

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 12, 2022 10:01 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

EXCUSED:

Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Aguinaldo, Arlene, IT
Nakama, Erin, IT

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, April 12, 2022, to order at **10:01 a.m.**

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

MEMBERS			AT CALL TO ORDER (10:01 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	EXCUSED	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SEVEN(7)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Chief Advocate Kamili'i

Chief Advocate Kamali'i: Alright, thank you very much. Thank you, Trustees, always for the opportunity to present the status of where we're at. We do have the calendar there, but before I proceed with the calendar, I want to just sort of forecast the way we're going to move through the agenda this morning. Also starting with, we all acknowledge that one of our bills is being addressed on the House floor at this point in time. It's something that we can revisit. We can still conduct business even though they are voting on the floor, so just to be mindful that we are all aware that that is happening simultaneously.

Second, with regard to many of the bills that we will sort of move through very quickly. I want to acknowledge the very thoughtful testimony of beneficiaries in many areas. I know we tend to focus on what is the public Land Trust bill or bills relating to Mauna Kea. However, there are other bills that our community has been testifying on and working on diligently that affect our 'Ohana that affect the land. You know, that affect our ability of our kalo growers, and I just want to mahalo them for participating in the process. For looking at the OHA positions that are posted on the website, for engaging with us and also continuing to engage with us as they move forward for the Governor's signature.

Moving forward on today's agenda we will go through where we are in the calendar, but also noting that there's very little business in the sense that of the bills that we are requesting change position. With regard to bills, with regard to resolution, the approach that Chief Advocate and also leadership is going to propose is that we go through the bills in a manner that generally makes references, might highlight some bills, but really leave it to the Trustees to ask questions so we can get through the agenda fairly quickly as we move from matrix to matrix. So that's how I'm going to proceed this morning with the understanding of Administration and also your Chair.

So, with that, the calendar we'll start there. The calendar where we are now is April 12th, and knowing that April 14th is the 2nd crossover, bills and disagreements as to bills. So, we are seeing bills that are going to make the deadline in terms of, you know, having their hearings and we are also seeing bills that are in their 48-hour period and also some that where there is no disagreement, they are moving forward. When there is disagreement, they will go into conference and where you know not necessarily sure what might come out of it. There are a couple of bills that are going into conference that we have been tracking and how to position on. I may highlight one or two of them going forward, but that will happen this week. So, with that, that's the status that we're in. We're also, you know, very close to the end, so we're going to be finding out which bills survives in the next couple of weeks and are headed up for Governor's signature.

We'll move on to Matrix 1. Matrix 1 represents our OHA package bills, so those bills didn't survive. The bills that are active. We will just move on to Matrix 2.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Matrix 2, the two bills that may result in, you know, the Committee going into Executive Session continues to be HB2024 relating to Mauna Kea and the potential effects on the ceded lands and what the current draft means there. As well as HB2021, which is now in its FD1, HD2 version which we have looked at and have been discussing. Because they are so intricately tied, at this time I will defer back to our CEO and Chair, whether or not you wish to go into Executive Session before we go through the rest of the matrix. Once we go into Executive Session, I just will remind the Board that those bills that are not the topic or the reason why we go into Executive Session will be discussed in open session. So, we won't roll into what is Matrix 3 and other bills of concern in Executive Session. So, with that reminder, I'll pose the question back to Chair or to Ka Pouhana.

V. EXECUTIVE SESSION (AGENDA ITEM TAKEN OUT OF ORDER)

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

Ka Pouhana Hussey: I'll pose it to Chair, as to the Board's wishes. I would like to know; do we have Board Counsel on? If we don't have Board Council on, then our discussion should just be limited to PLT.

BAE Staff - Brandon: We saw that he did read his email this morning again and so I'm going to call the office just to see if we can't get him in.

Ka Pouhana Hussey: Then Chair Akaka, it is up to the Board, but you certainly can enter Executive Session to discuss PLT.

Chair Akaka: Sure, is it the will of the Board that we go into Executive Session to further discuss this? Yes, can I please get a motion to recuse we into Executive Session pursuant to Section 92-5.

Trustee Akina: Madam Chair, I so move.

Chair Akaka: It's been moved by Trustee Akina. Is there a second?

Trustee Trask raised her hand to second the motion.

Chair Akaka: It's been seconded by Trustee Trask. Any 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			X			
KELI’I	AKINA	1		X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI’ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
MILILANI	TRASK		2	X			
JOHN	WAIHE`E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

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

The BAE Committee recuses into executive session at 10:13 a.m.

The BAE Committee resumes open session at 11:12 a.m.

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Trustees, what you are seeing is Matrix 2, right, the OHA named. We will just note that item 1, the position listed as comment is incorrect. The Board approved to oppose the measure after the SD1 was published. The SD2 was recently published after its hearing from WAM, and so a number of troubling points continues, so Administration is recommending that there be no position change for this measure. The SD2 has a number of, as I said, it actually proposes splitting the mountain. 550 acres on the astronomy summit as the astronomy research lands. Mauna Kea conservation lands comprise the rest of it. It establishes joint authority between the established authority and UH. UH is still embedded in the governance there, including that UH can turn around and sublease the lands to the authority for a dollar a year, which sorry, that was quite offensive to me, but also it is UH’s role to continue to manage and caretake the astronomy research lands. As well as an assertion that astronomy is a policy of the state, and then the guiding values that perpetuate traditional customary rights are inserted there or retained there and then changing the appropriation for that.

The troubling parts of that are that the continuing footprint of the University and our concerns about the management or mismanagement continues to be evident in the SD2 version. Administration would recommend that the Board keep the opposition position to this bill. I will also say that the SD1 and SD2 has also caused a number of concerns among the original working group members and trying to understand that this SD2 and the HD1 version that came over are vastly different versions of the bill and so with that Administration offers that recommendation to the Board to not change the opposite, but to retain that, and if there are any questions we're here to respond.

Chair Akaka recognizes Trustee Trask

Trustee Trask: Thanks staff, could I ask some questions now, Sylvia? You had said that in the process of this SD1, SD2, concerns were raised by some of the members of the working group. What were those concerns and which members of the working group raised it?

Ka Pouhana Hussey: We just had a meeting. So, the working group convened. We just had a meeting to go over, and so whoever attended that meeting and then some members sent their comments to that, but basically the concerns were that the tone of the bill in the SD versions both SD1 and 2 was not the same tone that the work group had recommended and the HD1. The governance and involvement of the University is significantly troubling to members of the work group, as well as the role of DLNR is not as pronounced. It's interesting that in the testimony of the SD2, even the State Auditor's Office offered testimony of comments that it is telling the State Auditor to audit, and if it doesn't, you know, come up good, that it reverts back. So, they had some a lot of concerns about the implementation and the logistics of that.

Trustee Trask: Could I please get a copy of the comments. So, you're saying this came in from Les Condos' Office?

Ka Pouhana Hussey: So, included in the published of 240 some odd pages of testimony, is the State Auditors comments. So yes, we can definitely distribute that to the Trustees.

Trustee Trask: Yeah, I would like to take a look at it, but you know when I hear what you're saying, Sylvia and the other comments. I'm in total agreement with what you've said in your recommendation, I just would like to see you know what the auditor's comments were, and as I had told the Board when I came in a few weeks ago, the auditor called me to onboard me with certain of the laws. We wound up talking for an hour and a half about problems with the Public Land Trust, the Ceded Land Trust, HRS saying you charge appraisals. The highest best use is what is required. That's my fiduciary duty. But when I looked at the Mauna Kea bill and mentioned it to the state auditor, I pointed out to Les that there's a law here saying you get an appraisal and you get the highest and best use and it doesn't come down to \$1.00 a year and when I pointed that out to him, I told him it's not possible, they're getting millions per year. He said how, they were only getting \$1.00, and I told him better go look at the article that came out in the paper a few months back. The Science Reserve deal is \$1.00. The money goes into the University of Hawai'i Foundation. That's where if you'll check the report, you'll see the 100,000,000 per year that they get to the U of H foundation. Auditor was stunned. I told him better go look at the report in the U of H Foundation because I don't think that \$1.00 a year, which means OHA gets \$0.20. There is significant funds being paid. But it doesn't come through the Legislature. It goes directly into U of H Foundation. There's a report out on it. It does not look good and I agree with the mana'o that Sylvia had shared with us earlier. I mean, I don't see that this is a good measure to support.

Ka Pouhana Hussey: Trustee Akaka, that's the report for this particular line item for the Matrix, unless Trustees have, Chief Advocate can continue down the matrices.

Chair Akaka: Any further discussion numbers on this?

Board Chair Hulu Lindsey: I just want to confirm that our position is opposed, right?

Ka Pouhana Hussey: Correct

Board Chair Hulu Lindsey: Thank you.

Chief Advocate Kamali'i: Great, thank you very much. Moving on to the next bill. Senate Bill 1411. I will turn that over to Kamakana, our Public Policy Advocate who has been tracking all of the historic preservation bills

for an update. Although there is no change in position, there is disagreement amongst the houses, so you might find that interesting.

Lead Compliance Specialist Ferreira: Yeah, so SB1411 is the last historic preservation bill to have survived and we actually thought it had a pretty good chance of making it to the Governor. At first, went through the Senate and the Senate attached some non-substantive technical edits and those were retained when it went to the House. The house also had non-substantive technical edits, but for whatever reason when it crossed back to the Senate, a disagreement occurred, and so now there's a notice of disagreement. We don't understand what that's about. It could be maybe the date needs to be changed, but there should be really no reason to hold this bill back. If all the edits so far were only technical, non-substantive edits.

Chief Advocate Kamali'i: Moving on to SB2021. This measure was discussed in Executive Session. In open session it's Chief Advocate's understanding that the position of comment will remain. Having thoroughly discussed House Draft 2. However, should the measure move into conference, Administration is prepared to make those comments to the body and that's how we'll proceed. So, there's no change in position for SB2021. SB2770, maintains the same position of support.

Okay, if there's no further discussion, we can move on to what is Matrix #3.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Okay, Matrix #3 includes some of the measures that are discussed in Matrix #2, again just for summary, they're just 2 bills that we're looking at change position. However, being that this is a report back, I'm going to proceed by just mentioning which bills have died. If there's any questions with regard to bills that remain, Trustees at the end of this first section, I will ask if you have any questions or any change positions rather alright.

So, assume that if it has not died, that it is still moving through. Typically, it'll be in a 48-hour notice period, or it may be in disagreement and moving into conference. That's the time frame that we're in the legislative session. So HB1403, that measure has died. HB1638 and HB1666. Both of those measures have died. HB1754 relating to adult dental Medicaid benefits, that measure died. HB1777 relating to commercial sexual exploitation, HB1797 relating to homeless services and HP1870 relating to the Judiciary's 'Olelo Hawai'i initiatives, those three bills have died.

HB1942 relating to student transportation, that measure died. HB2293, relating to health. That measure died. HB2414 relating to general excise tax exemptions, that measure died. HB2431 relating to sustainable food system. That measure died as well. HB2481, which is item 36. I know I'm skipping quite a ways ahead. Item 36, SB2481, that measure died.

Item 55, which is new positions. So, the measures that I mentioned died. All other measures are still alive and moving through the process. Are there any questions or change positions with items 1 through 54?

There being none, moving forward to item 55 relating to juvenile restitution. This is one that we've been tracking and it has moved in a favorable position to support with an SD1 and that one requires victim restitution orders to certain juvenile cases to be converted to independent orders at the time the court terminates jurisdiction, also clarifies the definition of victim, so we've been watching some of these juvenile restitution cases because as the juveniles mature and they move into, you know, time beyond 18, you know they've been

sort of caught in the system, so the Judiciary and the state and everyone working on this is trying to finalize it. So, family court loses its jurisdiction. But also, that if there are any amounts that are still due and owing that they be converted to a civil judgment. Even though they received notice of disagreement, it's still moving forward, and we do want to support the effort. That is currently the current draft and it's favorable to our 'Ohana because they're not stuck in the juvie system. So that is one of the change positions.

Relating to taro, with regard to the tax issue. You know changing the measure to address, you know, excise, taxes and exempting that, exempting the gross proceeds or income from the sale of a product resulting from cultivation and production of unprocessed taro, etc. Just generally about getting into the detail that the tax situation peers favorable, and in that we were moving it to comment because we actually wanted more to happen and I'm just getting a note that there may have been some action in the House that it did pass a third reading, so this bill is moving along. However, in its current form 'cause it didn't include as much tax relief as OHA was recommending. But we wanted to change position to comment. So those are the only two bills on Matrix 3 for change position.

HB1459, from comment to support on SD1 draft and HB2466, relating to taro, new position. Support to comment on that particular measure. Other than those changes, there's no further discussion on Matrix 3.

Trustee Ahuna excuses himself from the meeting at 11:29 a.m.

Chief Advocate Kamali'i: So, any motions on Matrix three at this time?

Board Chair Hulu Lindsey: I Move to approve Administration's recommendations on BILL position changes (Items 54 - 55) as listed on Matrix 3 -- Bill Positions Related to Measures Affecting Native Hawaiians-- dated April 12, 2022:

BILL POSITION CHANGES:

- HB1459 from COMMENT to SUPPORT SD1
- HB2466 from SUPPORT to COMMENT

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have a **roll call vote**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	11:30 a.m.
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED from meeting at 11:29 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'AINA	LEE						EXCUSED

CARMEN HULU	LINDSEY	1	X			
MILILANI	TRASK		X			
JOHN	WAIHE`E, IV	2	X			
<i>CHAIR</i> KALEIHIKINA	AKAKA		X			
TOTAL VOTE COUNT			6	0	0	3

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

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Chief Advocate, can continue.

Chief Advocate Kamali'i: Moving on to Matrix 4. Matrix 4, as just a reminder, reflects all measures affecting Native Hawaiians, which includes the monitor positions as well as the support positions. No action to be taken on these measures. Except to refer back to Trustees if there are any change positions at this stage of the process. This would be to raise it to attention, and we could make a motion for change. Are there any change positions from the Trustees?

E. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5**

Chief Advocate Kamali'i: Okay, thank you very much. There being are no change positions, we'll move on to Matrix 5. Matrix 5 represents the resolution. There are, you know, several resolutions that you know some of them do affect, you know our Native Hawaiian people and you know, as we review this list again, you know to encourage the Trustees to take a look at their status. I would say sometimes the resolutions as well you know delve into the community and to the extent that you wish to communicate with public policy to follow through on a resolution by a Board resolution or something of that sort, please communicate with us. Typically, they are tied to islands and island activity, acknowledging work of individuals, communities, or NHO's. So, I encourage that engagement with the Trustees and public policy if there's any follow through on some of these resolutions that are moving forward. In the interest of time.

Again, we're proceeding in that way, and I'll take you down to what is item 55 and 56, which is HR152 and SCR50. Those are new resolutions that we added to the list and one recognizing the period between 2022 and 2032 as the United Nations International Decade of Indigenous Languages. Sort of speaks for itself and also SCR50 designating the Wai'anae Moku Kupuna Council as an advisory resource to elected members of the legislature and that to support as well.

Additionally, wanted to raise that in last session or excuse me in the last meeting, we had addressed one of the resolutions, there were four, but one of the resolutions that addressed, that spoke to the Russian Fort being renamed and it just makes sure that that also gets added to the list. It needs to get added to the list because that particular number was not mentioned. So that is HCR104 and previously was HR152 and CR150, they all deal with the Russian Fort, so this is more of a clarification of I guess for Trustees.

COO Brown: Madam Chair, what Na'u is referring too, I'll recommend that we handle that through the motion. We will simply motion to add that resolution to this list so you guys will see it reflected there.

Chief Advocate Kamali'i: Okay, so I don't have anything else to say other than to turn it over to Trustees. If there are any other change positions, then it would move to appropriate motion for position on new resos and for the HCR104.

Chair Akaka: Mahalo, any discussion members?

Board Chair Hulu Lindsey: I Move to approve Administration's recommendations on: **NEW RESOLUTIONS (Items 55 - 56) as listed on Matrix 5 – Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – dated April 12, 2022 along with the following addition(s):**

RESOLUTION ADDITIONS:

- ADD HCR104 as COMMENT

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have a **roll call vote**.

TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA’ALA	AHU ISA			X			11:37 a.m.
DAN	AHUNA						EXCUSED from meeting at 11:29 a.m.
KELI’I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI’ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE`E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT	6	0	0	3
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MOTION: [] UNANIMOUS [**X**] PASSED [] DEFERRED [] FAILED

V. ANNOUNCEMENTS

Chair Akaka: Are there any announcements at this time?

Board Chair Hulu Lindsey: Just a reminder that our RM meeting is at 1:30 today and Board of Trustee meeting on Thursday at 10:00 AM.

Chair Akaka: Mahalo, Board Chair.

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Board Chair Hulu Lindsey: I move that we adjourn.

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call vote.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	11:38 a.m.
LEINA'ALA	AHU ISA			X			EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'AINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE`E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT			6	0	0	3
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MOTION: [] UNANIMOUS [X] 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 **11:38 a.m.**

DRAFT

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

DRAFT