

PHONE (808) 594-1888
Committee on Beneficiary Advocacy and Empowerment
Trustee Robert K. Lindsey, Jr., Hawai'i, *Chair*
Trustee Dan Ahuna, Kaua'i / Ni'ihau, *Vice-Chair*
Members

Trustee Leina'ala Ahu Isa, At-Large
Trustee Rowena Akana, At-Large
Trustee Keli'i Akina, At-Large
Trustee Peter Apo, O'ahu
Trustee Carmen Hulu Lindsey, Maui
Trustee Colette Y. Machado, Moloka'i / Lāna'i
Trustee John Waihe'e, IV, At-Large



FAX (808) 594-1865

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE COMMITTEE ON
BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Wednesday, October 24, 2018
TIME: 10:30 a.m.
PLACE: OHA Boardroom
Nā Lama Kukui
560 N. Nimitz Highway
Honolulu, Hawai'i 96817

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. September 26, 2018[†]
- III. Public Testimony*
- IV. New Business
 - A. Action Item BAE 18-03: 2019 OHA Legislative Package^{**†}
- V. Community Concerns*
- VI. Announcements
- VII. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Albert Tiberi at telephone number: 594-1754 or by email at: albertt@oha.org no later than three (3) business days prior to the date of the meeting.

*Notice: Persons wishing to provide written testimony are requested to submit thirteen (13) copies of their testimony to the OHA Pouhana / CEO at 560 N. Nimitz Highway, Suite 200, Honolulu, HI 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally at the meeting may do so within a five (5) minute limit.

**Notice: Trustees may establish or revise an OHA position on ANY proposed bill / resolution / executive message currently moving through the state legislature or other relative elected body. The Matrices, which are available for public review in the meeting room at this stated meeting, provide a brief description of each bill, the bill's number, the bill's title, the bill's intent, and the proposed and specific OHA position on each measure, current through 10/23/18. However, the Trustees both in committee and as the Board of Trustees (BOT) reserve the right to discuss any and all bills on the Matrix, as well as those that time does not permit to be placed on the Matrix, in order to discharge their fiduciary obligations as Trustees of the Office of Hawaiian Affairs.

† Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

Trustee Robert K. Lindsey, Jr.

Chair, Beneficiary Advocacy & Empowerment

10/17/18

Date



Ke Kōmike Beneficiary Advocacy and Empowerment
 Kahu Waiwai Robert K. Lindsey, Jr., Hawai'i, Luna
Ho'omalū
 Kahu Waiwai Dan Ahuna, Kaua'i/Ni'ihau, *Hope Luna*
Ho'omalū
Nā Lāā
 Kahu Waiwai Leina'ala Ahu Isa, Pae'āina
 Kahu Waiwai Rowena Akana, Pae'āina
 Kahu Waiwai Keli'i Akina, Pae'āina
 Kahu Waiwai Peter Apo, O'ahu
 Kahu Waiwai Carmen Hulu Lindsey, Maui
 Kahu Waiwai Colette Y. Machado, Moloka'i / Lāna'i
 Kahu Waiwai John Waihe'e, IV, Pae'āina

KA MOKU'ĀINA 'O HAWAI'I
KE KE'ENA KULEANA HAWAI'I
 560 N. NIMITZ HIGHWAY, LUMI 200
 HONOLULU, HAWAI'I 96817

KA HĀLĀWAI O
KE KŌMIKE BENEFICIARY ADVOCACY AND EMPOWERMENT

LĀ: Pō'akolu, 24 'Okakopa 2018
 HOLA: 10:30 a.m.
 KAHĪ: Ka Lumi Hālāwai Nui 'O Maui Ola
 Nā Lama Kukui
 560 N. Nimitz Highway
 Honolulu, Hawai'i 96817

Papa Hana

- I. Ke Kāhea no ka Ho'omalū
- II. Ka 'Āpono 'ana mai o ka Mo'olelo
 - A. 26 Kepakemapa 2018[†]
- III. Ka 'Ōlelo Hō'ike a ka Lehulehu*
- IV. Ka Hana Hou
 - A. Ka Mea Ho'āpono BAE 18-03: Nā Pila no OHA ma ke Kau 'Aha 'Ōlelo -2019^{**†}
- V. Nā Mana'ō Laulā o ka Lehulehu*
- VI. Nā Ho'olaha
- VII. Ka Ho'oku'u 'Ana

Inā ua koi ke kōkua ma muli o kekahi 'ano kīnā, e ho'omaopopo aku iā Albert Tiberi i ke kāhea 'ana iā ia ma kēia helu kelepona: (808) 594-1754 ā e lekauiila paha iā ia ma albertt@oha.org ma mua o 3 mau lā hana ma mua o ka lā o ka hālāwai.

* He 'Ōlelo Ho'olaha: Ua noi 'ia nā mea e 'i'ini nei e hā'awi i ka 'ōlelo hō'ike i kākau 'ia ihola e hā'awi ā ho'ouana paha mai i nā kope he 'umikūmākolū (13) o ka 'ōlelo hō'ike i kākau 'ia ihola i ka Pouhana o OHA ma 560 N. Nimitz Hwy., Suite 200, Honolulu, Hawai'i 96817, e kelepa'i paha i 594-1868, ā lekauiila paha iā BOTmeetings@oha.org he 48 mau hola ma mua o ka hālāwai. 'O nā mea e 'i'ini nei e ha'i mana'ō ma ka hālāwai, hiki ke hana ma loko o 'elima (5) minuke.

** He 'Ōlelo Ho'olaha: Hiki i nā Kahu Waiwai ke ho'okumu ā ho'ololi paha i ke kūlana o ke 'ano kāko'o o OHA i nā Pila 'Aha 'Ōlelo e ho'olale 'ia nei / nā 'ōlelo ho'oholo / nā palapala kia'āina e holomua nei ma ka 'aha 'ōlelo moku'āina ā kekahi papa alaka'i paha i koho paloka 'ia. 'O nā Papa Palapala ma ka lumi hālāwai nui e waiho nei no ka heluhelu 'ana, hiki ke 'ike ā maopopo paha ka mo'olelo pōkole o kēlā me kēia pila, ka helu o ka pila, ka inoa o ka pila, ka pahu hopu o ka pila me ke 'ano kūlana kāko'o o OHA i nā mea ā pau, ā hiki i ka 1ā 10/23/18. Eia na'e, hiki i nā Kahu Waiwai ke kūkākūkā ma ka hālāwai kōmike me ka hālāwai Papa Kahu Waiwai kekahi i nā pila ma ka Papa Palapala a me nā pila 'ē a'e i hiki 'ole ke kākau 'ia ma ka Papa Palapala no ka ho'okō 'ana o nā kuleana mālama o ka Papa Kahu Waiwai o ke Ke'ena Kuleana Hawai'i.

† He 'Ōlelo Ho'olaha: No ka ho'omalele 'ana o nā mea hou a ke kōmike, e kāpae 'ia ka lula 72-hola e like me ka mea i pa'i 'ia ihola i loko o kā OHA BOT Operations Manual, Paukū 49.

 Kahu Waiwai Robert K. Lindsey, Jr., Luna Ho'omalū
 Ke Kōmike Beneficiary Advocacy and Empowerment

10/17/18

 Lā

Office of Hawaiian Affairs
Meeting of the Committee on
Beneficiary Advocacy & Empowerment
October 24, 2018
10:30 AM

II. Approval of Minutes

A. September 26, 2018†

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200**

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

September 26, 2018 1:00 p.m.

ATTENDANCE:

Chairperson Robert K. Lindsey, Jr.
Trustee Leina'ala Ahu Isa
Trustee Keli'i Akina
Trustee Peter Apo
Trustee Carmen Hulu Lindsey
Trustee Colette Machado
Trustee John Waihe'e, IV

EXCUSED:

Vice-Chairperson Dan Ahuna
Trustee Rowena Akana

BOT STAFF:

Kama Hopkins
Kauikeaolani Wailehua
Lopaka Baptiste
Davis Price
Claudine Calpito
Lady Elizabeth Garrett
Alvin Akee
Maria Calderon
Paul Harleman
Liana Pang

ADMINISTRATION STAFF:

Kamana'opono Crabbe, CEO
Kawika Riley, CHIEF
Anuheia Patoc, PP
Jim McMahon, ADV
Jocelyn Doane, PUBL
Kika Bukoski, ADV
Miles Nishijima, LPD
Sabrina Rose Gramberg, ADV
Wayne Tanaka, PUBL
Zuri Aki, ADV

GUESTS:

Germaine Meyers

I. CALL TO ORDER

Chair Lindsey (CL) calls the Committee on Beneficiary Advocacy and Empowerment meeting to order on Wednesday, September 26, 2018 to order at **1:03 p.m.**

CL calls for a Roll Call. Below is the record of members **PRESENT**:

MEMBERS			AT CALL TO ORDER (1:03 pm)	TIME ARRIVED
CHAIR	ROBERT	LINDSEY, JR.	X	
VICE-CHAIR	DAN	AHUNA		EXCUSED
TRUSTEE	LEINA'ALA	AHU ISA	X	
TRUSTEE	ROWENA	AKANA		EXCUSED
TRUSTEE	KELI'I	AKINA	X	
TRUSTEE	PETER	APO	X	
TRUSTEE	HULU	LINDSEY	X	
TRUSTEE	COLETTE	MACHADO	X	
TRUSTEE	JOHN	WAIHE'E		1:04 pm
			6	

At the Call to Order, **SIX (6) Trustees** are **PRESENT**, thereby constituting a quorum.

CL requests a motion:

To waive the OHA Board of Trustees Operations Manual practice at which materials will be distributed at least 72-hours prior to the meeting where said materials will be reviewed, discussed, or acted upon regarding items:

- II. Approval of Minutes**
 - A. September 5, 2018**
- IV. New Business**
 - A. 2019 Legislative Package Concepts Workshop**

Trustee Machado (T. Machado) – moved
Trustee Akina (T. Akina) – second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEINA'ALA	AHU ISA			X				
VICE-CHAIR	DAN	AHUNA							EXCUSED

TRUSTEE	ROWENA	AKANA							EXCUSED
TRUSTEE	KELI'I	AKINA		X	X				
TRUSTEE	PETER	APO			X				
TRUSTEE	HULU	LINDSEY			X				
TRUSTEE	COLETTE	MACHADO	X		X				
TRUSTEE	JOHN	WAIHE'E							X
CHAIR	ROBERT	LINDSEY, JR.			X				
					6				3

MOTION: UNANIMOUS PASSED DEFERRED FAILED

72-Hour waiver passed at 1:04 pm.

II. APPROVAL OF MINUTES

II. Approval of Minutes
A. September 5, 2018

CL calls for a motion to approve the minutes of:

September 5, 2018

Trustee H. Lindsey (T. H. Lindsey) – moved
T. Machado – second

MEMBERS			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
TRUSTEE	LEINA'ALA	AHU ISA			X				
VICE-CHAIR	DAN	AHUNA							EXCUSED
TRUSTEE	ROWENA	AKANA							EXCUSED
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO			X				
TRUSTEE	HULU	LINDSEY	X		X				
TRUSTEE	COLETTE	MACHADO		X	X				
TRUSTEE	JOHN	WAIHE'E							X
CHAIR	ROBERT	LINDSEY, JR.			X				
					6				3

MOTION: UNANIMOUS PASSED DEFERRED FAILED

Item II. A. passed at 1:04 pm.

III. PUBLIC TESTIMONY

No public testimony.

CL calls on OHA Administration to present items IV. A.

IV. NEW BUSINESS

A. 2019 Legislative Package Concepts Workshop

CL calls on Kamanana'opono Crabbe (KC) to present item IV. A.

KC calls Kawika Riley (KR) and Jocelyn Doane (JD) to the table to present item IV. A. 2019 Legislative Package Concepts Workshop. ***(Please see attached – 2019 Conceptual Package BAE FINAL.)***

Trustees asked clarification questions regarding the package concepts and discussed some of those clarifications. JD mentioned that her team will remember the discussions when drafting the bills for approval.

CL thanks JD for the presentation and moves on to item V.

V. COMMUNITY CONCERNS

None

VI. ANNOUNCEMENTS

BOT Meeting tomorrow.

VI. ADJOURNMENT

CL asks for a motion to adjourn.

T. H. Lindsey – moved
Trustee Ahu Isa – second

			1	2	Y	N	Kanalua	Abstain	Not Present at time of vote
MEMBERS									
TRUSTEE	LEINA'ALA	AHU ISA		X	X				

VICE-CHAIR	DAN	AHUNA							EXCUSED
TRUSTEE	ROWENA	AKANA							EXCUSED
TRUSTEE	KELI'I	AKINA			X				
TRUSTEE	PETER	APO			X				
TRUSTEE	HULU	LINDSEY	X		X				
TRUSTEE	COLETTE	MACHADO			X				
TRUSTEE	JOHN	WAIHE'E			X				
CHAIR	ROBERT	LINDSEY, JR.			X				
					7				2

MOTION: UNANIMOUS PASSED DEFERRED FAILED

BAE Committee meeting adjourns at 2:00 pm.

Respectfully submitted,

Jeremy K. Hopkins
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on 10/17/18.

Trustee Robert K. Lindsey, Jr.
Chair
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):

- Excused Absence Memo – Trustee Dan Ahuna
- Excused Absence Memo – Trustee Rowena Akana
- 2019 Conceptual Package BAE FINAL



OFFICE OF HAWAIIAN AFFAIRS
Office of Trustee Dan Ahuna
Interoffice Memorandum

Date: September 25, 2018

To: Trustee Robert K. Lindsey, Jr., Chair ✓
Committee on Beneficiary Advocacy and Empowerment (BAE)

From: Trustee Dan Ahuna

A handwritten signature in black ink that reads "Dan Ahuna". The signature is written in a cursive, flowing style.

Subject: **BAE Meeting Absence – Sept. 26, 2018**

I am unable to attend the BAE meeting scheduled for September 26, 2018. Please extend my excused absence and my sincere apologies to the members of the board.

Mahalo.



OFFICE OF HAWAIIAN AFFAIRS MEMORANDUM

Mea ho'omana'o a ke Ke'ena Kuleana Hawai'i

To: Trustee Robert K. Lindsey, Jr., Chair
Committee on Beneficiary Advocacy and Empowerment

From: Trustee Rowena Akana

Date: September 24, 2018

Re: Excused Absence

Please be advised that I am unable to attend the BAE committee meeting on Wednesday, September 26, 2018 at 1:00 P.M. due to travel on official OHA business.

Mahalo!

**OHA 2019 CONCEPTUAL
LEGISLATIVE PACKAGE WORKSHOP
BAE
September 26, 2018**

1. **OHA Biennium Budget Bill Fiscal Year 2020-21/2021-22:** OHA's budget bill requests \$4,368,449 million in state general fund appropriations each fiscal year to support OHA's budget plans for the upcoming biennium. This request is \$1,062,130 more per fiscal year compared to what OHA received in the previous fiscal biennium: \$562,130 more for personnel and \$500,000 more for housing grants. This bill also proposes matching OHA trust fund resources with the requested state general funds. By passing this measure, the state would reaffirm its commitment to address the needs of Native Hawaiians by supporting programs and operations that will directly benefit OHA and its beneficiaries.

2. **Criteria and Prioritization of Facilities Funding for Public Charter Schools**
Resolution: Addressing public charter schools' facilities needs has been a critical and longstanding issue for the charter school community and its supporters. Currently, start-up charter schools must pay for their substantial facilities costs using their already-stretched operational funds. This is a cost that is not borne by conversion charter schools, or schools under the Hawai'i Department of Education. Despite clear needs, strong support, and substantial progress, efforts to seek appropriations for charter schools' facilities costs have not been successful. This resolution would urge the Charter School Facilities Funding Working Group, created by Act 234, Session Laws 2015, to prepare a report to the 2020 State Legislature and the State Public Charter School Commission, on the status of the criteria and prioritization for funding that this working group has been tasked with developing, and any proposed legislation, to address charter schools' facilities needs.

3. **Unsecured Bail:** In 2018, all of Hawai'i's jails (except the Women's Community Correctional Facility) were overcrowded and operating over capacity from at least 27%, to in more cases 50-85%. Native Hawaiians disproportionately bear the burden of Hawai'i's jail overcrowding issues. Many of those awaiting trial are in jail simply because they are too poor to afford bail, and not at all related to their potential flight risk, not the nature of the crimes they are alleged to have committed. This measure would take a proven effective practice in other jurisdictions, which has provided significant relief to jail overcrowding without compromising on defendants' potential flight risk, by allowing all defendants who have been offered cash bail to post their bail via unsecured bond. Judges would still retain discretion to deny bail, including money bail, to those who may present a flight risk. This measure would instead only change the way that a defendant offered money bail can fulfill their bail requirement: no cash would be needed up-front to secure pretrial release, and financial consequences would only be incurred if the defendant actually fails to appear for trial. This proposal would supplement the recommendations of the HCR134 Pretrial Reform Task Force which seek to nearly eliminate the use of money bail for lower level offenses and to reduce the overreliance on money bail for felony offenses. Allowing for unsecured bail bonds when money bail is offered would ensure that those who are assigned money bail can obtain pretrial release

without producing a large amount of cash up front, but still be subject to financial consequences for failing to appear at trial; accordingly, this measure would provide prison overcrowding relief as well as greater fairness for poor defendants, without compromising the judicial process or public safety.

4. **Annual PLT Accounting:** Act 178 (Session Laws 2006) requires the state, through the Board of Land and Natural Resources, to provide an annual accounting of the total revenues generated from the use of public land trust lands. The annual reporting must include the amount of revenues transferred to OHA and the amount retained by the state. However, reporting and transferring has been inconsistent, and no one in the state is actively verifying the accuracy of individual agencies' reporting and transferring of revenues to OHA. This measure would supplement Act 178's reporting requirements by explicitly reaffirming that all state Public Land Trust revenues must be accounted for and reported on, regardless if such revenues are subject to OHA's pro rata share; expressly reaffirming that UH is also subject to Act 178's reporting requirements; requiring the state to include a rationale if any Public Land Trust revenues is not transferred to OHA; and requiring the state to determine whether revenues that should have been transferred were not in fact transferred.

5. **Membership on Hawai'i State Mental Health Council:** This measure would require three of the 21 members of the Hawai'i State Mental Health Council ("Council") to have demonstrated and relevant expertise in Native Hawaiian traditional and customary practices. Data shows that many Native Hawaiians may suffer from mental health challenges, including high rates of Native Hawaiian keiki victims of abuse, female youth attempting suicide, feeling hopeless, harming themselves, young mothers experiencing postpartum depression, kupuna depressive disorders; and low ratings by wahine self-assessments of their health. Unfortunately, many Native Hawaiians may find that available mental health programs or treatments are not consistently conducive to their unique cultural background, thus proving less effective than culturally integrative services and treatment plans. The Council could play a key role in refocusing mental health efforts on culturally-grounded approaches that can provide significantly improved mental health services and outcomes for the Native Hawaiian community: it currently advises the Department of Health on allocation of resources, statewide needs, and programs affecting two or more service areas; reviews and comments on the statewide comprehensive integrated service plan; and serves as an advocate of mental health in the state. Accordingly, having Native Hawaiian practitioner or those with expertise in Native Hawaiian practices on the Council may have a significant positive impact on the mental health status of the Native Hawaiian community.

OHA 2019 COORDINATED ADVOCACY

BAE

September 26, 2018

- 1. HCR85 & HCR134 Task Forces:** Over the past two years, OHA has actively participated in the HCR85 and HCR134 Task Forces, which were charged with making recommendations on reforming and improving Hawai'i's criminal justice system. The HCR85 Task Force explored best practices in effective incarceration, and will be making recommendations to the legislature on how to transition from a punitive correctional model to a rehabilitative one. Among these recommendations are several targeted at reducing the overrepresentation of Native Hawaiians in jail and prison, including the development of a new cultural court diversion program, the expansion of cultural and educational programming for pa'ahao, and the establishment of culturally relevant reentry programs for ex-pa'ahao reentering their communities. The HCR134 Task Force examined Hawai'i's pretrial system and will make recommendations to improve the efficiency of the pretrial system, expand diversion programs and alternatives to pretrial detention, and greatly reduce the overreliance on money bail. Both Task Forces will report their recommendations in December 2018, and OHA plans to continue to coordinate with the Task Forces and the concerned community to advocate for these needed reforms during the 2019 legislative session.
- 2. Kanaeokana Public Charter School Funding Equity Bills:** Kanaeokana is a network of Hawai'i schools, including the 17 Hawaiian-focused and Hawaiian-immersion charter schools, and support organizations focused on strengthening 'ike Hawai'i and 'Ōlelo Hawai'i. In anticipation of the upcoming legislative session, two Kanaeokana kōmike (committees) met in August 2018, and agreed that bills seeking equitable funding for charter schools should be pursued in three areas: school lunches, school transportation, and school facilities. Notably, while Section 302D-28, Hawai'i Revised Statutes, mandates that non-facility general fund per-pupil funding for public charter school students be the same as that for Department of Education (DOE) students, public charter schools are not necessarily provided funding to cover the unique costs they must bear in relation to these three areas. Kanaeokana has accordingly been working with a legislator who suggested that three separate bills be created. OHA Public Policy staff will be assisting in the drafting of these bills, and will coordinate with Kanaeokana and other concerned community members to advocate for them.

Office of Hawaiian Affairs
Meeting of the Committee on
Beneficiary Advocacy & Empowerment
October 24, 2018
10:30 AM

IV. New Business

A. Action Item BAE 18-03: 2019 Legislative Package **†



OHA

Action Item

Committee on Beneficiary Advocacy and Empowerment

October 24, 2018

BAE #18-03

Action Item Issue: To support the inclusion of new legislative proposals in the 2019 OHA Legislative Package

Prepared by:

Jocelyn M. Doane
Pou Kāko‘o Kulekele Aupuni, Public Policy Manager

10/19/18

Date

Reviewed by:

Kawika Riley
Ka Poukihi Kū, Chief Advocate

10/19/18

Date

Reviewed by:

Kamana'opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

10/19/18

Date

Reviewed by:

Trustee Robert Lindsey
Luna Ho‘omalū o ke Kōmike BAE
Chairperson, Committee on Beneficiary Advocacy and Empowerment

10.22.18

Date

I. Action

To support the following new legislative proposals and approve their inclusion in the 2019 OHA Legislative Package (See referenced attachments for text of the proposals):

OHA-1 OHA Biennium Budget Bill Fiscal Year 2019-20/2020-21: OHA's budget bill requests \$3,980,579 in state general fund appropriations each fiscal year to support OHA's budget plans for the upcoming biennium. This request is \$942,700 more per fiscal year compared to what OHA received in the previous fiscal biennium, and includes \$562,130 more for personnel. While still maintaining the three historical provisos (social services, legal services, and education improvement), OHA-1 also requests \$500,000 in general funds for housing improvement programs. This bill proposes matching OHA trust fund resources with the requested state general funds. By passing this measure, the state would reaffirm its commitment to address the needs of Native Hawaiians by supporting programs and operations that will directly benefit OHA's beneficiaries. (Attachment A)

OHA-2 Criteria and Prioritization of Facilities Funding for Public Charter Schools Resolution: Addressing public charter schools' facilities needs has been a critical and longstanding issue for the charter school community and its supporters. Currently, start-up charter schools must pay for their substantial facilities lease and rental costs, and conversion schools may have to pay for substantial maintenance, repair and facilities costs, using their already-stretched per-pupil operational funds. These costs are not borne by schools under the Hawai'i Department of Education. Despite strong support and demonstrated need, efforts to seek appropriations for charter schools' facilities costs have not been successful. In recognition of the need to provide facilities funding for charter schools, an existing statute already contemplates legislative appropriations and bond authorizations to cover charter school facilities costs, tasks the State Public Charter School Commission with the development of criteria for the distribution of appropriated facilities funding, and further establishes and tasks the Facilities Funding Working Group to advise on the prioritization of funding distribution, pursuant to such criteria. This concurrent resolution highlights the charter school facilities funding statute, and urges the State Public Charter School Commission to prepare a report to the 2020 State Legislature on its criteria for facilities funding distribution, as well as the prioritization of funding as advised by the Facilities Funding Working Group. This resolution would also urge the Commission, with input from the Working Group, to provide to the legislature proposed recommendations and legislation, including recommendations relating to funding expenditures for lease and rental payments. (Attachment B)

OHA-3 Annual PLT Accounting: Act 178 (Session Laws 2006) requires the state, through the Department of Land and Natural Resources ("DLNR"), to provide an annual accounting of the total revenues generated from the use of Public Land Trust lands. The annual reporting must include the amount of revenues transferred to OHA and the amount retained by the state. However, reporting and transferring has been inconsistent, and no one in the state is actively verifying the accuracy of individual agencies' reporting and transferring of revenues to OHA. This measure would codify Act 178's reporting requirements, with supplementary provisions to 1) explicitly reaffirm that all state Public

Land Trust revenues must be accounted for and reported on, regardless if such revenues are subject to OHA's pro rata share; 2) explicitly reaffirm that UH is also subject to Act 178's reporting requirements; and 3) require the DLNR to identify and provide a rationale why for any instance where 20% of the revenues received from Public Land Trust lands are not transferred to OHA. (Attachment C)

OHA-4 Membership on Hawai'i State Mental Health Council: This measure would require three of the 21 members of the Hawai'i State Mental Health Council ("Council") to have demonstrated knowledge or work experience involving Native Hawaiian concepts of well-being, culturally-grounded mental health methodologies, or traditional healing or health practices. Data shows that the Native Hawaiian community may suffer from significant mental health-associated challenges, with Native Hawaiians demonstrating high rates of childhood abuse, suicidal ideation and suicide attempts by both adults and keiki, feelings of hopelessness, self-harm, postpartum depression, kūpuna depressive disorders, and negative self-health assessments by wāhine. Unfortunately, many Native Hawaiians facing mental health challenges may find that culturally-grounded mental health programs or treatment opportunities are not consistently available, despite the recognized potential of such mental health approaches to significantly improve their mental and emotional well-being. As an advisory body to the Department of Health on the state's mental health policies and infrastructure, the Council has the potential to promote the development and implementation of culturally-grounded mental health policies and programs that can systemically address the mental health-associated challenges of the Native Hawaiian communities as well as the broader public. Accordingly, requiring three members of the Council to possess expertise or experience in Native Hawaiian cultural concepts, mental health methodologies, or traditional healing or health practices may help to significantly improve the mental health status of the Native Hawaiian and broader communities. (Attachment D)

OHA-5 Unsecured Bail: In 2018, all of Hawai'i's jails were overcrowded and operating over capacity from at least 27%, and in more cases 50-85%; Native Hawaiians disproportionately bear the burden of Hawai'i's jail overcrowding issues. Many of those awaiting trial are in jail simply because they are too poor to afford bail, even when they pose little to no potential flight risk, and pose no threat to individuals or the community. Such individuals may lose their jobs, homes, and even custody of their children, due solely to their inability to post cash bail. This measure would seek to provide relief to Hawai'i's jail overcrowding issues while mitigating the unnecessary harms that cash bail may inflict on indigent individuals awaiting trial, by offering judges the additional option to allow for unsecured or partially secured bail. Under this system, defendants who would experience significant financial hardship by paying for bail or a bail bondsman could be released instead on a bond requiring the payment of only part of the bail amount or no security at all. This would enable the release of indigent defendants without cash payments up front, but would maintain accountability as defendants and their families could still be liable for the bail amounts if the defendants fail to appear for court or commit new crimes while out on bail. (Attachment E)

II. Issue

Should the OHA Board of Trustees support the new legislative proposals and approve their inclusion in the 2019 OHA Legislative Package?

III. Discussion

From July through September 2018, OHA Public Policy staff collected more than 70 legislative proposals from staff, key stakeholders, experts, and community leaders. These proposals were vetted, filtered, and developed into the legislative proposals offered in this Action Item for inclusion in the 2019 OHA Legislative Package.

Editing note:

With this Action Item, we also ask the Board of Trustees to authorize staff (1) to make, as appropriate, technical, non-substantive changes for style, clarity, consistency, and accuracy to all of the legislative proposals in the 2019 OHA Legislative Package and (2) to add or amend preamble language in the measures for framing and editorial purposes.

IV. Recommended Action

To support the new legislative proposals and include those new proposals in the 2019 OHA Legislative Package.

V. Alternative Actions

- A. To support only selected new legislative proposals and include only those selected new legislative proposals in the 2019 OHA Legislative Package.
- B. To not approve any of the new legislative proposals and not include any of the new legislative proposals in the 2019 OHA Legislative Package.

VI. Funding

No funding is required.

VII. Timeframe

Immediate action is recommended.

VIII. Attachments

- A. OHA-1 (Attachment A)
- B. OHA-2 (Attachment B)
- C. OHA-3 (Attachment C)
- D. OHA-4 (Attachment D)
- E. OHA-5 (Attachment E)

A BILL FOR AN ACT

RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 **PART I. GENERAL PROVISIONS**

2 SECTION 1. SHORT TITLE. This Act shall be known and may
3 be cited as the Office of Hawaiian Affairs Appropriations Act of
4 2019.

5 SECTION 2. DEFINITIONS. Unless otherwise clear from the
6 context, as used in this Act:

7 "Means of financing" or "MOF" means the source from which
8 funds are appropriated or authorized to be expended for the
9 programs and projects specified in this Act. All appropriations
10 are followed by letter symbols. Such letter symbols, where
11 used, shall have the following meanings:

12 A general funds

13 T trust funds

14 "Position ceiling" means the maximum number of permanent
15 and temporary full-time equivalent positions authorized for a
16 particular program during a specified period or periods, as
17 denoted by an asterisk (*) for permanent full-time equivalent
18 positions and a pound (#) sign for temporary full-time
19 equivalent positions.

1 "Program ID" means the unique identifier for the specific
2 program and consists of the abbreviation for the Office of
3 Hawaiian Affairs (OHA) followed by the organization number for
4 the program.

5 **PART II. PROGRAM APPROPRIATIONS**

6 SECTION 3. APPROPRIATIONS. The following sums, or so much
7 thereof as may be sufficient to accomplish the purposes and
8 programs designated herein, are hereby appropriated or
9 authorized from the means of financing specified to the Office
10 of Hawaiian Affairs for the fiscal biennium beginning July 1,
11 2019, and ending June 30, 2021. The total general expenditures
12 and the number of positions in each fiscal year of the biennium
13 shall not exceed the sums and the numbers indicated for each
14 fiscal year, except as provided elsewhere in this Act, or as
15 provided by general law.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2019-20	FISCAL YEAR 2020-21
1					
2		Hawaiian Affairs			
3					
4		1. OHA150 - OFFICE OF THE TRUSTEES			
5				0.47*	0.47*
6				0.00#	0.00#
7		OPERATING	OHA	89,045A	89,045A
8				4.53*	4.53*
9				0.00#	0.00#
10			OHA	275,687T	275,687T
11					
12		2. OHA160 - ADMINISTRATION			
13				5.03*	5.03*
14				0.00#	0.00#
15		OPERATING	OHA	1,559,749A	1,559,749A
16				31.97*	31.97*
17				0.00#	0.00#
18			OHA	2,861,727T	2,861,727T
19					
20		3. OHA175 - BENEFICIARY ADVOCACY			
21				1.47*	1.47*
22				0.00#	0.00#
23		OPERATING	OHA	2,331,785A	2,331,785A
24				18.53*	18.53*
25				0.00#	0.00#
26			OHA	3,172,863T	3,172,863T

1 **PART III. PROGRAM PROVISIONS**

2 SECTION 4. Provided that the general fund appropriations
3 in part II of this Act shall be expended by the Office of
4 Hawaiian Affairs.

5 SECTION 5. Provided that of the funds appropriated for
6 beneficiary advocacy (OHA175), the sum of \$415,000 in general
7 funds and \$415,000 in trust funds for fiscal year 2019-2020 and
8 the same sums for fiscal year 2020-2021 shall be expended to
9 provide for social services, including referral services and
10 case management, to at-risk Office of Hawaiian Affairs
11 beneficiaries to immediately address unexpected crises; provided
12 further that program activities shall be designed with an
13 overall objective to provide financial assistance to improve
14 stability during emergency situations; and provided further that
15 notwithstanding section 10-17(e), Hawaii Revised Statutes, any
16 funds expended for the purposes of this section shall be in
17 accordance with chapter 103D or 103F, Hawaii Revised Statutes,
18 or a competitive grants process, as appropriate.

19 SECTION 6. Provided that of the funds appropriated for
20 beneficiary advocacy (OHA175), the sum of \$615,000 in general
21 funds and \$615,000 in trust funds for fiscal year 2019-2020 and
22 the same sums for fiscal year 2020-2021 shall be expended to

1 provide for educational improvement programs for Native Hawaiian
2 students; provided further that program activities shall be
3 designed to help Native Hawaiian students succeed academically;
4 and provided further that notwithstanding section 10-17(e),
5 Hawaii Revised Statutes, any expenditures for the purposes of
6 this section shall be in accordance with chapter 103D or 103F,
7 Hawaii Revised Statutes, or a competitive grants process, as
8 appropriate.

9 SECTION 7. Provided that of the funds appropriated for
10 beneficiary advocacy (OHA175), the sum of \$524,400 in general
11 funds and \$524,400 in trust funds for fiscal year 2019-2020 and
12 the same sums for fiscal year 2020-2021 shall be expended to
13 provide for legal services and legal representation to Office of
14 Hawaiian Affairs beneficiaries for:

- 15 (1) The assertion and defense of quiet title actions;
- 16 (2) Assistance with ahupua'a and kuleana tenant rights,
17 including rights of access and rights to water;
- 18 (3) Land title assistance, including review of title and
19 genealogy;
- 20 (4) Preservation of traditional and customary practices;
- 21 (5) Protection of culturally significant places; and
- 22 (6) Preservation of Native Hawaiian land trust entitlements;

1 provided further that notwithstanding section 10-17(e), Hawaii
2 Revised Statutes, any funds expended for the purposes of this
3 section shall be made in accordance with chapter 103D or 103F,
4 Hawaii Revised Statutes, as appropriate.

5 SECTION 8. Provided that of the funds appropriated for
6 beneficiary advocacy (OHA 175), the sum of \$500,000 in general
7 funds and \$500,000 in trust funds for fiscal year 2019-2020 and
8 the sum of \$500,000 in general funds and \$500,000 in trust funds
9 for fiscal year 2020-2021 shall provide for housing improvement
10 programs to assist Native Hawaiians, including those that are
11 homeless, at-risk of homelessness, in transitional housing, in
12 unstable or unaffordable rentals, and/or in pursuit of
13 homeownership to increase their capacity to attain housing
14 stability. Programs shall be designed with an overall objective
15 to address barriers that hinder Native Hawaiians from obtaining
16 stable housing; provided that notwithstanding section 10-17(e),
17 Hawaii Revised Statutes, any funds expended for the purposes of
18 this section shall be in accordance with chapter 103D or 103F,
19 Hawaii Revised Statutes, or a competitive grants process, as
20 appropriate.

21 **PART IV. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

1 SECTION 9. Provided that whenever necessary, the board of
2 trustees of the Office of Hawaiian Affairs or the board's
3 designee may transfer sufficient funds and positions between
4 programs for operating purposes; provided further that these
5 transfers shall be consistent with legislative intent; and
6 provided further that the Office of Hawaiian Affairs shall
7 submit a report to the legislature of all uses of this authority
8 for the previous twelve month period from December 1 to November
9 30 no later than twenty days prior to the regular session of
10 2020 and 2021.

11 SECTION 10. If any portion of this Act or its application
12 to any person, entity, or circumstance is held to be invalid for
13 any reason, the legislature declares that the remainder of the
14 Act and each and every other provision thereof shall not be
15 affected thereby. If any portion of a specific appropriation is
16 held to be invalid for any reason, the remaining portion shall
17 be expended to fulfill the objective of such appropriation to
18 the extent possible.

19 SECTION 11. In the event manifest clerical, typographical,
20 or other mechanical errors are found in this Act, the board of
21 trustees of the Office of Hawaiian Affairs is authorized to

1 correct these errors. All changes made pursuant to this section
2 shall be reported to the legislature at its next session.

3 SECTION 12. This Act shall take effect on July 1, 2019.

THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

____.C.R. NO.____

**CONCURRENT
RESOLUTION**

REQUESTING THE PUBLIC CHARTER SCHOOL COMMISSION TO REPORT ON THE CRITERIA DEVELOPED AND PRIORITIZATION ADVISED FOR CHARTER SCHOOL FACILITIES FUNDING PURSUANT TO SECTION 302D-29.5, HAWAII REVISED STATUTES.

1 WHEREAS, there are thirty-seven public charter schools in
2 Hawai'i serving nearly twelve thousand students statewide; and
3

4 WHEREAS, these public charter schools are a part of the
5 state public education system under the authority of the Public
6 Charter School Commission and the Board of Education; and
7

8 WHEREAS, public charter schools provide unique and valuable
9 educational opportunities by exploring, developing, and
10 implementing innovative education strategies, such as the
11 integration of Hawaiian language, values, and history into
12 culturally enriched curricula; and
13

14 WHEREAS, public charter schools such as Ke Kula 'O
15 Nāwahīokalani'ōpu'u Iki Lab Public Charter School have earned
16 international recognition for their incorporation of indigenous
17 language and values into high-quality academic programs, and
18 have ranked among the top-performing public schools in student
19 American College Testing scores, graduation rates, and rates of
20 college matriculation; and
21

22 WHEREAS, the role of public charter schools as "innovation
23 labs" for public education informs their potential to improve
24 education standards in schools throughout Hawai'i's public
25 education system; and
26

27 WHEREAS, there are two types of public charter schools in
28 Hawai'i: start-up charter schools that must procure their own
29 operating facilities, and conversion charter schools that were

1 converted from traditional Department of Education schools with
2 pre-existing facilities; and

3
4 WHEREAS, according to the Public Charter School
5 Commission's past testimonies to the Legislature, lease or
6 rental payments constitute a substantial portion of the
7 facilities expenses incurred by public start-up charter schools,
8 who collectively spent over \$5.3 million on rent or lease
9 payments for school facilities in school year 2015-2016; in
10 2016-2017, both public start-up and conversion charter schools
11 spent an approximate total of \$10.4 million on rent and lease
12 payments, repair and maintenance, and utilities payments; and

13
14 WHEREAS, while section 302D-28, Hawai'i Revised Statutes,
15 mandates that non-facility general fund per-pupil funding amount
16 for public charter school students be equivalent to the non-
17 facility general fund per-pupil base funding amount provided for
18 traditional Department of Education schools, there is no
19 provision to ensure equitable state funding for public charter
20 schools' unique facilities expenses; and

21
22 WHEREAS, public charter schools, and start-up public
23 charter schools in particular, have accordingly had to use a
24 significant amount of their already stretched per-pupil
25 operational funds to pay for their facilities expenses; and

26
27 WHEREAS, the lack of consistent state funding for public
28 charter schools' facilities expenses may significantly limit
29 their capacity to develop and provide innovative curricula for
30 their students, as well as serve as "innovation labs" for
31 traditional Department of Education schools; and

32
33 WHEREAS, section 302D-29.5, Hawai'i Revised Statutes,
34 requires the Legislature to consider making an appropriation and
35 bond authorization to the Public Charter School Commission for
36 the design, planning, construction, repair, and maintenance of
37 public charter school improvements; expand or improve
38 instructional space; provide for food services; and provide
39 restroom facilities; and

40
41 WHEREAS, despite the plain language of section 302D-29.5,
42 which contemplates appropriations for the costs of instructional
43 space, restroom facilities, and other improvements necessary or
44 incidental to a public charter school's educational mission,

1 questions have been raised regarding whether the scope of
2 section 302D-29.5 includes appropriations for lease or rental
3 payments; and
4

5 WHEREAS, section 302D-29.5 tasks the Public Charter School
6 Commission to develop criteria to determine the distribution of
7 any funds appropriated for public charter school facilities
8 expenses, to include distribution based on the need and
9 performance of the charter schools, overall benefit to the
10 surrounding community, amount of risk and availability of
11 recourse to the State, and whether a particular charter school
12 received facilities funding through other state funding,
13 including grants-in-aid or a separate appropriation; and
14

15 WHEREAS, section 302D-29.5 further establishes a Charter
16 School Facilities Funding Working Group within the Department of
17 Education, to act in an advisory capacity to prioritize the
18 allocation of general fund appropriations and bond proceeds for
19 public charter schools to expend based on the criteria
20 established by the Public Charter School Commission; and
21

22 BE IT RESOLVED by the [originating chamber] of the
23 Thirtieth Legislature of the State of Hawai'i, Regular Session of
24 2019, the [non-originating chamber] concurring, that the Public
25 Charter School Commission is requested to report on the criteria
26 developed by the Commission, and prioritization advised by the
27 Charter School Facilities Funding Working Group, for charter
28 school facilities funding pursuant to section 302D-29.5, Hawai'i
29 Revised Statutes; and
30

31 BE IT FURTHER RESOLVED that the Public Charter School
32 Commission, with input from the Charter School Facilities
33 Funding Working Group, provide any proposed legislation and
34 recommendations, including any recommendations related to
35 funding expenditures for lease and rental payments under section
36 302D-29.5, to the Legislature no later than twenty days prior to
37 the convening of the Regular Session of 2020; and
38

39 BE IT FURTHER RESOLVED that certified copies of this
40 Concurrent Resolution be transmitted to the Chairperson and
41 Executive Director of the Public Charter School Commission, the
42 Board of Education, the Director of Budget and Finance, the
43 Comptroller, the Superintendent of Education, and the

___ C.R. NO. ___

1 Chairperson of the Board of Trustees of the Office of Hawaiian
2 Affairs.

3
4
5

OFFERED BY: _____
By Request

DRAFT

THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

___ .B. NO. ___

A BILL FOR AN ACT

RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in 1978, the state
2 constitution was amended to include article XII, sections 4, 5,
3 and 6, which established the Office of Hawaiian Affairs and its
4 board of trustees.

5 Sections 4, 5, and 6 of article XII of the state
6 constitution provide:

7 Section 4. The lands granted to the State of Hawaii
8 by Section 5(b) of the Admission Act and pursuant to
9 Article XVI, Section 7, of the State Constitution,
10 excluding therefrom lands defined as "available lands" by
11 Section 203 of the Hawaiian Homes Commission Act, 1920, as
12 amended, shall be held by the State as a public trust for
13 native Hawaiians and the general public.

14 Section 5. There is hereby established an Office
15 of Hawaiian Affairs. The Office of Hawaiian Affairs
16 shall hold title to all the real and personal property
17 now or hereafter set aside or conveyed to it which

1 shall be held in trust for native Hawaiians and
2 Hawaiians. There shall be a board of trustees for the
3 Office of Hawaiian Affairs elected by qualified voters
4 . . . as provided by law. . . . There shall be not
5 less than nine members of the board of trustees;
6 provided that each of the following Islands have one
7 representative: Oahu, Kauai, Maui, Molokai and
8 Hawaii. The board shall elect a chairperson from its
9 members.

10 Section 6. The board of trustees of the Office of
11 Hawaiian Affairs shall exercise power as provided by
12 law: to manage and administer the proceeds from the sale
13 or other disposition of the lands, natural resources,
14 minerals and income derived from whatever sources for
15 native Hawaiians and Hawaiians, including all income and
16 proceeds from that pro rata portion of the trust referred
17 to in section 4 of this article for native Hawaiians; to
18 formulate policy relating to affairs of native Hawaiians
19 and Hawaiians; and to exercise control over real and
20 personal property set aside by state, federal or private
21 sources and transferred to the board for native Hawaiians
22 and Hawaiians. The board shall have the power to exercise

1 control over the Office of Hawaiian Affairs through its
2 executive officer, the administrator of the Office of
3 Hawaiian Affairs, who shall be appointed by the board.

4 Act 273, Session Laws of Hawai'i 1980, enacted section
5 10-13.5, Hawai'i Revised Statutes, to implement the Office of
6 Hawaiian Affairs' pro rata share and provide that "[¶]twenty per
7 cent of all funds derived from the public land trust . . . shall
8 be expended by the [Office of Hawaiian Affairs] . . . for the
9 purposes of this chapter."

10 Following a series of lawsuits concerning the Office of
11 Hawaiian Affairs' constitutional pro rata share of all funds
12 derived from the public land trust, the legislature enacted Act
13 178, Session Laws of Hawai'i 2006. Act 178, which took effect on
14 June 7, 2006, specifically acknowledged that "the State's
15 obligation to native Hawaiians is firmly established in the
16 state constitution. (See Haw. Const. art XII)" and included a
17 stated purpose of providing "interim measures to ensure that an
18 adequate amount of income and proceeds is made available to the
19 [Office of Hawaiian Affairs] from the pro rata portion of the
20 public land trust, for the betterment of the conditions of
21 native Hawaiians."

____.B. NO. _____

1 Act 178 carried out this interim purpose by requiring "the
2 income and proceeds from the pro rata portion of the public land
3 trust under article XII, section 6, of the state constitution
4 for expenditure by the office of Hawaiian affairs for the
5 betterment of the conditions of native Hawaiians for each fiscal
6 year beginning with fiscal year 2005-2006 shall be \$15,100,000."
7 Specifically, Act 178 noted this interim amount was "[until]
8 further action is taken by the legislature for this purpose."
9 This \$15,100,000 was based, in part, on certain ancillary
10 receipts from the state airports.

11 The second purpose of Act 178 was to identify "revenue-
12 generating public trust lands and the amounts derived from those
13 lands by requiring that the department of land and natural
14 resources provide an annual accounting to the legislature."
15 Accordingly, section 5 of Act 178 requires that no later than
16 January 1 of each year, the department of land and natural
17 resources, with the cooperation of the department of budget and
18 finance and any other state department or agency that uses or
19 manages public lands, provide an accounting of all receipts from
20 lands described in section 5(f) of the Admission Act for the
21 prior fiscal year. Section 5 of Act 178 also requires that with

1 respect to each receipt, the department of land and natural
2 resources must identify:

- 3 (1) The total gross amount;
- 4 (2) The amount transferred to the Office of Hawaiian
5 Affairs;
- 6 (3) The amount retained by the State;
- 7 (4) The account or fund into which the amount specified in
8 paragraph (3) was transferred or deposited;
- 9 (5) The parcel of land subject to section 5(f) of the
10 Admission Act that generated the receipt, whether by
11 tax map key number, department of land and natural
12 resources inventory number, or other recognizable
13 description; and
- 14 (6) The state department or agency that received the total
15 gross amount identified in paragraph (1).

16 In addition, section 5 of Act 178 requires that the
17 accounting indicate whether any parcel of land described in
18 section 5(f) of the Admission Act was sold or exchanged in the
19 prior fiscal year and, if so, the amount of consideration that
20 the State received for the respective parcels. Section 5 of Act
21 178 also requires that the department of land and natural

____.B. NO. _____

1 resources consult the Office of Hawaiian Affairs in determining
2 the method in which the accounting must be conducted.

3 In order to effectuate Act 178, the then-governor of the
4 state issued Executive Order No. 06-06, which established the
5 procedures by which all state agencies collecting receipts for
6 the use of public land trust lands must account for, set aside,
7 and transfer to the Office of Hawaiian Affairs receipts from
8 public land trust lands, subject to enumerated exceptions.

9 Based on the annual accountings of the amounts derived from
10 the public land trust conducted pursuant to Act 178, and as
11 supplemented by additional research commissioned by the Office
12 of Hawaiian Affairs of receipts from the public land trust in
13 fiscal year 2015-2016, the minimum amount of total gross public
14 land trust receipts from sources to which the Office of Hawaiian
15 Affairs has made a past or current claim was found to be
16 \$174,816,220 in fiscal year 2015-2016. Twenty percent of this
17 amount from fiscal year 2015-2016 is \$34,963,244, considerably
18 more than the \$15,100,000 that the Office of Hawaiian Affairs
19 receives annually pursuant to Act 178. However, despite its
20 "interim" nature, Act 178, Session Laws of 2006, remains in
21 effect setting the Office of Hawaiian Affairs' annual income and
22 proceeds from the public land trust for the betterment of the

1 conditions of native Hawaiians at \$15,100,000, pending further
2 legislative action on the subject.

3 While accounting information gathered pursuant to Act 178
4 has already proven valuable to illustrating the need to revisit
5 and revise the \$15,100,000 amount transferred annually to the
6 Office of Hawaiian Affairs, full compliance with Act 178 is
7 critical to informing future discussions and determinations of
8 what constitutes a fair, revised amount of native Hawaiians'
9 share of all funds derived from the public land trust. However,
10 deficiencies in reporting and accountability have been
11 identified by the Office of Hawaiian Affairs and its contractors
12 over several recent years, including the State's failure to
13 fully account for gross receipts from the public land trust, and
14 the State's apparent reluctance to completely report public land
15 trust receipts of certain agencies, including the University of
16 Hawai'i. Such deficiencies will likely continue without further
17 clarification, supplementation, and codification of the
18 reporting requirements of Act 178.

19 Accordingly, the legislature finds that it is now in the
20 best interests of the Office of Hawaiian Affairs, its
21 beneficiaries, the State, and all citizens of Hawai'i to amend
22 the Hawai'i Revised Statutes to clarify, supplement, and codify

1 the reporting and accountability foundation established by Act
2 178.

3 The purpose of this Act is to:

4 (1) Codify the accounting and reporting requirements set
5 forth in Section 5 of Act 178, Session Laws of Hawai'i,
6 with modifications to:

7 (a) Emphasize that the University of Hawai'i is
8 subject to the requirements;

9 (b) Emphasize that all public land trust revenues
10 must be accounted for, including those revenues
11 that a department or agency believes may not be
12 subject to the Office of Hawaiian Affairs' pro
13 rata share; and

14 (c) Require the department of land and natural
15 resources to consult with the Office of Hawaiian
16 Affairs to ensure that the accounting is accurate
17 and inclusive;

18 and

19 (2) Require certain explanations and determinations
20 regarding the amount of revenues transferred to the
21 Office of Hawaiian affairs.

1 SECTION 2. Chapter 171, Hawai'i Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§171- Public land trust; reporting. Notwithstanding the
5 provisions of section 5 of Act 178, Session Laws of Hawai'i 2006,
6 no later than January 1 of each year, the department of land and
7 natural resources, with the cooperation of the department of
8 budget and finance and any other department or agency that
9 collects receipts from lands within the public land trust that
10 is described in section 171-18, including the University of
11 Hawai'i, shall provide an annual report with an accounting of all
12 receipts from lands described in section 5(f) of the Admission
13 Act for the prior fiscal year. With respect to each receipt,
14 the department of land and natural resources shall identify:

15 (1) The total gross amount of revenue generated from the
16 use of the public land trust, regardless of whether
17 the revenue is subject to the Office of Hawaiian
18 Affairs' pro rata share;

19 (2) The amount transferred to the Office of Hawaiian
20 Affairs;

21 (3) The amount retained by the State;

.B. NO.

- 1 (4) The account or fund in which the amount specified in
2 paragraph (3) was transferred or deposited;
- 3 (5) The parcel of land subject to section 5(f) of the
4 Admission Act that generated the receipt, whether by
5 tax map key number, department of land and natural
6 resources inventory number, or other recognizable
7 description;
- 8 (6) The state department or agency that received the total
9 gross amount identified in paragraph (1); and
- 10 (7) For each receipt where the transferred amount
11 identified in paragraph (2) was less than twenty per
12 cent of the total gross amount identified in paragraph
13 (1), an explanation of why the state department or
14 agency identified in paragraph (6) did not transfer
15 the full twenty per cent of the total gross amount of
16 revenue; for example, that federal or state law
17 precludes any portion of the receipts from being used
18 directly to better the conditions of native Hawaiians,
19 or the transfer of any portion of the receipt will
20 cause the State to renege on any pre-existing pledge,
21 rate covenant, or other pre-existing obligation to

____.B. NO. _____

DRAFT

THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

OK 8
____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE COMPOSITION OF THE STATE COUNCIL ON MENTAL
HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there is an urgent
2 need to promote community-centric and culturally-integrated
3 mental health policies for Native Hawaiians. The legislature
4 further finds that Hawai'i's exceptionally diverse population
5 also has the potential to benefit significantly from mental
6 health programs and approaches that incorporate cross-cultural
7 values, practices, and understandings, including in particular
8 those of Hawai'i's host culture.

9 Today, Native Hawaiians are born into and are raised
10 against a backdrop of historical injustice and social,
11 political, and cultural disruption. The physical decimation of
12 entire communities, alienation from the land, the deprivation
13 and destruction of natural and cultural resources and sites,
14 linguistic suppression, cultural devaluation and
15 misappropriation, and systemically biased socioeconomic
16 structures have impacted generations of Native Hawaiians over
17 the past two centuries. Unfortunately, the resulting

____.B. NO. _____

1 disintegration of ancestral knowledge and disconnection from
2 culturally-grounded understandings and relationships have
3 perpetuated and exacerbated the serious negative mental health-
4 associated outcomes now seen in the Native Hawaiian community,
5 including: high rates of suicide and suicide attempts,
6 including alarmingly high rates of suicidal ideation and suicide
7 attempts among 'ōpio, or youth; high rates of alcohol and drug
8 abuse; child abuse; school adjustment problems; disproportionate
9 interactions with the criminal justice system; and certain
10 specific psychological and psychiatric mental illnesses.

11 The legislature finds that a growing and well-established
12 body of literature, as well as case studies and highly
13 successful examples of culturally-grounded mental health
14 programming, shows that the promotion and integration of
15 cultural traditions and sacred places, access to lands and
16 natural resources, a strong indigenous identity, and cultural
17 participation may be necessary for improving Native Hawaiian
18 mental health stability and success. In addition to providing
19 Native Hawaiians with culturally based curative methods,
20 traditional Hawaiian healing practices benefit Hawai'i's
21 ethnically diverse population as well by offering alternative
22 treatment options. However, Hawai'i's current approaches to

1 improving mental health do not provide Native Hawaiians or
2 others with consistent opportunities to participate in holistic
3 mental health programs that incorporate such culture-based
4 knowledge, values, and activities. The legislature finds that
5 encouraging the systemic exploration, development, and
6 implementation of such opportunities throughout the State's
7 mental health infrastructure may be critical to providing
8 substantial and much-needed relief to the mental health-
9 associated burdens that impact the Native Hawaiian community in
10 particular, as well as many other residents of the State.

11 The legislature finds that the state council on mental
12 health is responsible for advising, reviewing, and evaluating
13 the allocation and adequacy of mental health services in the
14 State. Accordingly, requiring the council to include members
15 with knowledge of or work experience involving Native Hawaiian
16 concepts of well-being, culturally-grounded mental health
17 methodologies, or traditional healing or health practices can
18 help to systemically advance the culturally-grounded policies
19 and programs that are critical to meeting the dire mental health
20 needs of Native Hawaiian community members and others.

21 Therefore, the purpose of this Act is to require at least
22 three members of the state council on mental health to be

1 reserved for individuals with demonstrated knowledge of or work
2 experience involving Native Hawaiian concepts of well-being,
3 culturally-grounded mental health methodologies, or traditional
4 healing or health practices.

5 SECTION 2. Section 334-10, Hawai'i Revised Statutes, is
6 amended to read as follows:

7 **"§334-10 State council on mental health.** (a) There is
8 established a state council on mental health. The council shall
9 consist of twenty-one members appointed by the governor as
10 provided in section 26-34. In making appointments to the
11 council, the governor shall ensure that all service area boards
12 of the State are represented, and that a majority of the members
13 are nonproviders of mental health or other health services, and
14 that a majority of the members are not state employees. The
15 number of parents of children with serious emotional
16 disturbances shall be sufficient to provide adequate
17 representation of such children in the deliberations of the
18 council. The council shall be composed of residents of the
19 State, including individuals representing:

- 20 (1) The principal state agencies with respect to mental
21 health, education, vocational rehabilitation, criminal
22 justice, housing, and social services;

1 (2) Public and private entities concerned with the need,
2 planning, operation, funding, and use of mental health
3 services and related support services;

4 (3) Adults with serious mental illnesses who are
5 receiving, or have received, mental health services;

6 (4) The families of such adults or families of children
7 with serious emotional disturbances; and

8 (5) The Hawaii advisory commission on drug abuse and
9 controlled substances who shall be a person
10 knowledgeable about the community and the
11 relationships between mental health, mental illness,
12 and substance abuse.

13 (b) The council shall elect a chairperson from among its
14 members. All members shall serve without compensation but shall
15 be paid their necessary expenses in attending meetings of the
16 council.

17 (c) At least three members of the council shall have
18 demonstrated knowledge of or work experience involving Native
19 Hawaiian concepts of well-being, culturally-grounded mental
20 health methodologies, or traditional healing or health practices
21 as evidenced by:

____.B. NO. _____

- 1 (1) A college or university degree in a relevant
2 field, such as psychology, social work, public
3 health, nursing, Hawaiian studies, health
4 administration, or medicine, with a focus on
5 Native Hawaiian and indigenous health,
6 transgenerational trauma, or traditional healing
7 or health practices such as ho'oponopono, la'au
8 lapa'au, or lomilomi;
- 9 (2) Work history that demonstrates an appropriate
10 level of knowledge of or involvement in Native
11 Hawaiian and indigenous health, transgenerational
12 trauma, or traditional healing or health
13 practices such as ho'oponopono, la'au lapa'au, or
14 lomilomi;
- 15 (3) Health, social, or legal work history addressing
16 Native Hawaiian inequities; or
- 17 (4) Substantial community experience as a Native
18 Hawaiian traditional and customary practitioner
19 in healing treatments, techniques, services, or
20 practices.

21 [-e+] (d) The council shall advise the department on
22 allocation of resources, statewide needs, and programs affecting

1 two or more service areas. The council shall review and comment
 2 on the statewide comprehensive integrated service plan and shall
 3 serve as an advocate for adults with serious mental illness,
 4 children with serious emotional disturbances, other individuals
 5 with mental illnesses or emotional problems, and individuals
 6 with combined mental illness substance abuse disorders.

7 ~~[(d)]~~(e) If the department's action is not in conformance
 8 with the council's advice, the department shall provide a
 9 written explanation of its position to the council.

10 ~~[(e)]~~(f) The council shall prepare and submit an annual
 11 report to the governor and the legislature on implementation of
 12 the statewide comprehensive integrated service plan. The report
 13 presented to the legislature shall be submitted at least twenty
 14 days prior to the convening of each regular session."

15 SECTION 3. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval,
 18 provided that the composition of the state council on mental
 19 shall comply with the requirements of section 2 of this Act
 20 beginning on July 1, 2020.

21

22 INTRODUCED BY: _____

____.B. NO. ____

By Request

DRAFT

THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

___ .B. NO. ___

A BILL FOR AN ACT

RELATING TO BAIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 804, Hawai'i Revised Statutes, is amended
2 by adding a new section to part I to be appropriately designated
3 and to read as follows:

4 "§804- Unsecured bail. (a) After an amount of bail is
5 determined by a justice or judge pursuant to section 804-9, a
6 defendant in custody may petition the court for unsecured bail.

7 Upon a showing that:

8 (1) Securing the bail bond or obtaining a surety or
9 sureties to secure the bail bond pursuant to section
10 804-11.5 would result in significant financial
11 hardship; and

12 (3) The continued incarceration of the defendant would
13 jeopardize the defendant's ability to maintain
14 employment, remain enrolled in any educational or
15 training program, care for a dependent, continue
16 medical or therapeutic treatment, or maintain housing;
17 the court may order the defendant released upon the execution of
18 an unsecured financial bond for all or part of the bail amount

____.B. NO. _____

1 by the defendant and any additional obligors as may be required
2 by the court, upon the deposit of cash or other security as
3 described in section 804-11.5 for any remaining bail amount not
4 covered by the unsecured financial bond, and subject to any
5 other conditions of release that will reasonably assure the
6 appearance of the defendant in court as required and protect the
7 public.

8 (b) In granting or denying a petition for unsecured bail,
9 the court shall consider:

- 10 (1) The defendant's employment status and history;
11 (2) The nature and extent of the defendant's family
12 relationships;
13 (3) The defendant's past and present residences;
14 (4) The defendant's character and reputation;
15 (5) Any persons who agree to assist the defendant to
16 appear when required and satisfy conditions of
17 release;
18 (6) The defendant's ties to the community;
19 (7) The defendant's financial circumstances;
20 (8) The results of an empirical and validated pretrial
21 risk assessment;
22 (9) The offense charged and any potential sentence;

