of Hawai'i, William S. Richardson School of Law, Ka Huli Au Center for Excellence

in Native Hawaiian Law to make sure that you know, there's a way to ensure that board members to get the recording actually do watch recording and not just say that they watched it. Otherwise if board and commission members don't attend a training course or view a recording within the year of their appointment or reappointment. Then they will not be able to participate in a permitted interaction group or vote on the matter until they do view the training course. And then if they don't view it or attend a training course within two years of their appointment or reappointment then they'd have to be reconfirmed to continue serving. And the follow up part for OHA is that we OHA and the Department of Land and Natural Resources are tasked with completing a report of who did not attend a training course by September 21st of each year. So yeah, so we'll be working on that probably with UH also.

HB541, I talked about this a few meetings ago. So this measure would amend the functions and focus of a behavioral health working group within the Department of Health to specifically identify gaps in services. Look for and coordinate funding sources and basically plan to address behavioral health substance abuse and homelessness issues. The measure includes OHA and adds OHA as a representative on the working group. So we will be figuring out in the admin end like who the send, but you know, we were commenting rather than supporting mostly because of the funding implications, but you know, we do you know, we did say that we think given Native Hawaiian's particular behavioral health and houselessness challenges, that having a representative on the Working Group would help to ensure that these needs are addressed.

HCR11, this would request the state. This resolution passed along with single body companion HR12. We were supporting it. It requests the State Commission on the Status of Women to convene a task force to look at the issue of missing and murdered Native Hawaiian woman and girls. OHA is the co-chair of this. The OHA CEO or her designee would be a co-chair of this task force. You know we do have concerns. You know, there are a few studies that indicate that a majority of sex trafficking victims are Native Hawaiians. You know this in itself could also contribute to or lead to Native Hawaiian women and girls going missing or murdered. You know, there's also in our Haumea report concerns raised about the lack of data, specifically human trafficking and Native Hawaiian women and girls because the data wasn't being collected appropriately. So we were supporting this measure and we again will be looking towards supporting a task force as it's co-chair.

Next in the historic preservation iwi kupuna area. There's SR171 and a similar measure HR113. They were both, we've supported both, both were adopted by their respective chambers. They're similar, but not exactly the same. So SR171 asks OHA to convene a working group to address and resolve allegations of mismanagement in the State Historic Preservation Division's Burial Sites Program and to come up with recommendations for the Legislature. So the Working Group would include OHA's Chair or her designee. The Island Burial Council Chairs, the SHPD Administrator, DOCARE, two large landowner reps from the Governor, a law school professor, a community member and I guess a member from Huliauapa'a or the Kali'uokapa'akai Collective. The companion HR113 is similar. We do convene a working group, but the composition is a little bit different. So there's no SHPD Administrator, no large land owner rep. There's a OHA representative. That's the CEO or her designee. Instead of the IBC Chairs, it'll just be a rep. elected by the Island Burial Councils to sit on the committee and there's no Huliauapa'a rep. per say, but Huliauapa'a would select a lineal descendant and a cultural practitioner to sit in the Working Group, and the Working Group's tasks are also slightly different from the SR. So rather than address allegations of mismanagement it'll be focusing more on improving implementation of Island Burial Councils and their responsibilities reviewing rules and laws and implementation in respect to iwi kupuna and also creating a database to document where burials are or could potentially be. So there's two slightly different working groups. So we'll be working and I think you know how far each gets may depend on the willingness of working group's members to participate and I think there's some differences in opinion in the community side about you know which version they prefer. So yeah, so that's a little bit of follow up work on our end.

And finally congratulations to Letani. His GM686 was confirmed by the Senate so he is now our OHA representative on the Kane'ohe Bay Regional Council. Letani is a lifelong resident of He'eia, has strong familial ties.

ties to the area, very familiar with Kane'ohē Bay, so he's a very appropriate person to sit on the Council.

So now we'll jump over to the big matrix. Again there's no new positions or positions for reconsideration on that matrix, but we do have one bill that we're recommending a position change on and that was HB862. This is the bill that at one point would have removed the Hawai'i Tourism Authority's ability to support olelo Hawai'i, to support cultural practitioners and also to expend TAT monies to mitigate the environmental impacts of tourism on our natural resources and environment. So we oppose it of course due to the importance of HTA's role in mitigating the impacts of exploitation of Hawaiian culture to promote tourism and tourism related businesses as well as the impacts of over tourism in our natural resources. The CD1 that came out late Friday night no longer deletes HTA's responsibilities in this regard and so that absolved some of our concerns. Just of note, it's interesting some of the other amendments still with regards to HTA, it does take away HTA's procurement exemption, which is interesting and there are also some new never before seen provisions, which would allow counties to set their own TAT tax up to 3% on top of the state TAT. But it would also cut off the counties from receiving any of the state TAT. So the counties have to figure out you know how to offset the loss in revenue and potentially through the imposition of their own TAT in their counties. It also deletes the tourism special fund which collected the TAT, portions of TAT and supported the HTA and instead gives the Hawai'i Tourism Authority 60,000,000 in ARPA funds. That's the Federal American Rescue Plan Act funds. So again, because the most concerning provisions that we had issues with were taken out of the CD1, we're recommending changing our position from oppose to monitor.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: They're going to sine die tomorrow so we already kind of know what's happening like a TAT.

Public Policy Manger Tanaka: Right

Trustee Ahu Isa: Like taking away the procurement. The exemption where now they have to follow state and they're going to cut their budget or they're just going to take away all the special fund and make them a general fund. All the TAT go into general fund?

Public Policy Manger Tanaka: I mean there's still, so other TAT streams like to go towards the special land development fund in DLNR like there's still 3,000,000 for that, there's still money for the Turtle Bay Conservation Fund, but yeah the actual special fund that HTA was using that would collect TAT monies would be deleted and instead they would get 60,000,000 in ARPA and then you know, I'm not sure what would happen after ARPA's money pau.

Trustee Ahu Isa: And the counties can impose their own TAT based on the average hotel room rate. Every county is different. So is that, I think I read that. Basing the TAT on, but do you know? It's okay if you don't know I just wondered?

Public Policy Manger Tanaka: So I have to look at the specific language. What I recall from reading it is that it lets them impose up to a 3% TAT. So on top of the state TAT.

Trustee Ahu Isa: Wow and the other question I had was what's this thing about Sylvia Luke saying in the paper that it was a matter of timing and we missed it so that the Federal CARES Act, rental assistance or unemployment money that the Governor is not going to use to help small business instead of helping our poor people because we missed some deadline. It was in the paper. Do you remember reading that?

Public Policy Manger Tanaka: No, is that today's paper?

Trustee Ahu Isa: Yesterday

Public Policy Manger Tanaka: Yesterday, I'll have to go check it out, sorry.

Trustee Ahu Isa: Yeah, there's a whole bunch of money, like millions. Okay, I just thought you might know. I didn't understand that part why we couldn't use the federal money and they're using our taxpayer money. Thank you, Chair.

Public Policy Manger Tanaka: Okay, and you know of course stop me if I'm going too fast, or if there's any other questions. I'll just do a quick rundown of the other bills of note that passed or didn't pass. So first with DHHL, HB753 which would exempt the Department Hawaiian Home Lands from school impact fees with a three year sunset date. It was actually rescued from the brink of not getting passed by re referrals so it was adopted. It was adopted and so DHHL will have for the next three years an exemption from school impact fees, which is actually pretty, you know, could be you know, close to a \$1,000,000 for some projects. So that's good. We're supporting that.

HB756, which would have added the Hawaiian Homes Commission Chair to the Board of Agriculture. I think Trustee Keola Lindsey asked about this at the last meeting. It was moving. It made it to third reading and it didn't make the third reading vote, so it didn't get enough votes on the floor to, you know, to get past third reading and so it's dead unfortunately.

HCR76, this is the resolution that would set up a task force to assess the status of Act 14, which was passed in 1995 to address the improper and uncompensated use of Department of Hawaiian Home Lands' lands by the state. We were supporting this measure. It was adopted. So you know it's interesting, the Sovereign Council of Hawaiian Homestead Associations was actually taken out of the SD1, but the SD2 put them back in to the task force. We're not part of the task force. And it's interesting too because in their most recent testimony, Department of Hawaiian Home Lands actually indicated that they had retained outside counsel. They got approval to retain private counsel to represent the interests of beneficiaries separate from the Department in coming up with a valuation for the improper use of Hawaiian homestead lands. So hopefully that informs the work of the task force. Hopefully the task force also can inform some of the I think the resolutions that DHHL is working towards regarding this issue.

Unfortunately, HB499, which has been in the news a couple past nights. So this bill did pass final floor votes in both chambers. This bill would allow for 40 year lease extensions for any you know, commercial industrial resort, mixed use or government lease. A lot of opposition throughout session, almost throughout the entire session, I'm really still kind of wondering why it was being passed despite all the opposition that was being raised. You know, I do want to note that in the House side there were 15 no's, on the Senate side there were nine no's and nine reservations, so really only seven Senators outright supported this bill. So it was a close vote. So you know, we'll see. You know we'll probably be writing a letter to the Governor asking him to veto it because we do oppose the measure. If it does pass, we will have to keep a close eye on any proposed lease extensions to the BLNR going forward just to make sure that you know things are appropriate and hopefully the claims of Native Hawaiians aren't foreclosed for, you know, additional four decades if not indefinitely given the sense of entitlement that often accompanies these kinds of long term leases by lessees.

Chair Akaka recognizes Trustee Ahuna.

Trustee Ahuna: Thank you, Chair, so we are opposed right? We are still opposing?

Public Policy Manger Tanaka: Yes

Trustee Ahuna: Are we going to lead or help the community. Or lead an effort to get Governor Ige to veto this bill or anything like that?

Public Policy Manger Tanaka: I think we'll have to discuss on the admin side and also probably with, you know, the Board and the BAE Chair about what are our next steps would be. I'm aware of some organizing efforts that are being done by folks outside of OHA. I think that helped generate some of the heightened media and public attention to this bill, so keeping tabs on that too. Maybe there's ways we can support their efforts.

Chair Akaka recognizes Chief Advocate Wong

Chief Advocate Wong: I can add to that you know as well. Trustee Ahuna I think that's a great question. Just as a matter of course I was mentioning our budget bill how we do the CNR forms to the Governor. We basically would do that for all of these bills going to the Governor that we have positions on. So definitely this opposed bill, just as a matter of course, we would be requesting a comment and recommendation form for this bill and we would be sending one I think under the CEO signature as OHA's official position to the Governor to oppose and not sign this bill and anything we do beyond that sort of normal advocacy, we would definitely be running it by BAE leadership and admin leadership. But that's what we would do under normal circumstances, but great question Trustee Ahuna, mahalo nui.

Trustee Ahuna: So I just wanted to get cleared up. So this does affect Hawaiian Homestead land right, yes?

Public Policy Manger Tanaka: Yes, so what happens, so under the Hawaiian Homes Commission Act for non homestead leases, the Hawaiian Homestead Commission has to basically follow the procedures and requirements of Chapter 171 HRS which has limits like 65 year cap on you know public land leases. There has to be appraisal and public auction instead of like just straight renewing or extending leases. So Chapter 171 would be amended by this measure, and so by extension DHHL's ability to do what DHHL's process procedures and authorities would also change because they're based on 171.

Trustee Ahuna: So Chair Akaka, I just wanted to make a note that our community is really asking for help and that they're out there and they need our help, and I'm very happy that I think when our CEO comes to the island of Kaua'i I think we're going to be visiting these areas that are affected and it's a lease by KIUC I believe that is up if this passes, it goes to 99 years, so thank you so much for bringing that up.

Public Policy Manger Tanaka: Thank you. And so in slightly less depressing news in the area of natural resource protection and cultural practices, HB553 was finally adopted. This was I think you know, our mano practitioners have been working on this bill for something like five years to provide protections from mano in state waters. It basically prohibits knowingly capturing and tangling or killing mano in state waters. But there is an explicit exemption for Native Hawaiian traditional customary practices, so it doesn't apply to TNT practices. It also allows for noncommercial permits to take mano pursuant to rules adopted by the DLNR, and the permits must include conditions for Native Hawaiian culture protocol, so that's actually kind of cool too, because there will have to be consultation with cultural practitioners as to whether you know what's appropriate in allowing mano to be taken. So that bill passed, we supported it, so that's good news.

More good news. SCR55, which we also supported was also adopted. So this urges the Department of Land and Natural Resources to adopt admin rules to streamline the process for allowing traditional Hawaiian farming systems in the conservation district. You know, we noted in our support that you know adding rules could help address inefficiencies that can act as roadblocks to what was otherwise ecologically integrated and environmentally sustainable Native Hawaiian Traditional farming practices in the conservation district. You know it is consistent with the agricultural objectives of the state thanks to our package measure that passed a few years ago that promotes and uplifts traditional farming methods and crops within the state plan or State Planning Act sorry. We also know that prioritizing traditional Hawaiian agriculture will enhance our local food security, while also perpetuating you know traditional farming methods and crops and knowledge and practices that have sustained the folks of these islands since time immemorial. We are happy about that passing

In the criminal justice sector unfortunately SB1260, which was a pretrial reform measure that would have implemented the recommendations of the HCR137 Pretrial Reform Task Force, as well as the HCR85 Prison Reform Task Force, as well as a oversight commission. This measure did not make it out of conference. I guess there are too much differences in perspective and opinion between the conference committee members. So that one is dead, but on the brighter side, SB664, which we're commenting on, largely because of the appropriations in there. But we're otherwise, you know, very supportive of it over the last draft of this measure. So this bill did pass. So what this bill originally would have done was would require the Department of Public Safety to build a new OCCC. But the HD2 and the CD1 drafts now all it does is appropriate 330,000 to the Correctional Systems Oversight Commission for staff. And you know, we know the importance in our testimony in our comments of the oversight's commission work in addressing a longstanding need to transform our criminal justice system from a punitive approach to a rehabilitative one. Which would be, you know, much more cost effective. Much more effective, as well as cost efficient and humane. You know, we also know know the substantial support that we've been providing to the commission, you know, since the funds and staff that the Legislature appropriated for them in 2019 were never released by the Governor, and so we're excited that this explicit appropriation will hopefully get the Governor to finally, you know, give the commission the support it needs to do its important work.

In terms of houselessness and housing security for beneficiaries, SB1376 CD1 was passed. Again we're commenting on this. You know we did note that this was very consistent with our advocacy and about providing renter protections, particularly given the economic impacts of the pandemic on our beneficiaries, as well as the fact that beneficiaries rely disproportionately on the rental housing market. So they'll be much more vulnerable to potential eviction actions due to non payment of rent, and so what this what this bill does is it would extend the notice that's required before an eviction action from 5 days to 15 days, and then also require landlords to participate in mediation. If a mediation appointment is scheduled within those 15 days. It has appropriations for the mediation services, which is why we are just commenting instead of supporting. It also would provide a kind of like a tapered relief for tenants who are. Where you can't evict a tenant after the eviction moratorium ends unless they are in arrears more than a certain amount of months rent based on how long it's been. So after one month after the eviction moratorium ends, you can only evict someone if they're more than four months back due rent. After three months, you can only evict someone with more than three months back due rent and after five months after eviction moratorium you can only evict them if they're over two months back due rent. So it kind of strikes a nice balance in protecting renters, giving them time to rebuild the resources they may need after our economy kind of gets going again to make up for the shortfall in rent that they may owe.

So on the health sector HCR112 and it's single body companion HR90 were both adopted. The HCR112 was actually amended slightly by the Senate, so it's a little bit different from the HR. But both of these resolutions would declare racism as a public health crisis. The HCR112 actually notes or specifically notes that you know there are a number of international and national and local organizations and agencies that acknowledge public health impacts of racism, including the World Health Organization, the Centers for Disease Control, the State Department of Health, the Judiciary. The resos specifically highlight disproportionately impacted communities in Hawaii and elsewhere including Native Hawaiians. Both versions also highlight the statutory amendment that we passed in our legislative package in I think four years ago that requires the social determinants of health to be addressed by all state agencies as they develop their policies and plans.

SB1384. This is the bill that would exempts the Hawaiian medium early learning, early learning education seat on the Early Learning Board from the two term limit that's otherwise applicable to boards and commissions generally. Right now that seat is limited to two, two year terms, so this would lift that cap, but it only really does that for, it sunsets in four years which is interesting, so I think what it's intended to do is to let the current person that was serving in that seat who was termed out to continue serving for another four years, and then we'll see what happens.

Chair Akaka recognizes Trustee Ahuna.

Trustee Ahuna: Thank you guys and I just want to thank everyone. The reason why I'm speaking up on HB499 is because last night I attended a SHA zoom meeting and one of the big concerns that they had was HB499 and how it's going to affect Hawaiian homes. The mall on the Big Island. I believe even the access road to Mauna Kea, land in Anahola. They have those concerns and they're asking for our help. So the reason why I'm bringing this up is I'm just thinking to myself maybe is there a chance that we can do more of like a. I know we're going to ask the Governor to veto but more of like a community engagement kind of help to heighten the issue or anything like that?

Public Policy Manger Tanaka: So I probably have to defer to, you know, the Administration Leadership and Community Engagement. And yeah, I mean we probably have to talk about possible next steps and also you know, run things by Board Leadership.

Chair Akaka recognizes Chief Advocate Wong

Chief Advocate Wong: Trustee Ahuna, great points. I think we're hearing a lot of the same mana'o and so we'll definitely be meeting with admin leadership and BAE leadership to talk about next steps on what to do with HB499. I think you know the immediate next things we can impact is the Governor obviously vetoing the bill, as well as potential building a strategy if we want to look at legislation to maybe re look at the issue next year or any admin solutions in terms of when BLNR tries to use this new statutory authority to extend the leases. What strategy we'll take in terms of advocacy at that level. So I mean, I think we all agree. It's unfortunate that this bill has gotten this far. You know, but it's still top of mind for us, it's going to impact our beneficiaries and whether we're looking to you know get a fix with the Governor and the veto or administratively moving forward. We are definitely going to need to build out a strategy. So kakou you and your mana'o and other community concerns coming in and it's definitely top of mind for us. Mahalo, Chair.

Trustee Ahuna: Sterling, thank you for that because you know the question we should be answering is how does this affect our unresolved claims or unresolved ceded land claims?

Chief Advocate Wong: Yeah, absolutely.

Chair Akaka: Trustee Ahuna, do you know if there was any legislative presence in that meeting?

Trustee Ahuna: Yes, I believe so. I believe Senator Acasio was there too. I want people to know that I was in a meeting that they were in the meeting too.

Chair Akaka: I did see in the news that she spoke on the Senate floor regarding this bill I believe.

Chair Akaka recognizes Board Chair Hulu Lindsey.

Board Chair Hulu Lindsey: I just want to share that Senator Fevella made a very emotional speech on the floor as well. So he is a strong advocate.

Chair Akaka: Mahalo, I did see that as well. Any other further discussion on this bill?

Chair Akaka recognizes BAE Vice Chair Lindsey.

Vice Chair Lindsey: I didn't have any comments on this bill, but if it's okay I had a question for Wayne on another one he went over. Wayne, can we go back to HB1019, the Ocean Stewardship.

Public Policy Manger Tanaka: Yes

Vice Chair Lindsey: Apologies for going way back in time, but you know when you were talking about the two (inaudible) the bill passes OHA would be entitled to 20% of the funds. Do you know offhand an example of a state lease of lands and facilities and equipment like what is an example of that type of revenue?

Public Policy Manger Tanaka: You know, I'll have to, so there's the Anuenu facility by Sand Island that I think, I mean I don't know if they have any lessees there now. But you know they could in the future you know like to do like coral out planting, aquaculture research, that kind of thing. I mean that's what they used to do in the past. So that's potentially one potential lease. I'm trying to think of other places within DAR's jurisdiction.

Vice Chair Lindsey: Okay, I'll circle back around with you folks later and maybe we can identify others. But the other thing I wanted to just clarify for myself on this bill is did I hear you correctly that this would be the first time submerged land revenue enters. The first time that OHA would be on behalf of our people getting revenue from submerged land?

Public Policy Manger Tanaka: I mean, I think you know you could say like you know harbors and those kinds of things where we do get revenues. Like that's one way we get PLT from submerged lands. But I think what's unique about is the fact that it's essentially charging, you know, it's levying a \$1.00 fee on top of tourists and then acknowledging that because the tourists who go on ocean tours. Because this revenue is being generated from essentially enjoyment of submerged public land trust ceded lands that OHA should get a pro rata portion of that revenue. Yeah, I've never seen that you know, actually enacted to law before. Although this language has actually been in this bill since or in versions of this bill since 2012.

Vice Chair Lindsey: Thanks, Wayne, thank you, Madam Chair.

Public Policy Manger Tanaka: If it's okay, I just had one quick announcement before we get to the motion.

Chair Akaka: Yes, please Wayne.

Public Policy Manger Tanaka: Okay, thank you, so it's sad to say that Jen Jenkins, one of our public policy advocates will be departing the agency tomorrow, April 29th. Jen has been with us since 2018 when they were a law student, you know, was quickly evident that they were passionately committed to social justice and also to our mission. And they're also an effective advocate in their own right. And so after they graduated, we asked them to join the team in 2019. And Jen has been Kamaile's protege actually for the past three years supporting Kamaile's work in criminal justice work, supporting the Oversight Commission, played crucial role in pulling the commissions most recent report together to the legislature which has now been incorporated into our criminal justice advocacy. And also too, Jen has taken a leading role in our work in the areas of houselessness and housing. And through constant meetings, communication with various stakeholders and agencies and service providers. They've been able to develop really strong relationships that I think will serve, have already served. So everything from you know, helping us respond appropriately to beneficiaries experiencing houselessness and seeking shelter on our properties to facilitating conversations that have heightened service providers awareness of how their Native Hawaiian clients' housing challenges are really connected with the historical loss of lands and governments. And really our success I think in stopping some of the 99 year ceded lands lease bills we saw this session was significantly helped by you know, houselessness service providers withdrawing their support of these measures due to their realizing that this would only perpetuate the root cause of what of many of their clients housing challenges. Also just wanted to note that Jen's skill as a community organizer is evidenced by the fact that for two years in a row they were able to get out the massive support necessary to pass two bills in the same year they're introduced. So in 2019, on their own, they're able to pass a bill that allows gender nonconforming people or others to put an X on their licenses which we supported because it was a way to realize the inclusiveness that was evident in traditional Hawaiian culture for non gender conforming folks, and that would also benefit significant number of Native Hawaiian beneficiaries who are generally non conforming and then last year they were instrumental in getting our employment discrimination package bill passed even amidst the onset of the COVID-19 pandemic. So needless to say,

Jen's departure would be a big loss to public policy but we're super excited about the great things that Jen will do as a policy attorney in Washington DC. So big things ahead. I think in their future, and if I may, I'll just stop here and let Jen give her aloha to the Committee.

Public Policy - Jen: Aloha Trustees, I want to say mahalo. Thank you so much for the opportunity to serve the lahui in the way I did. It was an absolute honor working for and with OHA. This was my first job out of Law School and it's such a great stepping stone to be able to carry everything I've learned with me into the future so mahalo.

Chair Akaka: Mahalo, Jen for all your good work.

Chair Akaka recognizes Trustee Lee.

Trustee Lee: I too would like to thank Jen for all of her hard work. I will never forget in 2019 before she started with us. I remember her at the Legislature giving personal testimony to a criminal justice bill that the Office Hawaiian Affairs was in support of and I was really impressed with how she articulated herself and so I was very surprised I didn't know she knew the people that worked with us at OHA, and I was very happy and surprised when I saw that she was now working for us shortly after that. So congratulations Jen, look forward to the big things that I'm sure you have ahead of you in D.C. Mahalo for all your work on behalf of the agency, mahalo.

Chief Advocate Wong: Madam Chair, can I just add something real quick? So this is the close of the session sine die is tomorrow and sort of a roller coaster ride of a session or quickie, but I do really, really want to mahalo Wayne and all of his team for all the hard work they've done to pull this together. I think two bills in our package and only one opposed bill going to the Governor is a really big achievement for this team. They worked hard and I just really want to recognize all of them for their hard work and I also do want to recognize the Board. You know the Board goes out and makes some really hard decisions on behalf of our lahui. You guys take all the hits and we just implement what you folks do so a big, big, big mahalo to the Board as well and to BAE leadership, Chair Akaka and Chair Lindsey. As much success as we've had this session, we couldn't have done it without you folks. So both mahalo to the Board, BAE leadership, staff, Sylvia, Casey Mona on our budget bill, mahalo to everybody. It's a real kakou effort. Our successes I think is a testament to how good of a team we have all around so mahalo nui.

Chair Akaka: Mahalo, Sterling for all the acknowledgments. Mahalo to everyone for all your good work together, the collaborations. It's been amazing this past session. Just to double check Wayne, we're all pau with the bills?

Public Policy Manger Tanaka: Yes, so ready for the motion, just that one bill.

Chair Akaka: Mahalo, may I have a motion to approve Administration's recommendations on new bills and positions.

Vice Chair Lindsey: Madam Chair, I move **To Approve Administration's recommendation to Reconsider the Bill Position for Item 27, HB862, from OPPOSE to MONITOR, on the Legislative Positioning Matrix Dated April 28, 2021.**

Trustee Waihe'e: Second

Chair Akaka: It has been moved by BAE Vice Chair Lindsey and seconded by RM Chair Trustee Waihe'e. Is there any further discussion members? Seeing non, can I please have a **roll call vote**.

							2:26 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
<i>VICE CHAIR</i> KEOLA	LINDSEY	1		X			
JOHN	WAIHE`E		2	X			
<i>CHAIR</i> KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

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

C. OHA Federal Legislative Positioning – Matrix† - Advocacy (Washington, D.C. Bureau)

Chair Akaka yields the floor to Ka Pouhana Sylvia Hussey.

Ka Pouhana Hussey: Thank you, Chair Akaka and we'll lateral again directly to Keone Nakoa our Washington D.C. Bureau Chief.

Washing D.C. Bureau Chief Nakoa: Aloha, good evening everybody. So we have Fed 5 through 13 on the matrix for you, so just 9 bills. So starting with Fed-5, this is just a companion measure to Fed-3 that the Board voted to support last time we presented it in front of the BAE. So this is just the same bill that would extend the Alyce Spotted Bear and Walter Soboleff Commission on Native Children. So it's identical language.

So moving on to the next bill. It's the Native American Language Resource Center Act. This is a bill from Senator Schatz and co sponsored by Lisa Murkowski on the Senate side and then Don Young on the House side, and this would establish a Native American language resource center as the name says to focus on building curriculum and training for Native American languages. One of the really awful side effects of the pandemic has been the the loss of Native American languages. Many of the languages are not thriving you know as much as 'olelo Hawai'i has been and all the elders are the only ones who are able to speak fluently and because of COVID, a lot of the elders have been passing away. So this is kind of an emergency situation in Indian Country and so we'd like to support this bill and it will have significant effects or significant benefits to Native Hawaiian language education as well because it's kind of like a consortium and repository of best practices, so tribes and different native groups can come and share what they're doing, and then this Resource Center will also help to promote native language, further native language and preservation and maintenance.

The next bill is the equitable data collection disclosure act on COVID-19. This was a bill from a group of Senators and House Representatives who recognize that a lot of the data coming out of COVID-19 did not

include or did not properly highlight the situation that many minority communities faced. So this would provide grants to better study data from COVID-19 and other future health situations like this and it recognizes that there are data disaggregation issues. Especially with AAPIs not being broken out or still being aggregated at the federal level, especially with Native Hawaiian Pacific Islanders. I think one of the big issues that has been demonstrated both in Hawai'i and at least in the western states, is that there has been very different experiences of Native Hawaiians and various Pacific Islander communities, and so aggregating data counts into NHPI or other group depending on the state and how state officials report does do harm because it doesn't allow us to see the real picture of what's going on in those communities and we've experienced that in the Native Hawaiian community throughout this pandemic. So this would provide funding and it does call out the need for disaggregated data.

The next bill is another one of Senator Schatz's bill and this was supported last time during the last Congress. by the OHA Board of Trustees and it's a Biliteracy Education Seal and Teaching Act. So establishes a seal of biliteracy program and it acknowledges native languages as a way to get to bilingual seal. This is a good bill. We would like to support it because you know studies have shown that biliteracy is important. It helps children in developing critical thinking skills, as well as to help in marketability when people are entering into the job market.

The next bill is the Census Deadline Act. So this is a bill that the Board of Trustees had supported last Congress. When you know, due to COVID, there were significant issues with census and the deadlines. So recently, just this past week, census did announce some of the apportionment numbers. But there are still deadlines that they are currently in violation of. You know that we would like to make sure that they have enough time to thoughtfully carry out the centennial census, and so this bill would help to make sure that the census has time to make sure all of those counts and reporting takes place in a thoughtful manner.

And then the last one is the Justice is Not for Sale Act of 2021. This is a House bill sponsored by Representative Raul Grijalva and essentially it would ban states and federal governments and localities from contracting with private prisons to hold inmates. So within two years of enactment, so it's not immediate, but it does cause a drawdown and there's a way to. If a state or county says that they would have problem, you know implementing that, then there's another year extension to make it for three years, but it does call for an end of private prisons, and that is consistent with a lot of the stances that OHA has taken at the public policy state level and you know, goes together with the incarcerated report that OHA put on in 2010 and the significant number of Native Hawaiians that are housed overseas at Savaro in the inmate population there. It would also end family detention centers and ensure that prisoners and their families or inmates and their families are not being taken advantage of through things like calling cards and forcing them to purchase other other things that just add additional expenses. You know families that are already trying to make things work with loved ones being 4000 miles away or however long the distance is. So those are all of the bills that we have for the Federal Matrix this round.

Chair Akaka: Mahalo, Keone. Are there any questions member?

Chair Akaka recognizes BAE Vice Chair Lindsey.

Vice Chair Lindsey: Regarding Fed-12, (inaudible) regarding I guess some of the initial data that's come out about the census. Does this bill have any bearing on that and are there any indications that the data for Hawai'i and the Native Hawaiian people is affected by this at all?

Washing D.C. Bureau Chief Nakoa: I'm sorry, Trustee you were cutting in and out, but I think your question was whether there's any indication that there has been issues with the census count in Hawai'i. I haven't heard any direct reports about the participation rates from, you know the local community, but from census I believe we're seeing that there was good participation. But I'd rather hear that from our community rather than the census saying that. It's to make sure that census is counting everyone and anyone who's turned in any part of

the census or they're able to get back on any data or any responses that were incomplete and they're not just rushing through their numbers to get to a count and that if there are any other issues that it's taken care of especially because they were supposed to have already submitted much of their work, but they haven't. So you know, this is a bill that should have been passed months ago, but it is still relevant, although one of the provisions is likely moot and if it does pick up in the coming days then it will likely be slightly revised to accommodate for what's already passed. The final provision about the last ending reporting date being on October 1st, moving that from a date that's already past March 30th, and that is still active and that would still matter to make sure that there's a good solid count. I hope that answered your question.

Vice Chair Lindsey: It's okay you answered my question, and I'll follow up more. Thank you, Keone, thank you, Madam Chair.

Chair Akaka: Mahalo, Keone are there any updates that you wanted to share regarding positions previously taken?

Washing D.C. Bureau Chief Nakoa: No, I think we would still be in support of all of those measures.

Chair Akaka: Alright, any other questions?

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Keone, I just have a quick question about process. There are three bills on the new recommendation matrix, I'll just go over one of them, Fed-12, Senate Bill 1267.

Washing D.C. Bureau Chief Nakoa: Sure

Trustee Lee: Is that the same bill number from the last Congress? In the last Congress was it Senate Bill 1267 or has it been renumbered?

Washing D.C. Bureau Chief Nakoa: It's been renumbered

Trustee Lee: Okay, that answers my question for process. Thanks, Keone.

Chair Akaka: Any other discussion members? All right seeing none, mahalo Keone, may I please have a motion to approve the Office of Hawaiian Affairs Federal Legislative Positioning Matrix presented by the Washington, D.C. Bureau. BAE Vice Chair Lindsey.

Vice Chair Lindsey: Madam Chair I move **To approve Administration's recommendations on:**
· **OHA FED 5 through OHA FED 13 all as SUPPORT;**
on the OHA Federal Priorities for the 117th Congress –Federal Legislative Matrix prepared for the BAE meeting on 4/28/21.

Trustee Ahuna: Second.

Chair Akaka: Mahalo, the motion has been made by our BAE Vice Chair Lindsey and seconded by Trustee Ahuna. Any other discussion members? Seeing none, Brandon can I please have a **roll call vote**.

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			X			
VICE CHAIR KEOLA	LINDSEY	1		X			
JOHN	WAIHE`E			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

2:40 p.m.

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

V. NEW BUSINESS

None

VI. ANNOUNCEMENTS

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

Board Chair Hulu Lindsey: Madam Chair, we have a BOT meeting tomorrow morning at 10:00.

Chair Akaka: Mahalo

VII. ADJOURNMENT

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

Board Chair Hulu Lindsey: So moved

Trustee Ahuna: Second

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

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			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

2:41 p.m.

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.

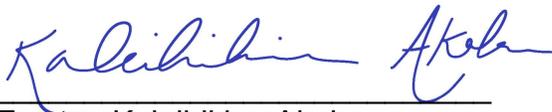
Chair Akaka adjourns the BAE meeting at **2:42 p.m.**

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 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 08/18/21.

A handwritten signature in blue ink that reads "Kaleihikina Akaka". The signature is fluid and cursive, with a long horizontal stroke at the end.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment