

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

April 26, 2017 1:00 p.m.

ATTENDANCE:

Chairperson Robert K. Lindsey, Jr.
Vice-Chairperson Dan Ahuna
Trustee Rowena Akana
Trustee Keli'i Akina
Trustee Peter Apo
Trustee Carmen Hulu Lindsey
Trustee Colette Machado
Trustee John Waihe'e, IV

ADMINISTRATION STAFF:

Kawika Riley, CHIEF
Anuheia Patoc, PUBL
Deja Ostrowski, ADV
Zuri Aki, ADV
Jocelyn Doane, PUBL
Kamaile Maldonado, PUBL
Monica Morris, PUBL
Keith Bukowski, ADV
Raina Gushiken, CC
Wayne Tanaka, PUBL
Zuri Aki, ADV

EXCUSED:

Trustee Leina'ala Ahu Isa

GUESTS:

Germaine Meyers

BOT STAFF:

Jeremy K. Hopkins
Kauikeaolani Wailehua
Uilani Tanigawa
Lehua Itokazu
Lopaka Baptiste
Davis Price
Claudine Calpito
Lady Elizabeth Garrett
Alvin Akee

I. CALL TO ORDER

Chair Lindsey (CL) calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, April 26, 2017 to order at **1:00 p.m.**

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

MEMBERS			AT CALL TO ORDER (10:03 am)	TIME ARRIVED
CHAIR	ROBERT	LINDSEY, JR.	X	
VICE-CHAIR	DAN	AHUNA	X	
TRUSTEE	LEI	AHU ISA		EXCUSED

TRUSTEE	ROWENA	AKANA		Arrived at 1:10 pm
TRUSTEE	KELI'I	AKINA	X	
TRUSTEE	PETER	APO		Arrived at 1:06 pm
TRUSTEE	HULU	LINDSEY	X	Left at 2:22 pm
TRUSTEE	COLETTE	MACHADO	X	
TRUSTEE	JOHN	WAIHE'E	X	

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. March 29, 2017
- IV. New Business
 - A. 2017 Legislative Positioning - Matrix 1
 - B. 114th Congress Legislative Positioning – Matrix 1
 - C. Briefing: OHA Washington D.C. Bureau Update
- V. Unfinished Business
 - A. 2017 OHA Legislative Package Updates – Matrix 2

Trustee Dan Ahuna (T. Ahuna) – moved
 Trustee John Waihe'e (T. Waihe'e) – second

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

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

II. APPROVAL OF MINUTES

A. March 29, 2017

CL calls for a motion to approve the minutes of March 29, 2017.

T. Ahuna – moved

T. Waihe'e (T. Machado) – second

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

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

III. COMMUNITY CONCERNS*

CL asks if anyone has come to speak under COMMUNITY CONCERNS.

None.

CL calls upon Kawika Riley (KR) to present item IV. A.

IV. NEW BUSINESS

A. 2017 Legislative Positioning – Matrix 1

KR calls on Public Policy Manger, Jocelyn Doane (JD) to present item IV. A.

JD updates Trustees that any money Bills needing to go to the floor must be heard in conference today or tomorrow. She also notes that the last day of session is on May 4.

JD mentions that there are no New Bills or Bill Position Changes today. However, she will share updates on Bills and Resolutions of interest to OHA as they can potentially affect OHA or Native Hawaiians. These are Bills or Resolutions that have been discussed at the Board table throughout the session. The first measure is item 144, SCR85, regarding the Task Force on OHA Elections vs. Appointments. It did make it out of the House. This is the Senate version. She shares that discussion at the Capitol centers more around OHA discussing with its beneficiaries and listening to on their thoughts on whether or not Elected Trustees or Appointed Trustees are better for OHA. JD feels that the legislators may not necessarily think it's a better idea, but it would be good for OHA's beneficiaries to share their thoughts. After the session is concluded, Trustees and Administration need to gather again to discuss how to respond to the request being made in the resolution.

The next measure is item 158, SCR150, the Wilcox Resolution. It asks OHA to convene a study group to make a recommendation on how to best honor Robert Wilcox. OHA should be able to do this.

Item 159, SCR153, is the next Resolution. This is a resolution relating to the Year of the Hawaiian. It urges the celebration of the achievements of Native Hawaiians. It was changed. It no longer requests OHA convene the celebration. It now takes OHA out of the Resolution entirely.

JD continues with item 165, SCR174. This is the measure speaking of the easement for ADC at Kūkaniloko. This did not get a hearing in the House, so the Senate Concurrent Resolution did not pass. However, the Senate Resolution did pass.

Trustee Apo (T. Apo) reminds everyone of the significant history of Kūkaniloko and that is should be shared with people so all are aware.

JD shared that additional discussion occurred with Sen. Dela Cruz after the hearing and staff did share with him certain parts of history of which he may not have been aware. He appreciated that sharing and is just passionate about projects in his district moving forward.

Additional discussion occurred regarding ownership questions for the land under Kūkaniloko. It is unrelated to the measures being discussed, but the transfer process from DLNR to OHA in land court needs to be monitored. There is confusion as to title/ownership of the land which does not allow OHA to effectively plan for use and management of this land.

JD calls Wayne Tanaka (WT) to the table to share updates regarding other measures being monitored.

WT shares the first measure, item 88, SB1016 relating to the extension of exemptions for DOT bridges. This Bill is headed to Conference. It passed out of the House. OHA has OPPOSED this measure because the exemptions that would be provided to the DOT would be for laws that are critical for protecting the rights of our beneficiaries.

The next measure is item 82, SB895. This is the measure regarding trespassing on State lands. OHA does OPPOSE this measure. The Bill is stating that it will be considered a "petty misdemeanor" to trespass on State land marked with No Trespassing signs. OHA's reasons for opposition include the following:

1. It may have a chilling effect on practitioners who have to traverse on these lands to gather necessary materials or to engage in their cultural practices. They may be worried of getting arrested and charged with a "petty misdemeanor" every time they want to engage in their traditional and customary practices.
2. This may also have an additional burden on the houseless community. The state administration has been saying that this is to address the vandalism and theft of copper. WT believes that the law will mainly affect those who access State land to access shelter.

HB1536 is the last measure to be highlighted by WT. It relates to the nonpotable water service exemption from the PUC. OHA's position is COMMENT. OHA's comments have really been to share the belief that this measure is redundant when compared to the regulations already in existence. There is a Conference Committee meeting today at 3:30 pm and staff will be monitoring to see what the result will be.

JD continues on with item 76, SB658, relating to the Airport Corporation Bill. JD shares that they had a fairly good meeting with DOT, Senator English and the Chair and they were all able to put a draft together. She is unsure where the draft is going to go, but OHA will monitor its progress. There are still concerns about leasing and if OHA would be allowed to weigh-in on leasing opportunities in the future.

Further discussion between Trustees and JD occurred on this topic of why the Airport Corporation is being deemed a necessity by the DOT. One of the basic problems of the current structure is that the department is not able to make financial decisions on ongoing projects without going back to the Legislature every year. Should issues, problems, opportunities, etc. arise during the months in which the Legislature is not in session, the DOT-Airports has no other choice but to wait until the next session begins and then they can make their request(s). That causes delays and missed opportunities. That is one of the biggest reasons for the change.

Another issue is the ability to issue revocable permits. The DOT believed the Airports Division had that authority, but it was determined that they do not. Under the current structure, that authority rests with the BLNR. Should the structure change and an Airport Corporation is created, it is more than likely that the corporation's board will be subject to the Sunshine Law and that will give OHA its opportunity to share comments on agenda items at the corporation board meetings.

The next measure is item 23, HB533. This is the facilities funding measure for the Charter Schools. The Conference Committees will be reconvening today. The appropriation is still blank. At the last Conference Committee meeting, a \$2.5 million appropriation was suggested, but conferees did not agree and that is why the meeting was continued to today. It does need to be settled today in order to make it to the floor.

Next is item 19, HB500, relating to the continued funding for preschool programs in Charter schools. Currently, 4 Hawaiian focused charter schools have preschools. It looks like 3 more will be added. It also needs to come out of conference today.

The next measure is item 16, HB451, the DHHL successor Bill. The Bill seeks to lower the blood quantum for successorship from 1/4 to 1/32. This measure looks like it will pass in the Legislature. It would then need an analysis done at the DOI. If the DOI says Congress needs to approve, then that will need to occur, before this change can be made in the Hawaiian Homes Commission Act, as

amended (HHCA). If the DOI's analysis determines that this change is okay and it does not need Congressional approval, then the HHCA shall be amended. JD believes that DOI will determine that this change needs Congressional approval.

Item 14, HB437 is the next measure. This is the Seawall Bill. It did receive news coverage during the session. However, a conference on the Bill was never scheduled, so it appears as if it will not move this session.

The last measure is item 3, HB100, relating to the State Budget. The State Budget passed out of committee on the same day as OHA's Budget Bill. JD wanted to share this because there is funding for DHHL in the State Budget. The CD1 has not been made available yet. There were also reports on the news that the Charter Schools were going to be receiving more money. JD believes that the increase in funding may be due to the per-pupil funding formula increasing and it may not necessarily be "extra" money. She does not know how much of a help this will be with regard to the disparity issues, but when the CD1 comes out, Public Policy will take a look and report back if needed.

CL thanks JD and Public Policy team for their updates

KR requests moving out of order to Item V. A. since Public Policy is at the table.

CL and Trustees concur.

V. UNFINISHED BUSINESS

A. 2017 OHA Legislative Package Updates – Matrix 2

JD mentions that unfortunately, it appears as if the Konohiki Resolution did not make it out. It seemed as if the Senate Committee on Hawaiian Affairs had a lively conversation on the matter, but because of some difference in rules, it may not have made it out.

JD continued to share that the OHA Budget historic provisos remained intact. No Health, Housing and Income money was allocated. OHA did receive more than half a million more for the personnel budget, but it was considerably less than the amount requested. However, OHA will now be receiving about \$1 million for personnel in the budget which is more than OHA received in the past. This also comes with the fringe benefit. JD is waiting for the CD1 to come out to see exactly what it is. JD believes that OHA was fortunate to not get a reduced budget as some agencies did.

CL thanks JD for the updates.

KR requests to move back to item IV. New Business and call the Washington D.C. Bureau to present their items.

CL concurs.

The Committee Secretary calls Coti-Lynne Haia (CH), OHA Washington D.C. Bureau Chief. Trustees and KR greet Coti and thank her for being available to meet by teleconference for the BAE Meeting at an evening hour in Washington D.C.

KR requests beginning with item IV. C. Briefing: OHA Washington D.C. Bureau Update and then heading into item IV. B. 114th Congress Legislative Positioning — Matrix 1.

CL concurs.

IV. NEW BUSINESS

C. Briefing: OHA Washington D.C. Bureau Update

KR shares remarks and reminds Trustees of the update from the D.C. Bureau last year. One of the biggest priorities for Administration in this area was to increase and improve communication between the Trustees and Administration regarding the Federal Advocacy work that OHA does. One of the things mentioned at that meeting was the intent to develop, prepare and present an OHA Federal Legislative Positioning Matrix, similar to what the Trustees are used to seeing at the state level.

CH begins her briefing by acknowledging that the President, the U.S. House and the U.S. Senate are eager and active in their current roles. There has been a lot of talk on issues, but not so much movement yet. The first issue to mention is a revisit of what is being called the American Health-Care Act. This is the proposed Republican repeal of President Obama's Affordable Care Act, popularly referred to as the Obamacare Bill. The proposal fell apart last month. It is being said that they have been able to get the support of the House Freedom Caucus, the most conservative group in the House who make up 40 members. However, in doing that, they may have lost the support of the moderate Republicans. So, it seems that there is still a big hurdle to get over. No one is really talking about the Senate right now. The strategy being thought of right now is using a simple majority to pass the Bill rather than the usual 60%. Even with that strategy though, it is not sure if they will be able to pass it in the Senate.

The second thing to discuss would be the Appropriations Bill. The fiscal year 2017 comes to an end on Friday. There has been a lot of talk of whether or not Congress will be able to get through it without a shutdown. There are three options.

1. Shutdown
2. A Short Term Resolution
3. A Full Term Appropriation Bill

Right now, it appears as if option #2 is the most likely to occur.

CH wanted to share that the D.C. Bureau is now fully staffed. The employees are Coti-Lynne Haia, OHA Washington D.C. Bureau Chief, Kuulei Stockman, Executive Assistant/Office Manager and Christi Cardoza, Federal Public Policy Advocate.

She also shared an update regarding the Native Hawaiian Federal Service Fellowship Program. It is a partnership between OHA, Kamehameha Schools and the Hawaii Congressional Delegation. We were able to place 3 Fellows. One has been placed in Congresswoman Gabbard's office. One has been placed in Senator Hirono's office and the third Fellow in Senator Schatz's office. The Fellowship is for 9 months. One of the many benefits of this Fellowship is watching and then hearing

what the Fellows have learned and what they hope to bring back to Hawaii to share and help our beneficiaries.

Trustee Akana (T. Akana) asks why OHA only has Kamehameha Schools and asks if other schools can be included.

KR responds and clarifies that Kamehameha Schools is assisting OHA in funding the “lion’s share” of this Fellowship and further the goal of getting more Native Hawaiians trained and involved in the Federal Process and learning how to do things on Capitol Hill. KR reminded the Trustees that after the loss of Senator Inouye and the subsequent retirement of Senator Akaka and Congressman Abercrombie, the Hawaii Delegation not only lost seniority and experience, but they also lost much of the Native Hawaiian staff that served those members of the Hawaii Delegation. After coming up with a plan on how to reengage Native Hawaiians in the Federal Process and knowing that OHA’s budget is fluctuating and currently not allocating as much for this particular program, Administration came up with a proposal on how this Fellowship program can help in furthering OHA’s mission and Kamehameha’s mission. That is when they went to Kamehameha to present the proposal and were successful in securing Kamehameha’s assistance.

T. Akana asks if others would like to apply for the program, would they apply to Kamehameha or would they apply to OHA?

KR responds that it is a shared process. Both OHA and Kamehameha review the applications and make the decision together.

CH thanks T. Akana for the question and KR for the response. She then requests to continue the presentation and asks for everyone to look at the Federal Legislative Matrix and the Power Point presentation for additional information regarding the Bills listed on the Matrix.

IV. NEW BUSINESS

B. 114th Congress Legislative Positioning – Matrix 1

The first measure is OHA 1 - S. 254/H.R. 1169 - ESTHER MARTINEZ NATIVE AMERICAN LANGUAGES PRESERVATION ACT. It amends the Native American Programs Act of 1974 to reauthorize the program through Fiscal Year (FY) 2022, and also increases the length of grants from three to five years. It decreases the number of required Native students in Native American language nests and Native American language survival schools. This Bill will really be a strong support to smaller schools just starting out. Administration’s recommendation is to SUPPORT.

Next is OHA 2 - H.R. 1369 - INDIAN HEALTHCARE IMPROVEMENT ACT OF 2017. This Bill repeats current Indian Healthcare Improvement Act language as passed under the Patient Protection and Affordable Care Act with the intention of preserving IHCA, including the reauthorization of the Native Hawaiian Health Care Act, should a repeal of PPACA occur. This is the funding that currently goes to our Hawaiian Health Care Systems and Papa Ola Lōkahi. Administration’s recommendation is to SUPPORT.

The third measure is OHA 3 - SAFEGUARD TRIBAL OBJECTS OF PATRIMONY (STOP) ACT. This increases the maximum term of imprisonment from five to ten years for individuals convicted more than once for illegal trafficking of Native American human remains or cultural items, bans the export of illegally obtained cultural items, and also provides individuals with immunity from criminal prosecution if they voluntarily repatriate items to tribes. Also orders GAO to report on the number of cultural objects illegally trafficked and the prosecution of such cases. DOI must facilitate the convention of a working group to contribute to this report. As the Bill has not yet been reintroduced, Administration has no recommendation at this time.

The fourth measure is OHA 4 - NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT (NAHASDA). This is the primary source of federal funding for Native housing programs. It provides nearly \$700 million per year in discretionary formula block grants to eligible tribal housing authorities for construction and maintenance of reservation homes. In the 114th Congress, the bill reauthorized the Native Hawaiian Homeownership Act, providing \$13,000,000 each year from FY 2015 through FY 2019; reauthorized the loan guarantee program for Native Hawaiian housing at \$386,000 each year from FY 2015 through 2019; and authorized the Secretary to guarantee loans from FY 2015 through FY 2019 with a maximum aggregate outstanding principal amount set at \$41,504,000 for each FY. As the Bill has not yet been reintroduced, Administration has no recommendation at this time.

Trustee Hulu Lindsey (T. H. Lindsey) asks if another agency or organization can receive money from the Native Hawaiian Homewonership Act?

CH says that currently, the way the language in the statute reads, the Department of Hawaiian Home Lands (DHHL) is the only agency able to apply and receive the money. What the DHHL may be able to do is grant out the money or use the funding in partnership with others to further their mission and execute according to the requirements in the statute.

T. Akana asks CH to check again to see if OHA can apply as she was told that OHA can apply for the funding.

More discussion occurred regarding the Native Hawaiian Homeownership Act and really trying to see if OHA can apply for those funds. CH reads the statute and it is clear that at this time, only DHHL can receive the HUD money.

The final measure is OHA 5 - TRIBAL RECOGNITION ACT. In the 114th Congress, the bill replaced the tribal federal recognition process, requiring tribes to receive recognition through Congressional action. Tribes may submit a petition and file a letter of intent in advance, and groups may not be factions of recognized tribes or previously denied recognition. It provided federal recognition for seven tribes. As the Bill has not yet been reintroduced, Administration has no recommendation at this time.

More discussion occurred regarding OHA 5. The consensus was that there is no "perfect" process and that this is another process and OHA may want to support all processes of recognition.

CL thanks KR and CH for their presentation.

CL calls for a motion to approve:
IV. New Business

B. 114th Congress Legislative Positioning — Matrix I

T. H. Lindsey – moved
T. Waihe'e – second

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

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

OHA NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	STATUS	REFERRAL
OHA 1	S. 254 H.R. 1169	ESTHER MARTINEZ NATIVE AMERICAN LANGUAGES PRESERVATION ACT	Amends the Native American Programs Act of 1974 to reauthorize the program through Fiscal Year (FY) 2022, and also increases the length of grants from three to five years. Decreases the number of required Native students in Native American language nests and Native American language survival schools.	S 4/8/2017: Following the bill's 2/8/2017 favorable vote out of committee, Chairman Hoeven reported the bill without an amendment and was placed on the Senate Legislative Calendar. H 2/16/2017: Bill introduced	S Indian Affairs H Education and Workforce

OHA 2	H.R. 1369	INDIAN HEALTHCARE IMPROVEMENT ACT OF 2017	Repeats current Indian Healthcare Improvement Act language as passed under the Patient Protection and Affordable Care Act with the intention of preserving IHCIA, including the reauthorization of the Native Hawaiian Health Care Act, should a repeal of PPACA occur.	H 3/6/2017: Bill introduced and later referred to committees	Natural Resources (Indian, Insular, and Alaska Native Affairs); Energy and Commerce (Health); Ways and Means; Budget
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CL thanks everyone for their participation in today's updates.

VI. BENEFICIARY COMMENTS*

None

VII. ANNOUNCEMENTS

None.

VIII. ADJOURNMENT

CL seeks a motion to adjourn the BAE meeting.

T. Waihe'e - moved

T. Ahuna - second

CL asks if there is any discussion. There is none.

CL asks if any members vote NO or ABSTAIN. There are no dissenting votes.

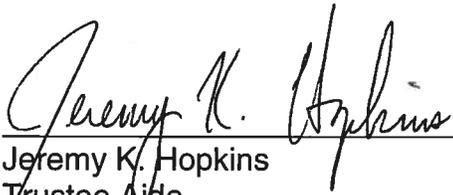
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI AHU ISA						X
VICE CHAIR DAN AHUNA		X	X			
ROWENA AKANA			X			
KELII AKINA			X			
PETER APO			X			
CARMEN HULU LINDSEY						X
COLETTE MACHADO			X			
JOHN WAIHE'E	X		X			

CHAIR ROBERT	LINDSEY		X			
TOTAL VOTE COUNT			7	0	0	

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

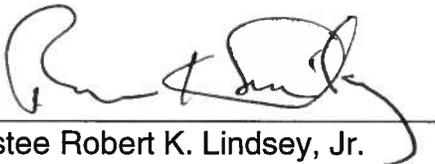
CL adjourns the BAE meeting at 2:28 PM

Respectfully submitted,



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

As approved by the Committee on Beneficiary Advocacy and Empowerment on 7/26/17.



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

ATTACHMENT(s):

- Excused Absence Memo – Trustee Leina‘ala Ahu Isa
- Power Point Presentation – 114th Congress Legislative Positioning
- 114th Congress Legislative Positioning - Matrix 1