

**STATE OF HAWAI'I  
OFFICE OF HAWAIIAN AFFAIRS  
560 N. NIMITZ HIGHWAY, SUITE 200**

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT  
MINUTES**

**May 1, 2019 10:00 a.m.**

**ATTENDANCE:**

Chairperson John Waihe'e, IV  
Vice-Chairperson Kaleihikina Akaka  
Trustee Leina'ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Keli'i Akina  
Trustee Brendon Kalei'aina Lee  
Trustee C. Hulu Lindsey  
Trustee Colette Machado

**EXCUSED:**

Trustee Robert Lindsey

**BOT STAFF:**

Alyssa-Marie Kau  
Claudine Calpito  
Crayn Akina  
Dayna Pa  
Kama Hopkins  
Kauikeaolani Wailehua  
Lehua Itokazu  
Lōpaka Baptiste  
Maria Calderon  
Melissa Wennihan  
Paul Harleman  
Priscilla Nakama

**ADMINISTRATION STAFF:**

Kamana'opono Crabbe, Ka Pouhana  
Sylvia Hussey, Ka Pou Nui  
Anuheia Patoc, PP  
Everett Ohta, CC  
Gloria Li, FS  
Grace Chen, FS  
Jim McMahon, ADV  
Jocelyn Doane, PP  
Kamaile Maldonado, PP  
Mehana Hind, COO  
Monica Morris, PP  
Raina Gushiken, CC  
Sabrina Gramberg, PP  
Wayna Tanaka, PP

**GUEST:**

Jon Ching

**I. CALL TO ORDER**

**Chair Waihe'e** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, April 17, 2019 to order at **10:00 a.m.**

**Chair Waihe'e** notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	COLETTE	MACHADO	PRESENT	

At the Call to Order, **EIGHT (8) Trustees are PRESENT**, thereby constituting a quorum.

**EXCUSED** from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	ROBERT	LINDSEY	MEMO – REQUESTING TO BE EXCUSED

*Chair Waihe'e would like the record to show that some materials were received more recently than 72 hours ago, and that deadline, per practice, has been duly waived.*

**II. PUBLIC TESTIMONY**

None

**III. APPROVAL OF MINUTES**

Trustee Akaka moves to approve the minutes of March 27 and April 3, 2019.

Trustee Dan Ahuna seconds the motion.

Chair Waihe'e asks if there is any discussion or corrections.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

						10:01 a.m.	
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
VICE-CHAIR KALEIHIKINA	AKAKA	1		X			
	KELI'I AKINA			X			
BRENDON KALEI'ĀINA	LEE						<i>Not present at time of vote</i>
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						<b>EXCUSED</b>
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>7</b>	<b>0</b>	<b>0</b>	<b>2</b>

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

## IV. UNFINISHED BUSINESS

### A. 2019 OHA Legislative Package Updates – Matrix 1\*\*†

**Chair Waihe'e** turns it over to Ka Pouhana Kamana'opono Crabbe.

**Ka Pouhana Crabbe:** Good Morning and Happy May Day. I'll call upon Public Policy Manager Jocelyn Doane to present.

**Public Policy Manager Doane:** Aloha Trustees, tomorrow is *Sine Die* - so the last day of Session. Despite some rough patches and our PLT not moving as far as we would like, yet we all know it has moved much further than we thought it would move, when the session began. So, we're super-excited about that. I think it's been a successful session and I'm super-proud of our staff who worked EXTRA hard this year because we're short-staffed. I'm grateful for our trustees, who also did a great job at the legislature.

As it relates to our package, two of our five measures moved which we're excited about. Our Budget Bill appears to be the same budget from last biennium with a kind of complicated caveat that a Financial and Management Audit be completed to access our Fiscal Year 2021 general funds. Our three historic provisos: Education, Legal Services and Social Services remain whole and we can now award our social services funding via a competitive grants process if that's what we choose to do. We've been using procurement for that and we can continue to do that as well.

We got a little over 3 million dollars in general funds per year; that's about 1.9 million dollars in operating funds which are our programmatic funds like grants, contract funds and legal provisos. A little under \$300,000 in operational funds, which we generally have used in the past for rent or to supplement our mortgage payments and a little over 1 million dollars in personnel which also provides OHA with an additional benefit of approximately 600,000 dollars because of the fringe benefit.

Section 8 is the complicated section which we are diligently trying to understand. It contemplates what appears to be an additional audit. It attempts to require OHA to expend half-a-million dollars in Fiscal Year 2020 Trust Funds for the COST for the auditor to conduct or 'contract to conduct' a Financial and Management audit. The auditor is supposed to report its findings at least twenty days prior to the 2020 session, which is about 7 months from now and which is really-quick for a 500,000-dollar audit. It conditions the release of the funds on the receipt of this audit.

The language is a bit confusing, so we're having conversations with our Counsel and eventually we need to have more conversations with our Research Management team and the auditor about what everyone thinks this language requires.

Two of the questions that I posed to the group is: *“Does the language require a new audit that’s not already underway?”* From a simple reading of the language, that’s what it appears to do. I’m not convinced that’s what the conference committees intended. There was a discussion at the table on the last day of the conference about our CLA audit, but the quick review of the language makes it seem like it’s a new audit. I think the intention and what is written on the paper may not be the same thing. If it was the intention to urge us to complete the CLA audit, it would’ve been clearer if the language said something different. It’s talking about expending 2020 funds. We’ve already encumbered the funds for the CLA audit and it was not 2020 funds. The CLA audit may or may not be a performance and management audit according to accounting principles, so there are a bunch of questions and discussion that needs to happen.

The other question that I posed to the group is, let’s assume we must do a new audit; *is it possible that we spend less than half-a-million dollars?* That amount is a lot of money to do a whole other audit in that time-period that it’s expected to be done. Also, I’m not sure the duration is a ‘reasonable time-period’. I’m hoping the auditor will say that, it is possible for us to spend less than 500,000 dollars and still argue that we fulfilled the section.

There’s language in there about cost. So, *can the auditor propose to do an audit that fulfills these requirements in the time-period that may cost less than half-a-million dollars?*

**Trustee Lee:** *Has the AG weighed-in regarding that? Does the legislature have the legal right to tell OHA how to expend its Trust Funds?*

**Public Policy Manager Doane:** That’s a good question. The legislature cannot tell us how to spend our trust funds. So, they don’t have a right to appropriate our funds. We have the option of fulfilling Section 8 and accessing Fiscal Year 2021 funds or not. Half-a-million dollars seems like a lot of money for another audit. On the flipside, we would potentially lose out on 3 million dollars of general funds.

**Trustee Lee:** *Are they constitutionally-mandated to give us this money?*

**Public Policy Manager Doane:** I don’t think so, but I would defer to our Counsel to answer that question.

**Trustee Hulu Lindsey:** *Is this bill done already; has it been voted on? Or can it still be amended?*

**Public Policy Manager Doane:** Tomorrow is technically the last day, but no amendments can be made on any bills, if any bill survives. It’s possible that this bill gets killed tomorrow, unless they extend session, which would be extraordinary. No bill can be amended because it would need to get final reading in both houses in its amended form, and there’s only one day of floor session left, which is tomorrow.

**Chair Waihe’e:** *Is there any further discussion or questions on the package members?* Ok hearing none, let’s move into **New Business**.

## V. NEW BUSINESS

### A. 2019 OHA Legislative Positioning – Matrix 2\*\*†

**Chair Waihe'e** turns it back over to Ka Pouhana Kamana'opono Crabbe.

**Ka Pouhana Crabbe:** Thank you, I'll turn it back over to Public Policy Manager Jocelyn Doane to continue.

**Public Policy Manager Doane:** We only have three bills for your vote and then I was intending to give a quick update on the other bills that we've talked about as they have moved through session.

The first one is a Table Change, it's in the matrix, but it's in the wrong place; Page 15, Item 55 – HB1586; is now a bill that establishes a stadium development district – it changed in Conference, so we are recommending a position of COMMENT on this. This is a new position because the Stadium bills were in other bills which have died. Basically, it would create a new development district, the Stadium Authority would continue to have jurisdiction. I'm a little confused but the HCDA somehow now going to be involved. So, there's a huge appropriation in this bill, it's a 20-million-dollar general fund appropriation and a 100-million-dollar gold bond. The idea is to redevelop the stadium – which the State has been trying to do for quite some time. The one we don't love about the bill is it would allow leases up to 99 years in this district, but the data has shown that the overwhelming majority of the lands are not ceded lands and at this point there's nothing we can do about it anyway, because this was not in the previous versions of the bill.

Page 1, Item 1 – HB 809; this is a GIA Bill – it's an appropriation of \$75,000 for FY20 to CNHA and it basically asks us to be the expending agency. We didn't ask for it, and we didn't know about it until the other day, but different agencies apply for different GIAs. Once-in-a-while, the Legislature will ask us to be the disbursing agency. It seems small enough that I can't imagine it would create an administrative burden for us; we've done much larger ones before. We are recommending a position of MONITOR.

I won't go over the Item 2 – SCR17; it actually died. It will fall off the matrix soon.

I would like to go over all the bills that were alive in the last couple of weeks that name OHA as well as the bills that we OPPOSE, I'm not going to give page numbers unless trustees ask for them. The good news is there are only two bills that we OPPOSE that are likely to pass out of the ten or so that we have been watching, they are the Education and Library Pilot Projects.

I'm going to start with a bill that is not on the matrix, I know the trustees sometimes ask about DHHL's Budget – HB2 passed a while ago, the Governor already signed it. This is the Governor's Budget - it looks like DHHL got about the same amount of money that they received last year in General Funds for Administration and Operations Support. Technically their line item amount is only 18-million whereas it was 25-million before, but they've amended the budget so that Budget & Finance will take care of their Fringe, so it'll come out to about the same. There are also some general obligation bonds that are going to be issued to help plan for homesteads in the amount of 26-million-dollars.

HB402 as we know is our Public Land Trust Bill; it made it to Conference. We're super-excited about that and appreciate all the hard work of our champion legislators. The UH language wasn't going to be taken out, it seemed, at the end, and so we weren't that disappointed that the conference didn't move the bill as it was drafted. We have some education to do about how that erodes the policy. How exempting UH from paying its fair share erodes the policy that had long been set and established by the State.

**Trustee Hulu Lindsey:** I think we need to build up where we help our Hawaiian students with all of our grants to allow them money to go to school, so that offsets – not them deciding to spend our money.

**Public Policy Manager Doane:** Right, exactly.

**Trustee Hulu Lindsey:** We do have money for higher education that we give our students.

**Public Policy Manager Doane:** We would have so much more if UH paid what they should be paying. Basically what's happening is UH is saying "we have all these Hawaiian programs that we pay for, we shouldn't have to give OHA money", but the whole purpose of creating OHA is that OHA would make those decisions and so they're trying to sit in the seat of OHA and make those decisions on how to spend the Trust Funds.

**Trustee Hulu Lindsey:** We need to educate our legislators that that shouldn't be happening.

**Public Policy Manager Doane:** Right.

**Ka Pouhana Crabbe:** I believe they had stated that UH was awarding 7 million, *was that ever clarified where that funding was coming from?*

**Public Policy Manager Doane:** Yah, a part of the reason why we were suggesting that if you're going to pass a negotiating committee why don't you make this one of the discussion points. It is because UH is using all these figures and we have no idea what the basis of those figures are. As we know, they get access to Federal funds and there are Hawaiian-serving agencies that provide a substantial amount of scholarships. So, I have no idea where that 7-million-dollar figure is coming from.

Also they're allotting their investments in these Hawaiian programs as being directly beneficial to Hawaiians; we don't have data on who is actually taking these classes. We are aware that the lower level Hawaiian language courses are highly populated with non-Hawaiians, and Hawaiian Studies 107 is a Core Requirement that can be used to fulfill graduation requirements which are always full of non-Hawaiians. To suggest that all programs are directly benefitting only Hawaiians is absurd.

The next bill that named OHA is HB1116 which is the Randomizing Ballot Bill, that didn't get out of Conference either.

HB1552, this is the other big Bail Reform bill that passed this year. The Conference Committee did remove a bunch of the big items that were previously in other versions of the bill which we were bummed about. For example, some of the big discussions about this bill that came from the recommendations of the task force was: eliminating money bail for low level offenses and creating presumptions in favor of release for higher level offenses. A lot of the smaller reform recommendations remain, so the law now requires defendant's financial circumstances to be considered in bail determination. It makes an appropriation and provides for the establishment of an oversight commission which will be in the Office of the Chief Justice at the Judiciary. This bill passed just yesterday final reading in both chambers. Assuming nothing crazy happens tomorrow then the bill will pass.

HCR188, there were three versions of this bill that passed. It urges completion of the 2017 CLA audit and as you know the trustees recently voted to extend that contract to the end of the year. We don't foresee any problems in fulfilling that request to the legislature, currently.

SCR70, this is related to the LLCs. It requests OHA to conduct an independent Fiscal Audit of the LLCs. Our LLCs do a financial audit every year and the auditor of our financial audit also considers the audit of the LLCs and incorporates their findings in our published Financial Review.

HB622, this is the bill related to eligibility of the Charter Schools and providing some oversight over the Financial documents and accounting of the Charter School. As you may recall, there are previous versions of this bill that we did Oppose. The Conference draft is rather good – it requires the Charter Schools to provide access to the Authorizer of their accounting for better oversight and it allows the authorizer to withhold second-per-pupil allocations to schools if they haven't complied. It doesn't do some of the other things, like: requiring an entirely new system like the other versions did and things that we thought were going to be hurdles to the Charter School's fulfilling its requirements; so, that's good. It also disqualifies individuals that were affiliated with Charter Schools from serving on the Commission within one year as opposed to four years which was previously drafted. We think this is a much-improved version of the previous bills and it provides a little bit more oversight over the finances.

HB820, this is what used to be the ALOHA HOMES bill; it has now turned into a study. I just wanted to bring this up because I don't think this concept is going to go away. We've had some really good conversations with the Senator from Hawai'i Kai on this and are making sure that there are contributions and specific benefits to Hawaiians. The Senator has been super-receptive on that. So, in the off session we'll continue to work with Senator Chang about that, but for now, it's just a study.

HB1025, we talked about this bill so much I just wanted to give trustees an update. This bill died because the conferees couldn't reach an agreement. This would've allowed up to forty-year extensions on open leases which we had some concerns about. We'll continue to talk to the Water and Land Chairs in the off session about this idea. There were some better ideas floating around during conference, but they didn't come to an agreement on both sides.

SB78, this is the only Charter School Bill that got funding as far as we know. As far as we understand, no facilities-funding bills passed this year, unfortunately. This is related to the Pre-K program. It appropriates 4-million-dollars for the next two fiscal years for Pre-K classrooms in Charter Schools and a bunch of Hawaiian-Focused Charter Schools have them. We've been a strong supporter of this. This was actually deferred. We thought it was going to die, but yesterday the Senate voted to reconsider their disagreement with the House version. It will have its final reading tomorrow.

SB976, this is one of the two bills that passed that we OPPOSE. This is the Public Library Pilot Program. It's very similar to the Education Pilot Program; it allows the Board of Education to lease up to three sites identified and selected by the Board for up to 99 years. We don't like the idea of the 99 years, but at least it's only a Pilot Project and not a statutory change.

SB1292, this bill was voted on three times in the last three days. I'm going to have Wayne go over it.

**Senior Public Policy Advocate Tanaka:** This bill was originally to allow transient vacation unit platforms like Airbnb to collect taxes on behalf of their operators, but it would've also included various enforcement mechanisms, prohibitions and disclosure of certain information in counties, and so forth. It was amended in the Senate to only allow Airbnb and those platforms to collect taxes, so there was no real enforcement component after that. It seemed to be dead in the Senate after they couldn't pass on the final reading. Yesterday there was a big vote in the Senate to reconsider that final reading. There were a number of bills that were supposedly going to be held up because of the potential loss of revenues, if the bill didn't pass. The bill did pass by one vote and so again it doesn't provide for any real enforcement mechanisms; it just allows for Airbnb and those kinds of businesses to collect taxes.

**Public Policy Manager Doane:** SB1303, this is the Education Pilot that was originally 55 years for the three sites, now it has been extended to 99 years. This is the second bill we OPPOSE.

We talked a lot about the water bill, so I want to give an update on that. The Water Bill in the Senate has only gotten one reading. The Constitution requires three readings. To pass, the bill needed to have had a vote on the floor yesterday for its second reading and then Thursday would've been the opportunity for the third reading. So, unless there's an extension of the session, the Water Bill is dead for the year. That is our final update Trustees.

**Chair Waihe'e:** *Ok members, is there any discussion or questions about the Positioning Matrix?*

*There are no responses.*

**Vice-Chair Akaka moves to approve Administration’s recommendations on *NEW BILLS*; Items 1 and 2, both as **MONITOR**, and Item 55, HB1586 as **COMMENT** on the OHA Legislative Positioning Matrix dated May 1, 2019, as amended.**

ITEM#	BILL#	REPORT	DESCRIPTION	POSITION
<b>New Bills</b>				
1	HB809	RELATING TO THE FUNDING OF GRANTS PURSUANT TO CHAPTER 42F, HAWAII REVISED STATUTES.	Appropriates operating and capital improvement grants for fiscal year 2020. Effective 7/1/2019. (CD1)	MONITOR
2	SCR17		REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO PERFORM AN ACTUARIAL STUDY ON THE SIZE OF THE CURRENT AND PROJECTED FUTURE POPULATIONS OF HAWAIIANS ELIGIBLE TO LEASE HAWAIIAN HOME LANDS.	MONITOR
55	HB1586	RELATING TO THE STRUCTURE OF GOVERNMENT	Establishes the Stadium Development District comprising all state land under the Stadium Authority's jurisdiction. Authorizes HCDA to facilitate the development of all state property within the District. Requires a memorandum of agreement for matters affecting the District. Directs DLNR to transfer title of stadium lands to the Stadium Authority. Subjects leases of land within the District to not more than 99 years. Authorizes the issuance of revenue bonds and general obligation bonds. Appropriates funds. Requires annual reports to the Legislature. (HB1586 CD1)	COMMENT

**Trustee Ahuna seconds the motion.**

**Chair Waihe’e** asks if there is any discussion. There is none.

**Chair Waihe’e** calls for a **ROLL CALL VOTE**.

							10:38 a.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED	
LEINA'ALA AHU ISA			X				
DAN AHUNA		2	X				
VICE-CHAIR KALEIHIKINA AKAKA	1		X				
KELI'I AKINA			X				
BRENDON KALEI'ĀINA LEE			X				
CARMEN HULU LINDSEY			X				
ROBERT LINDSEY						EXCUSED	
COLETTE MACHADO			X				
CHAIR JOHN WAIHE'E			X				
<b>TOTAL VOTE COUNT</b>			<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>	

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

**VI. COMMUNITY CONCERNS\***

None

**VII. ANNOUNCEMENTS**

None

**VIII. ADJOURNMENT**

**Vice-Chair Akaka moves to adjourn the BAE meeting.**

**Trustee Ahuna seconds the motion.**

**Chair Waihe'e asks if there is any discussion. There is none.**

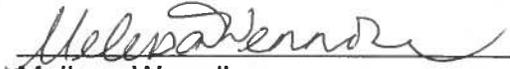
**Chair Waihe'e asks if any members vote NO or ABSTAIN. There are no dissenting votes.**

						10:42 a.m.	
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
VICE-CHAIR KALEIHIKINA	AKAKA	1		X			
KELI'I	AKINA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>

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

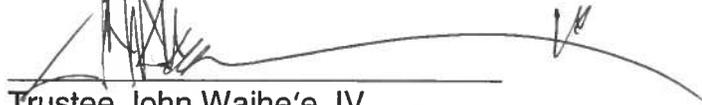
**Chair Waihe'e adjourns the BAE meeting at 10:42 a.m.**

Respectfully submitted,



Melissa Wennihan  
Trustee Aide  
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on August 21, 2019.



Trustee John Waihe'e, IV  
Chair  
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):

None