

# **BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**August 4, 2021**

**Online Only via BlueJeans**

**CONVENE:** 1:35 p.m.

**PRESENT:** Councilmember Keani N.W. Rawlins-Fernandez, Chair  
Councilmember Tamara Paltin, Vice-Chair  
Councilmember Gabe Johnson, Member  
Councilmember Kelly Takaya King, Member  
Councilmember Alice L. Lee, Member  
Councilmember Michael J. Molina, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**EXCUSED:** Councilmember Tasha Kama, Member

**STAFF:** Lesley Milner, Legislative Analyst  
Kasie Apo Takayama, Legislative Analyst)  
Richard Mitchell, Legislative Attorney  
Yvette Bouthillier, Committee Secretary  
Kristeena Locke, Council Services Assistant Clerk

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson  
Stacey Moniz, Executive Assistant to Councilmember Gabe Johnson  
Evan Dust, Executive Assistant to Councilmember Tasha Kama  
Davideane Sickels, Executive Assistant to Councilmember Tasha Kama  
Lois Whitney, Executive Assistant to Councilmember Tasha Kama  
Axel Beers, Executive Assistant to Councilmember Kelly Takaya King  
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King  
Sarah Freistat Pajimola, Executive Assistant to Councilmember Keani N.W.  
Rawlins-Fernandez

**ADMIN.:** Marcy Martin, Real Property Administrator, Department of Finance (BFED-80)  
Kristina Toshikiyo, Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:** Kaniola Kamaunu (BFED-80)  
Keeaumoku Kapu (BFED-80)  
Terrill James Kanealii Williams (BFED-80)  
Kaimi Judd (BFED-80)  
Kaulu Luuwai (BFED-80)  
S. Kaleikoa Ka'eo (BFED-80)

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Leonard Nakoa (BFED-80)  
Joyclynn Costa (BFED-80)  
Kahele Dukelow (BFED-80)  
La'akea Low  
Rod Antone, Executive Director, Hotel Lodging Association  
Others (5)

Wayne Chung Tanaka, Office of Hawaiian Affairs (BFED-80)

**PRESS:** Akaku: Maui Community Television, Inc.  
Kehau Cerizo, *The Maui News*

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CHAIR RAWLINS-FERNANDEZ: . . .*(gavel)*. . . Aloha 'auinalā kākou. Kanakolukūmākolū minuke i kahōla, i ka hala o kahōla 'ekahi. *(audio interference)*

COUNCILMEMBER LEE: Frozen.

COUNCILMEMBER KING: Is she frozen or...everybody?

COUNCILMEMBER LEE: She's frozen.

COUNCILMEMBER KING: Sometimes I can't tell if it's my internet connection or...

VICE-CHAIR PALTIN: Okay, I'll take over. Welcome to the BFED Committee. The time is 1:34, and I'm your Vice-Chair --

CHAIR RAWLINS-FERNANDEZ: All right, I'm back.

VICE-CHAIR PALTIN: Okay, she's back.

CHAIR RAWLINS-FERNANDEZ: . . .*(laughing)*. . . Mahalo trusty Vice-Chair. Okay. Gallery view, okay. E kala mai. And that was me being hardwired. I'm trying, but I guess Wi-Fi is better. So I will start from the top. Aloha 'auinalā kākou. Kanakolukūmālima minuke i ka hala o kahōla 'ekahi. Ma 'ehā o Aukake I ka makahiki 'elua kaukani iwakāluakūmakahi. E 'olu'olu mai, e ho'omalū ke Komike Mo'ohelu Kālā a me. Am I frozen again?

COUNCILMEMBER LEE: No.

CHAIR RAWLINS-FERNANDEZ: Okay. Komike Mo'ohelu Kālā a me 'Ho'mohala Waiwai o wai kaluna ho'omalū o kēia Komike o Keani Rawlins-Fernandez. It is 1:35 on August 4th, 2021. Will the Budget, Finance, and Economic Development Committee please come to order. I'm your Chair, Keani Rawlins-Fernandez. I kēia la me kou kākou eia hope luna ho'omalū Tamara Paltin. Aloha, a me bon après-midi.

VICE-CHAIR PALTIN: Aloha 'auinalā a me bon après-midi.

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CHAIR RAWLINS-FERNANDEZ: Aloha. Councilmember Shane Sinenci, bon après-midi.

COUNCILMEMBER SINENCI: Aloha 'auinalā, Chair. Bonjour, bon matin, bon après-midi, comment allez-vous.

CHAIR RAWLINS-FERNANDEZ: Ça va, ça va. Merci. Councilmember Mike Molina, bon après-midi.

COUNCILMEMBER MOLINA: Aloha and bonjour, Madam Chair. And bon appétit and whatever else to all of you. Mahalo for having this meeting today. Blessings to all.

CHAIR RAWLINS-FERNANDEZ: Bon, bon, bon. . . .(laughter). . . Council Chair Alice Lee, bon après-midi.

COUNCILMEMBER LEE: Bon matin and bon voyage.

CHAIR RAWLINS-FERNANDEZ: I'm not going anywhere . . . .(laughter). . . but Member Paltin will be. Okay. Councilmember Kelly King, bon après-midi.

COUNCILMEMBER KING: Bon après-midi, Chair. And yeah, we will be wishing Member Paltin bon voyage hopefully. Hopefully everything's on schedule to travel.

CHAIR RAWLINS-FERNANDEZ: Yes. Absolutely. Councilmember Gabe Johnson, bon après-midi.

COUNCILMEMBER JOHNSON: Bon après-midi and good afternoon, Councilmembers. Good afternoon, Chair. Aloha.

CHAIR RAWLINS-FERNANDEZ: Aloha. And Councilmember Yuki Lei Sugimura, bon après-midi.

COUNCILMEMBER SUGIMURA: Bon après-midi, and thank you very much for our lessons in all these different foreign languages, Chair Lee. This is so fun, and it certainly sets the tone for a very interesting meeting. Thank you very much. Good afternoon, everybody.

CHAIR RAWLINS-FERNANDEZ: Merci, merci. And Pro Tem Tasha Kama is excused today. From Corporation Counsel we have Kristina Toshikiyo, Deputy Corporation Counsel. Bon après-midi.

MS. TOSHIKIYO: Hi. Oh, aloha, Chair and Members. I don't know how to say that word, I'll practice.

CHAIR RAWLINS-FERNANDEZ: Aloha. And our Committee Staff, we have Committee Secretary Yvette Bouthillier.

MS. BOUTHILLIER: Good afternoon, Committee Chair and Members.

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CHAIR RAWLINS-FERNANDEZ: Good afternoon. Budget Committee Analyst Lesley Milner.

MS. MILNER: Aloha, Chair. Bon après-midi, Members.

CHAIR RAWLINS-FERNANDEZ: Bon après-midi. And Kasie Apo Takayama, Legislative Analyst.

MS. APO TAKAYAMA: Bon après-midi, Chair and Members.

CHAIR RAWLINS-FERNANDEZ: Bon après-midi. And Legislative Attorney Richard E. Mitchell.

MR. MITCHELL: Bon après-midi, Chair and Members.

CHAIR RAWLINS-FERNANDEZ: Bon après-midi. Okay, Members, we have two items on today's agenda, BFED-80 Kuleana Land Exemptions, and BFED-52 County Transient Accommodation Tax. And before we start with testimony, I did see some written testimony come in that I wanted to make a quick announcement regarding the first item, BFED-80, which is the Kuleana Land Exemptions. We will be taking up different legislation regarding 'āina 'ōhana next month. So just in case some testifiers may have the two confused, that will be in an upcoming meeting, but not for today. For today, it'll be the Kuleana Land Exemptions, which include an expansion of the definition, and the consideration for back tax and penalty forgiveness under the Kuleana Land Exemption. Okay? So we'll begin with public testimony. Oral testimony via phone or video conference will be accepted. Please note that if you're signed in, you are on the list to testify even if you did not request to testify. Please let Staff know in the chat if you're signed on and do not intend to testify. Testifiers wanting to provide video testimony may join by going to the BlueJeans meeting link or by calling the phone number noted on today's agenda. The Committee intends to keep the same meeting link and phone number for all BFED Committee meetings. Written testimony is highly encouraged. Instructions on how to submit written testimony can be found at [mauicounty.us/testify](http://mauicounty.us/testify). Oral testimony is limited to three minutes per item. When testifying, please state your first and last name. If you are testifying on behalf of an organization or are a paid lobbyist, please inform the Committee. Staff has posted a link to the testifier's log in the chat so that testifiers will be able to see where they are on the list. Please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with Councilmembers or other testifiers. If providing testimony, please be courteous to others by muting your microphone and video while waiting your turn to testify. Okay. Participants who wish to view the meeting only without providing testimony, please also disconnect at this time, and instead view the meeting on *Akakū* Channel 53, Facebook Live, or on [mauicounty.us](http://mauicounty.us). Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. Oh, and I forgot to read the disclaimer. And this online meeting is being conducted in accordance with the Governor's most recent emergency proclamation on COVID-19. Please see the last page of the agenda for information on meeting connectivity. All right, we will now proceed with oral testimony, starting with Kaniloa Kamaunu, followed by Keeaumoku Kapu.

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**. . .BEGIN PUBLIC TESTIMONY. . .**

MR. KAMAUNU: Aloha mai, Councilmembers. Mahalo for the Committee meeting today. In 2009 when this came up from OHA, the proposal for the kuleana tax, it was a 150 that they were looking at, and which happened in all the rest of the counties. When it came to Maui and I testified, I testified that actually Council didn't have the power to exercise a tax on kuleana lands because according to the old law, all commutations were paid in full. The lands that were given in the Land Commission Award, if the person couldn't pay, the ali'i is paid. And a lot of times the ali'i paid for people to receive their lands. and they were clear of commutations, meaning no taxes were owed on the property anymore. Also, they alienated their rights to the property, which then gave the person an allodial title. Now, I know people like to use the word or the term...oh, what is that? Oh, I can't think of it. Anyway, where the king still had a title to the land when actuality, because he gifted it, alienated it, and gave it to that person, that person became the sole possessor of that property. And that's why they call it kuleana because of the infringement of all...of foreigners coming in wanting to buy lands, they had to share that responsibility to protect the lands with their people. And so they took upon it Māhele was the answer that they came up with. And so they made it that person's responsibility. So being able to make it their responsibility, they had to give them the full rights to the property. That means there couldn't be any encumbrances. Otherwise such as what's being done today with the real property tax has taken our people off of their lands. And that encumbrance was removed for that main purpose. And for the County to impose a tax is illegal because of the law. When I brought this forward, Corp. Counsel at that time advised when Bill Medeiros asked if what I was saying right and were you guys breaking the law, Corp. Counsel stated that it's an old law, meaning that the law still is in effect. And also being that because it was adjudicated in another country, this country does not have the ability or the mechanism to change . . .(timer sounds). . . it. Also to let you know as I close that the United States has no land patents in Hawai'i, and there's a reason. Because it didn't have the right to do so. And they don't own all the lands according to your resolution of annexation. They only got 1.8 million acres. All the private lands stayed within the hands of those people. So I'm opposed to any taxes. I am in favor of the change in what was proposed. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Kamaunu. Member, questions for Mr. Kamaunu? Seeing none, we'll thank you for your testimony today. Aloha.

MR. KAMAUNU: Mahalo.

CHAIR RAWLINS-FERNANDEZ: Our next testifier is Keeaumoku Kapu, followed by Terrill James Kanealii Williams. Aloha. Mr. Kapu? We can see you, but we cannot...we cannot hear you. Perhaps turning off your video, and then maybe we'll be able to hear you. Oh, shucks. Okay. We're still not getting any audio, Mr. Kapu. Perhaps Staff can provide Mr. Kapu with the phone number to call...to call in to testify. And in the meantime, we'll go on to our next testifier, and we'll come back to Mr. Kapu. Terrill James Kanealii Williams.

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MR. WILLIAMS: Aloha kākou, can you folks hear me?

CHAIR RAWLINS-FERNANDEZ: 'Ae.

MR. WILLIAMS: Aloha. My name is Terrill James Kanealii Williams. I'm calling in from the Ahupua'a of Kuiaha in Ha'ikū, Hāmākualoa, Maui from my 'ohana's kuleana lands, Land Commission Award 3336 Royal Patent allodial title 2194, heir of Nalopi. I want to testify in support of the proposed amendments on the bill. I am aware that there are Members on the Committee that have been pushing for and putting in an effort to impose taxes onto kuleana lands and heirs. As Uncle Kaniloa mentioned, our lands are under Royal Patent allodial titles, which means that when these lands were given to our ancestors by the Hawaiian Kingdom government and passed on through our families, and predates the County and the States as political entities that have now been on our lands. As allodial titles, we, as the kuleana heirs, are the only ones that have complete ownership over our lands. We do not owe any taxes to any government. So to even consider or think about trying to impose taxes on us when we have the allodial titles is absurd and inappropriate. I lose my train of thought, but...it's also...to me it's an attempt to hold our lands hostage and to force us to pay ransom in the form of taxes to an entity that doesn't have jurisdiction over our lands. These are...our lands are not tax map keys. We do not own tax map keys, we have the allodial title through the Royal Patents. And because of that, we are not required to pay taxes. It's not a tax map key. That's the definition of tax map key. Our kuleana lands are Royal Patents, allodial titles. And that distinction needs to be understood by this Committee in order to fully understand what you folks are getting involved with. Because to even impose taxes on us is illegal by definition of what these land titles are classified under. So that's just my mana'o and what I'd like to share. Again, it's in support of the amendments to the bills. Another thing is that we've...you know, a lot of kuleana families have experienced through past taxation, not knowing that they didn't have to pay taxes on their lands, and therefore have been displaced from their lands under this shroud, and that they were supposed to be doing that when they have the Royal Patent allodial title. So as far as the . . . (timer sounds). . . tax forgiveness and dealing with taxes, that needs to be pushed forward to make sure that those families get their money back, and get their land back as well.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Williams. Members, any questions for our testifier? (audio interference) Okay. I see Mr. Kapu back on.

MR. KAPU: Hi, aloha. Can you hear me?

CHAIR RAWLINS-FERNANDEZ: Aloha. Yes, we can hear you.

MR. KAPU: Okay. Mahalo. Aloha kākou, Councilmembers. Mahalo for this opportunity for me to come forward and testify on this. I support this resolution on the tax exemptions, and the reason why. In 2009, it was my 'ohana from O'ahu that initiated that first go about asking for the exemption because of the property taxes were going up in the area. And her name was Dawn Lawson, Kūpuna Dawn Lawson. She's no longer with us. She

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passed about couple years ago. And it's always a constant reminder for me that when this issue comes about, she had taken on some really heavy hits trying to get the County Council of Honolulu to look at the seriousness pertaining to why kuleana lands needed to be exempted. For myself, I've struggled for over 20-some odd years to state my issues and the purposes pertaining to why these land titles are basically...you know, one of the biggest questions as to whether or not a lot of these lands that are within the privy of the County tax office on how much of those property basically are still under the guise of a kuleana. And why I say that is because it's an undivided interest claim, basically. So the reason why I bring that up is because I'm the proof of the pudding. When it came down to land litigation pertaining to the kuleana rights pertaining to properties that was awarded through heirship, it took me 20-some odd years to prove the fact that I do have an undivided interest. Only to find out that the adjoining landowners, which thought he bought a warranty title deed, actually didn't own the property to begin with. So I'm still going through the issue pertaining to the Maui County tax office that pertaining to when I am...I am going to get my tax exemption. I've proven myself and the information that the past 20 years I've been stuck in court and still trying to figure out what is the next step for me, filling out the application to find that exemption within the County. I think what is really important...like I said, I support this measure. But I think what is important is does the County even have a list of kuleana? And how much kuleana still exists within the County, the County of Maui? There's a lot. But when it comes to providing that information to getting kūpuna...especially a lot of our kūpuna who have been stuck in the trenches on basically losing parts of their property because they couldn't afford the taxes, now we talking about taxes. What is the remedy...what is the amount of people that have kuleana, and whether or not they're still stuck in the trench. What are we going to do to help that kūpuna to realize that if there is an exemption that they qualify for, I'd like to see more of the educational component on how that can go forward to start the process to help these kūpuna and help these kuleana. Because once the kuleana...once the kūpuna passes and it goes to the next heir, that undivided interest claim goes to the heir, the blood kin of that 'ohana. . . .(timer sounds). . . We need to be...make sure that those families know exactly the remedy that it would take so they are the next generation that is not suffering the same fate. So mahalo for this opportunity for me to testify. I have some concerns, and one of those are the spouse that all of a sudden marries within the family. What happens to that? Because if it's by blood, it should only be by blood. Like if that spouse was married to but never have kids, then the property needs to be reverted and stay within the blood kin of the 'ohana. So mahalo no. Aloha. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mr. Kapu, I see questions from Member Sinenci and Member Paltin. Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Mr. Kapu, for your testimony today. Just a clarifying question. So the original owner would be on the deed, the kuleana would be on...or some of the other testifiers said it would be on a Land Commission Award, a LCA?

CHAIR RAWLINS-FERNANDEZ: Mr. Kapu?

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COUNCILMEMBER SINENCI: I think we lost connection.

CHAIR RAWLINS-FERNANDEZ: I think so. Oh, there. Mr. Kapu?

MR. KAPU: Yeah.

CHAIR RAWLINS-FERNANDEZ: Okay, there we go. Did you hear Member Sinenci's question?

MR. KAPU: No, I lost the whole second half of the beginning.

COUNCILMEMBER SINENCI: Oh, okay --

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Kapu.

COUNCILMEMBER SINENCI: -- so...sorry. The question was. So the awardee of the kuleana, would their name be on a deed or on the LCA?

MR. KAPU: Well, normally how this works is when they go in front of the tax office, you have to submit some kind of information to show that they are the original heir that ties to the recipient of the Land Commission Award from the time of the crown. So now if the families, yeah, can't make that genealogical tie...even if they did make a genealogical tie, who makes that determination to say that that person has a kuleana right of an exemption? So when you look at the application, the application is kind of confusing. So what we've been doing with our hui is educating families on how to put an affidavit together because when you do an affidavit, the affidavit clearly shows from you until all the way to the branch of the successor from the Land Commission Award Royal Patent of the property. That affidavit is submitted to the tax office so the tax office can clearly see, yeah, there is an unobstructed, undivided interest of that heir. So the problem is, a lot of the family that have an interest to these claims have to make that direct genealogical tie. But if you do it like...what, like family search and the pedigree chart, not even judges can understand that. So that's why it takes a long time for...especially for the tax office. And I think the tax office needs to find some kind of remedy pertaining to how they going to know that that person is the original heir of that Land Commission Award, which now is turned into a TMK, a tax map key. So from the tax map key, what is the research effort pertaining to the County of Maui tax office to find that Land Commission Award? Because when you go through TMKs today, a lot of the tax map books don't show the Land Commission Award of the original heirs. You get where I coming from?

COUNCILMEMBER SINENCI: Yes.

MR. KAPU: Yeah, so --

COUNCILMEMBER SINENCI: Mahalo.

MR. KAPU: -- it's kind of complicated, but should a affidavit, if family wants to do the affidavit to do their connection direct to the awardee of the Land Commission Award, then the



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County would be definitely clear as pertaining to whether or not that individual has a claim for a kuleana.

COUNCILMEMBER SINENCI: Right. Okay, mahalo. Mahalo for that.

MR. KAPU: Yeah.

COUNCILMEMBER SINENCI: Mahalo, Chair.

MR. KAPU: Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Member Paltin, followed by Member Johnson.

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Kapu, for your testimony. Just couple clarifications. In the bill, it lists family member meaning spouse, child --

MR. KAPU: Yeah.

VICE-CHAIR PALTIN: -- or descendant of a child, sibling or descendant of a sibling, parent or ancestor of a parent, or sibling of the person's parent. So you want to take out spouse from that definition? If the spouse --

MR. KAPU: Yeah --

VICE-CHAIR PALTIN: -- if the spouse is not a -

MR. KAPU: -- because --

VICE-CHAIR PALTIN: -- lineal descendent?

MR. KAPU: -- yes, because that...the word spouse is...and let me give you...let me paint you one example. Like if all of a sudden there was an awardee to a land...not a Land Commission Award, to Department of Hawaiian Home Lands, you would have to have 50 percent, right? So now the 50 percent is the turnkey which can actually go to the 25 percent. Now, if that heir dies, the 50 percent dies and doesn't have a heir or successor to transfer, it doesn't go to the wife because the blood of that land...that Hawaiian Homes lease can only go to the next of kin. It can't go to the wife, because the wife didn't apply for that property. So same is what I'm trying to explain as pertaining to the Land Commission Award. When Land Commission Award was passed down, it was passed down by blood. Now, if that person married a person with no interrelationship, no blood, and if they never have kids, they never have children, the property doesn't go to the spouse. The property has to stay within the heirship. And that's how the kuleana lands were written out to make sure that through the exchange of an allodial title, would be an exchange of an intestate successor by blood.

VICE-CHAIR PALTIN: Okay.

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MR. KAPU: You get where I'm coming from?

VICE-CHAIR PALTIN: Yes.

MR. KAPU: That's why I kind of little sketchy about the spouse.

VICE-CHAIR PALTIN: Okay.

MR. KAPU: Because sometimes the spouse doesn't even have any relationship, never had kids, but how did the spouse all of a sudden end up with the kuleana land?

VICE-CHAIR PALTIN: Okay, yeah, yeah.

MR. KAPU: I hope you understand. Yeah.

VICE-CHAIR PALTIN: And then the second clarification I had, when you were talking about educating, were you referring to the County to be the educator? Because I think OHA is also on the line. Could it be, like, OHA or another entity? Or were you...it doesn't matter, just as long as somebody's educating folks --

MR. KAPU: Yeah --

VICE-CHAIR PALTIN: . . .*(inaudible)*. . . kuleana.

MR. KAPU: - I wouldn't know how that would be, but we have a lot of scholars out there that would kind of alleviate the situation pertaining to if families was to come in and try to get an exemption. I think both sides of the table got to really understand what's in the mix, what is required. Because if you look at the application, it really doesn't tell you anything. So when I submitted, and I tell families to submit their application, to make sure that they enter their affidavit that clearly shows they have a direct track. Yeah --

VICE-CHAIR PALTIN: Okay.

MR. KAPU: -- so...yeah.

VICE-CHAIR PALTIN: Thank you. Thank you --

MR. KAPU: Mahalo.

VICE-CHAIR PALTIN: -- Mr. Kapu. Thank you, Chair.

MR. KAPU: Yeah, mahalo. Thank you.

CHAIR RAWLINS-FERNANDEZ: Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good afternoon, Mr. Kapu. I just had a

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quick question for you, clarification question. You mentioned that you family has helped many other families with the application and the affidavit. So have you encountered people who were...were having a hard time with the funds to the...pay for an affidavit?

MR. KAPU: No, the affidavit isn't that expensive. I think it's just the work involved.

COUNCILMEMBER JOHNSON: Oh.

MR. KAPU: On whether you find these things...oh, mahalo to OHA, you have Papakilo Database, you have Kipuka Database. Then you have some online sites in ways on how to help families. But like for us, the affidavit basically made things easier because once you file the affidavit, you get it notarized and you submit it to the Bureau of Conveyance. Now, if there's a mistake in the Bureau of Conveyance, then they kick it back --

COUNCILMEMBER JOHNSON: Okay.

MR. KAPU: -- which means...

COUNCILMEMBER JOHNSON: Not necessarily the funds, it's more the time, you're saying?

MR. KAPU: Yeah.

COUNCILMEMBER JOHNSON: Okay.

MR. KAPU: The time --

COUNCILMEMBER JOHNSON: Yeah.

MR. KAPU: -- the research...you know, those things. So that's why we're here with Maui...and we also have some other branches on other islands to help families with those kind of situations. And the affidavit doesn't only tie to kuleana lands. The affidavit can also be used when you applying for Hawaiian Homes, that you need to show that you have a 50 percent blood quantum in order to qualify. The affidavit can also be used for, like, if families was going to Kamehameha School, they needed to show that they have a blood tie -

COUNCILMEMBER JOHNSON: Okay.

MR. KAPU: -- you know, so the affidavit can be used for many things. So mahalo.

COUNCILMEMBER JOHNSON: Okay, yeah. That's good to hear. All right. Thank you, Mr. Kapu. Thank you, Chair, I have no further questions.

MR. KAPU: Thank you. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Johnson. It looks like there's no further questions. Thank you so much, Mr. Kapu, for answering our Members *(audio*

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*interference)*

MR. KAPU: Okay, mahalo. Mahalo kākou.

CHAIR RAWLINS-FERNANDEZ: Next testifier is Kaimi Judd, followed by individual signed in a U'ilani. Mr. Judd. Aloha.

MR. JUDD: Aloha, Chair, Councilmembers. My name is Kaimi Judd. I fully support this proposal, BFED-80. You know, I personally know families affected and, you know, this will provide critical relief to the few remaining native Hawaiian families that maintain their family lands since their acquisition under the Kuleana Act. I know in my capacity in my work, they may seem as though we're...as a development company, part of a problem. But here to tell you that I personally am...want to be part of the solution and so, you know, I hope we can continue to work together to support this and any other measures that work towards fair taxing...taxation of property taxation. But particularly for these lands that have been maintained not only to get to now, but to continue through the future for the...those keiki. So thank you. Mahalo.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Judd. Members, any questions? Seeing none, we'll thank you for your testimony today. Aloha. Our next testifier is the individual signed in as U'ilani followed by Kaulu Luuwai. U'ilani? Okay. We'll try back after the next testifier. Ka'ulu Lu'uwai.

MS. LUUWAI: Aloha. Can you hear me?

CHAIR RAWLINS-FERNANDEZ: Yes. Aloha.

MS. LUUWAI: Okay. I'm going to keep my video off just to make sure it doesn't cut out for you folks. So I'm sorry about that, but...aloha Chair Rawlins-Fernandez and Vice-Chair Paltin and all the Councilmembers here today. My name is Kaulu Luuwai. My family comes from Makena, Maui, and I strongly support this bill that will expand the definition of kuleana land and provide relief for many 'oiwi or native Hawaiian families. I'm a recent graduate of the William S. Richardson School of Law, and I actually worked with the 'āina Aloha Economics Future Initiative as a volunteer while I was a student in law school to pass Senate Resolution 29 and Senate Concurrent Resolution 57 in the legislature this past year. And when we were working to pass this bill and during the legislative session, one of the main concerns the legislators had was loss of revenue for counties that might occur from expanding the definition, and also loss of revenue if past taxes were forgiven. And so I just wanted to maybe address some of the concerns for you folks up front, and I can also answer questions based on my work trying to pass these resolutions and drafting...helping to draft the resolutions when I was a volunteer. So as to the first concern, at the time the kuleana lands were distributed during the Māhele, they only made up less than one percent of all lands in Hawai'i and especially be...this is a...such a low number because of the difficulty 'oiwi native Hawaiians had in claiming these kuleana lands, especially from the neighbor islands because you were required to travel to Honolulu to actually claim these lands. And so *(audio interference)* in particular holds the kuleana lands are so small and it's really few and far between,

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and especially considering as generations have gone on that many have sold their lands because they couldn't afford the taxes, and especially before the tax exemptions were enacted by the counties. And so expansion of the definition of kuleana lands, as it stands right now and based on the Senate Resolution, would only expand the land that would be applicable to less than four percent of all lands in Hawai'i. And this number is actually only based on the amount of lands distributed during the Kuleana Act or during the Māhele. And so this number does *(audio interference)* account for the lands that have been sold off after these lands were acquired, and also loss due to failure to pay property taxes in the past. And so therefore, the expansion of the definition based on the research we have would not lead to a significant loss in tax revenue. And as to the second concern that legislators had, if you read the language of the SR 39 and SCR 57, you'll note that the resolutions value...or they articulate the value of these lands to 'ōiwi and to the fabric of the Maui community and also to Hawai'i *(audio interference)* allowing Hawaiians to be...or their taxes to be forgiven, I think significantly outweighs the revenue losses . . .*(timer sounds)*. . . to the counties and the County of Maui. Mahalo again for the opportunity to testify, and I am available to answer any questions.

CHAIR RAWLINS-FERNANDEZ: Mahalo. I see a question from Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Kaulu, for your testimony this afternoon. My question was...so is there just a set amount of kuleana parcels that were distributed during the Māhele? And is there a way of...can you expand that, or this was just those awards at the Māhele?

MS. LUUWAI: Yes, so the kuleana lands would have to have been acquired during the...well, at the time of the Māhele. And so any lands that are labeled kuleana have to be traced back to the time of the Māhele. And so those...the definition of kuleana lands right now is very narrow. And it also...there are parameters that were established by the Kingdom and by the Land Commission at the time. So they could only be a certain size, I think it was maybe a quarter acre. The 'ohana had to farm on the land, had to live on the land. You were only allowed to have a kauhale. So it was...it's very narrow definition. And so expanding the definition to include more lands, although it's still such a small portion of lands when compared to all of the Hawaiian islands, would help others who could not...who would not necessarily...who would not fall into that narrow definition of kuleana lands.

COUNCILMEMBER SINENCI: Okay. All right. Thank you. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Okay. Seeing no other questions, I guess I have a quick question. In your work, did you find...or do you know of families that are working on securing the verification through OHA that don't currently have the exemption?

MS. LUUWAI: I...not...I don't know any stories, but I know we have, I guess, allegorical stories that we've been collecting. There's an organization on Kaua'i who is actually collecting all these stories of families and trying to help them go through the process with OHA. But I'm not aware of anyone on Maui trying to do that, or actively seeking families who

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are having these difficulties.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Member King, you have a question?

COUNCILMEMBER KING: Yeah, I have a quick question. I think it's quick but I don't know, maybe not. But no, thank you to Ms. Luuwai for the information that you're...you've shared with us. I just wondered if there were...if this...are you lobbying the other counties? Are we the first county to get the...you know, have this proposal before us?

MS. LUUWAI: I...we...we're actually working closely with some of the Councilmembers on Kaua'i because they have had more concerned citizens come directly to them. And so I know that they have taken up some of the language from the resolution, and they also have an active non-profit who is helping a lot of families to go through the process, and also looking at ways to solve the retroactive application of the kuleana exemption for them.

COUNCILMEMBER KING: Okay. When you say the resolution, you're talking about the State Resolution?

MS. LUUWAI: Yeah. Based on the State Resolution language, yes.

COUNCILMEMBER KING: Okay. So...but as far as you know, just Kaua'i and Maui working on this right now?

MS. LUUWAI: Yes.

COUNCILMEMBER KING: Okay. I was asking because I sit on the board of HSAC, so I can bring this up at the Hawai'i State Association of Counties. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. And we do have Ms. Marcy Martin is on the line, who will be able to speak a little bit more to your question about that. Ms. Luuwai herself was working with Maui and Kaua'i, but I think Ms. Martin will be able to speak a little bit more to that question.

COUNCILMEMBER KING: Oh, okay.

CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KING: . . .*(inaudible)*. . .

CHAIR RAWLINS-FERNANDEZ: Yeah, and that's --

COUNCILMEMBER KING: Thank you.

CHAIR RAWLINS-FERNANDEZ: -- Senate Resolution 39. Mahalo, Ms. Luuwai. Our next testifier is individual with the last four digits 2053, followed by Kaleikoa Ka'eo. Aloha, caller with the last four digits 2053, I've unmuted you. Okay, we'll go to our next

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testifier, and I'll leave the caller for now, and we can check back after. Kaleikoa Ka'eo.

MR. KA'EO: Sorry.

UNIDENTIFIED SPEAKER: Hello?

MR. KA'EO: Hello, okay. Yeah. Here we are. I think I'm live. Okay. Aloha nui. No?

CHAIR RAWLINS-FERNANDEZ: Aloha.

MR. KA'EO: Can you hear me? Good?

CHAIR RAWLINS-FERNANDEZ: 'Ae.

MR. KA'EO: Okay. Yeah, I'd like to testify in support of this measure. First of all, in regards to protecting the interest of kuleana claimants and kuleana owners, but I'd like to just add a little bit of...a little bit of background. I'm an associate professor of Hawaiian Studies at UH Maui College. I kind of have a long history of working also with kuleana families and kuleana claimants, and there's a lot of...I just want to say there's a lot of...well, one, misinformation and I think a lot of education that really needs to occur also while this measure is being pushed forward, hopefully. In that...well, first of all, to kind of understand, you know, when we think about...what we call in a narrow, again, using the word narrow sense of what's called a kuleana lands, and what they're really referring to are lands that were divided, the word Māhele, or what people refer to the Māhele means to divide in what's called the Kuleana Act of 1850. Which was an act...again, this is during the Hawaiian Kingdom Period, which was an act that followed the 1848 Māhele Nui. And so when you think about the division of lands, we kind of first of all need to understand that it's not really a division of lands as much as it was a division of rights to the lands. And this is why sometimes a lot of confusion about exactly what was divided. And when I think about the totality of what we call kuleana lands of 1850, we're really talking about 28, 29,000 acres of land, roughly about 12,000 claimants. And so when we think about what we call kuleana lands or kuleana awards, sometimes called Land Commission Awards as they're recorded, or LCAs, these are lands that were confirmed through the Land Commission...the Land Commission, who looked at claims by the Maka'āinana, who made claims against their so-called Konohiki or Ali'i, who were the original awardees of lands within the 1848 Māhele. Now, as you can see, it kind of gets complicated unless you really understand the history. Many people have a very difficulty understanding. So if you go back to 1848, you also got to go back to the first Hawaiian Constitution, back in 1840, really where the lands for what we call the Maka'āinana or the native tenants were secured. Now, part of to understand what happened with the Māhele or what happens with the kuleana lands is that in the 1840 National Constitution of the Hawaiian Kingdom...and that goes back to the 1839 Declaration of Rights, what it did was it secured a one-third interest of all lands, A-L-L, all lands during the Hawaiian Kingdom where the so-called...what we call native tenants of Maka'āinana hoā Maka'āinana and they had rights to those lands. Part of those rights...now, I used the word part of those rights, it wasn't exclusive rights, was to make a claim, which became a Land Commission Award. But those rights also included, you

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know, as we should know today, right, these are rights that also included rights to access, rights to water, rights to claim lands that families had been using and could claim as whether farming or residential areas. But the type (*audio interference*)

CHAIR RAWLINS-FERNANDEZ: Oh. . . .(*timer sounds*). . . Oh. Did my timer go off. Mr. Ka'eo. Uh oh. Okay.

MR. KA'EO: What becomes privatized lands in Hawai'i. Now even the question of privatized lands kind of just off the top of my head, we kind of really got to understand that fundamentally the Hawaiian...during the Hawaiian Kingdom period, the land system or the land tenure system was not at all based upon the American system. And this is where people kind of get confused. It actually was a westernized...best way to describe...a westernized version of a traditional Hawaiian system. And so it's really a hybrid system that was created based upon traditional principles, which were...and that's why a kuleana wasn't just a fixing . . .(*timer sounds*). . . or in other words, I get three acres in Wailuku Valley or something Wailuku. But it also included...beside the so-called three acres were rights to access, rights to water, a right...I mean, a whole bunch of other rights that came along with the kuleana. And so this is why in today's...you know, whether it's in the Land Courts or struggles that may be going on in the courts, there is this kind of misconnect in many times because there is a kind of lack of understanding of the historical context going back to the Hawaiian Kingdom era. So I like to also say I think it's a good measure for the Hawai'i County...the County Council...I'm sorry, Hawai'i...the Maui County Council to really be progressive-minded . . .(*timer sounds*). . . and kind of be proactive in being educated about these issues. Because as we already realize on Maui, lots of these issues are popping up ever, ever more. And I believe you'll see more and more happening as more and more people kind of get educated, more and more people start to recognize their genealogy, recognize their ancestral claims, and actually recognize the legal framework that these lands were developed in, you're going to see more and more contention, I believe so, within Maui County. So it's actually a smart idea to be educated about this, and I just like to drop there are a couple of real good -

CHAIR RAWLINS-FERNANDEZ: Mahalo.

MR. KA'EO: -- educators out there, people like Donovan Preza, who's another...whose master's actual work is on the Kuleana Act and the history of privatization. His actual PhD is actually looking at this also. So, you know, I myself, I'm not an expert at all. I know enough to say that even in the courts, which I testified in the past, I've had to explain to judges and clarify certain meanings where, as Brother Keeaumoku Kapu had mentioned earlier, there's a lot of...people kind of got to understand that, you know, when we talk about succession or you talk about exactly what kind of --

CHAIR RAWLINS-FERNANDEZ: I'm going to mute you real fast. The timer went off.

MR. KA'EO: Oh, shoot. I'm a professor, I can just roll sometimes, but I guess my point is this, it's a lot more complicated than I think people really understand, yeah.



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CHAIR RAWLINS-FERNANDEZ: Absolutely. And I would like to designate Mr. Ka'eo a resource if there aren't any objections.

COUNCILMEMBER KING: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay. And then I see a question from Council Chair Lee. Oh.

COUNCILMEMBER LEE: That's fine. That's fine to have him as a resource, Mr. Ka'eo, if you are available.

MR. KA'EO: Yes.

COUNCILMEMBER LEE: Because I...you know, what you've presented us, to me, triggers a lot of questions, and I like the way you do it. It's kind of like objective. Appreciate that.

MR. KA'EO: Yeah. Well, what I think what's important is I always tell is . . . *(inaudible)*. . . documentation is always the best. So people, it's not what my opinion might be, but so people can actually look at the actual legal sources, which...and I'll be honest, many times people are afraid. I'll be straight up. You know, people...because the opinions they like better because opinions are easier to digest when you start to realize the historical context that...you know, like I said, think about the Kuleana Act, it gets very confusing because the kuleana are not just the lands that were awarded, the 12,000 claimants, but it's also included the rights. And that's why if anybody is involved with any kind of land title, you'll notice what's called the condition of title are upon all lands in Hawai'i which says koe no na'e ke kuleana o kanaka o koe ke kuleana which means...

COUNCILMEMBER LEE: And we will be going over these issues with you --

MR. KA'EO: Yeah.

COUNCILMEMBER LEE: -- later on, okay, but --

MR. KA'EO: Yeah, okay.

COUNCILMEMBER LEE: -- I just...what I'm really going to come ask you about is...are...do you think we're on the right track?

MR. KA'EO: Yes. I will definitely...

COUNCILMEMBER LEE: Because --

MR. KA'EO: Yeah. And I think...

COUNCILMEMBER LEE: -- what we're doing...what we're doing is not going to solve all the issues. We're just on the taxes on land.

MR. KA'EO: Yeah.

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COUNCILMEMBER LEE: So you know, we can't solve the others, the other things.

MR. KA'EO: Yeah.

COUNCILMEMBER LEE: It's beyond our control.

MR. KA'EO: Yeah.

COUNCILMEMBER LEE: Okay. So I'm looking forward to talking to you some more. Thank you.

MR. KA'EO: Yeah. And I just going say after that, but to understand the taxes too, you got to also understand what kind of title was awarded. And I think that's part of...you know, people don't realize that in the Hawaiian Kingdom, you have different types of titles. You know, allodial titles, free hold estates, life estates, and these are all different kinds of titles that were awarded, yeah. So...

COUNCILMEMBER LEE: Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo for --

COUNCILMEMBER LEE: Thank you, Madam Chair.

CHAIR RAWLINS-FERNANDEZ: -- your willingness to stay on, Mr. Ka'eo. Mahalo, Chair Lee. Member Sugimura, you have a clarifying question for now?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER SUGIMURA: I really loved your --

CHAIR RAWLINS-FERNANDEZ: Member Sugimura.

COUNCILMEMBER SUGIMURA: -- testimony and I agree, you're a data person, so appreciate that. You said that there are 12,000 claimants. So is there a list of the 12,000?

MR. KA'EO: Yeah, there is. Yeah. And like I said, so you have what's called the Indices of...I'm sure somebody...you can find it on the web now. You actually have the indices that list the numbers, the claimants, the areas, and what's called the Royal Patents also, that are four number lists that you can look at which are...which is part...see that...it's part of the story. Because also, what you must realize, the Kuleana Act also covers those who were given a so...what's called, again, this is the word . . . *(inaudible)*. . . are given "vested rights" or rights in which they could either choose to express via a claim against the Konohiki, or rights that could still hold as a people within the Ahapua'a. So it's...like I said, it's a little more complicated than just a list, but that's a good place to start is to

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start off by the list of numbers that actually already exist, yeah. So it's out there. And I know Brother Keeaumoku can provide a good list to all of you too. Yeah.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Okay. So we'll have Mr. Ka'eo on later if Members have further questions beyond clarifying questions on his testimony. Mahalo. Okay. And before I call the next testifier, I'm just going to let Ms. Costa know that I have your video off for now until it's your turn to testify, and then we'll turn your video on. Okay, we'll go back to the caller with the last four digits 2053. Okay, the caller is no longer there. We'll go to Leonard Nakoa, followed by Kahele Dukelow.

MR. NAKOA: Hi, you guys hear me?

CHAIR RAWLINS-FERNANDEZ: Yes, loud and clear.

MR. NAKOA: Okay. I going make real fast. I support these two measures. Get more educated people ready for talk, but yeah, I support 'em. I just kind of mad that had some of you guys thinking of taxing kuleanas, that's all. Mahalo.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Nakoa. Members, any questions for our testifier? Seeing none, we'll go to our next testifier, Kahele Dukelow, followed by Joyclynn Costa. Okay, we'll go to Joyclynn Costa, and then we'll circle back. Okay. Aloha, Ms. Costa.

MS. COSTA: Aloha, can you hear me?

CHAIR RAWLINS-FERNANDEZ: Would you like to provide testimony? Yes, we can hear you.

MS. COSTA: Yes, I'd like to provide testimony.

CHAIR RAWLINS-FERNANDEZ: Please proceed.

MS. COSTA: Mahalo for the efforts of trying to relieve the burdens of taxation on kuleanas. I have some concerns. I think I would request for the Council to examine their own County books, especially in the tax office because they've taken those books away, and it reveals the Land Commission Award Royal Patents on the top of the ledger. And my concern is that if you're going to open this up to kuleana interest holders, they've never lost their interest, but it's been overlaid with quitclaim deeds, limited warranty deeds, and quiet titles, as well as...if you look at the books and I've gone to the tax office, they start out with this thing called keyed in only. So they find different parcels that taxes are not being paid, and they get their names keyed into that books, and they assume paying the taxes, and to the point where it's assumed that they have some kind of hold on the property. And then it moves around in their family, and then it gets sold off, but it was never a legal title. So if you're going to open it up to kuleanas, then you need to look at who are true kuleanas. The other concern I have is it's talking about possibly portions. A kuleana has its own boundary. It is one huge piece of property. I don't know where it would be portioned out or subdivided. This is where the complication

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comes in. So number one, check your own records to see who are true owners because it's in your books, in your County books. They took the books away, so I don't know if I can trust the digitized version. Those old books were there. Also, it almost sounds as if as I read the very beginning...and I'm going to click to that portion, it says exemption, kuleana, the Kuleana Act government lands. Those portions of real property designated as kuleana, who will be designating kuleana? It's already been. It's been adjudicated, and it has been...so now if we start to recognize kuleana...are you there? If they start to recognize kuleana, now you're going to have to know what you're actually looking at. And it is a title from another country. So at that point, do you really have the authority to either tax or exempt? Because if you're looking at an actual kuleana, then within your constitution, the doctrine of political question will then have a question on whether you can do that taxation on them. These titles were all created from another country. That was the Hawaiian Country . . . *(timer sounds)* . . . and is recorded in your...but please check your records within the County, deeded only and dropped parcels. That's how a lot of the kuleanas end up getting lost in the mix. And they still hold...not the title, the interest to the title holder. Also I would like you to refer to HRS 172-11, which is to the Kingdom Law of Chapter 21, Section 1, verbatim, except it's not referring to a Royal Patent. Now we're...it refers to a land patent. So thank you very much for...and so I cannot really support this measure until all of these things are really looked into. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Costa.

MS. COSTA: Oh, can I say one more thing? If it does pass, could you please...since you're exempting the kuleanas, remove the TMK from that property. Remove that TMK number because you're no longer going to be collecting any money from them, there should be no need to have a TMK number on that property. It is recognized as kuleana now. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Costa. Members, questions for our testifier? Seeing none, we'll thank you for your testimony today. Aloha. The next testifier we have on the list is Kahele Dukelow, followed by Rod Antone.

MS. DUKELOW: Aloha kākou.

CHAIR RAWLINS-FERNANDEZ: Aloha.

MS. DUKELOW: I would just like to, you know, give some real short mana'o about this. I think it's a good start to begin to look at kuleana lands and figure out ways that we can honor the unique rights that were embedded in those lands historically. I also think that we need to figure out another way. So, you know, there's kuleana lands, and again, that's a great place to start. But there's also a lot of issues with generational lands that aren't part of that kuleana land base where, you know, you do have families that own land since the Kingdom period that are being sort of priced out of, you know, places like Kahana and Hamoa and Makena. And I think that it would be prudent to try to deal with some of those big tax issues as well, and mainly because of the timing. I think we're in a place in history where we may be seeing the last Hawaiians on those coasts.

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And again, you know, places like...I can name the people in Pā'ia and Hamoa and Makena and Kahana, where you have one or two families hanging on to their generational lands and that again, may not be kuleana lands. So I think kuleana lands is a great place to start, but I do think that there is more to do beyond that. If we value continuing to have native people on their...on the 'āina of their kūpuna that, you know, they've struggled to keep it up until now, and I would hate for us to be the generation where it is all lost and zero kanaka left on those shores. So mahalo nui.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Dukelow. Okay, Members, any questions for our testifier? Seeing none, mahalo for your testimony today. Aloha. Our next testifier is Rod Antone, followed by La'akea Low. I don't see Mr. Antone. Maybe...Mr. Antone? Okay, we'll go to...okay, we'll go to our next testifier, and circle back to Mr. Antone. La'akea Low.

MR. LOW: Aloha mai kākou.

CHAIR RAWLINS-FERNANDEZ: Aloha.

MR. LOW: La'akea Low ko'u inoa. Just wanted to speak on two items today. So for the kuleana one, I just want to mahalo you folks for taking this up. Think it's an important direction, and I'm glad you folks are taking those steps. The one part that I was kind of worried about is the part about...the part where it talks about commercial purposes, that if you use it for commercial purposes, you still going to get taxed or whatever. So for me, I don't know, I would be more comfortable if it...if customary commercial was still exempt. I understand, like, commercial if you have, like, a STR or B&B. But I think if you have like a lo'i kalo or if you're a mahi'ai just trying to make a living on your 'āina, I think you should still be exempt from the taxes even though you're, like, commercially, you know, utilizing the land to feed your 'ohana. So that was the only thing, and look forward to this one going through your folks' process. And then for the Accommodation Tax, just wanted to speak in favor of that one too. I think Maui in particular has been short-changed throughout the years. I think we bring in more visitor dollars than what we've been receiving from the State. And so I look forward to us, you know, being in control of receiving all the monies that are due to our County to help initiate programs that are important for our community. So I just want to mahalo you folks for all your work. Aloha.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Low, for your testimony. No hands with questions. It's been a long time. Nice to hear your voice, aloha. And then we'll check in with Mr. Antone.

MR. ANTONE: Hello?

CHAIR RAWLINS-FERNANDEZ: Oh, there you are. Okay. Hau'oli lā hānau.

MR. ANTONE: Aloha. Sorry, I was just listening. I didn't mean to testify today, but nice to see everybody. That's it. Thanks, guys.

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CHAIR RAWLINS-FERNANDEZ: Nice to see you too. And happy birthday, right?

MR. ANTONE: Yes. Thank you. That's what I wanted for my birthday was to be on a BlueJeans meeting. Thank you guys for making it come true.

CHAIR RAWLINS-FERNANDEZ: You're welcome. . . .*(laughter)*. . .

MR. ANTONE: Aloha.

CHAIR RAWLINS-FERNANDEZ: I'm glad I could make your birthday wishes come true. Okay. I will ask if there's anyone else signed on wishing to testify, please unmute yourself at this time and proceed with your testimony. Okay. Hearing no one speaking up, Members, if there are no objections, we will close public testimony at this time and accept public written testimony into the record.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR RAWLINS-FERNANDEZ: Mahalo, Members.

**. . .END OF PUBLIC TESTIMONY. . .**

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**ITEM 80: KULEANA LAND EXEMPTIONS (CC 20-113)**

CHAIR RAWLINS-FERNANDEZ: I...okay. First item on today's agenda is BFED-80 Kuleana Land Exemptions. The Kuleana Land Act of 1850 created Hawai'i's first land system of private land ownership after Kauikeaouli, King Kamehameha III, realized the need to provide the Maka'āinana or native tenants with the right to own the land and maintain their way of life amidst the sweeping changes to land tenure and use in the 19th century. Over time, the value of these properties grew significantly, as did the amount of property taxes on those properties. From 2007 to 2009, all of the Hawaiian counties, in consultation with the Office of Hawaiian Affairs, adopted legislation modifying their County Code to provide a tax exemption for kuleana landowners. During the August 3rd, 2009 Budget and Finance Committee meeting, concerns were raised that if a minimum tax were instituted, someone with multiple kuleana land parcels would owe minimum tax on every parcel, so minimum tax would not provide them with significant relief. For this reason, the Maui County Council voted to exempt kuleana lands from any minimum tax. While this legislation has provided relief to families who own property classified as kuleana land parcels, it does not help all families who purchased land under the Kuleana Act. Senate Resolution 39, Senate Draft 1, reads in relevant part, whereas numerous reasons explain why the Kuleana Act only resulted in an estimated 28,000 acres of kuleana land, less than one percent of the total land of Hawai'i being claimed by Maka'āinana. And whereas the Kuleana Act also allowed Hawaiian Kingdom subjects, including Maka'āinana, to purchase government lands separate from kuleana lands. And whereas some 'ohana have maintained ownership of kuleana land over a century. And whereas many others have lost ownership of these lands due to external forces. Whereas to provide some relief to 'ohana who still own kuleana land, the Counties created property tax exemptions for 'ohana who can trace continuous lineal ownership of kuleana lands to the Kuleana Act. And whereas during the Māhele, 'ohana also purchased land not classified as kuleana land through other mechanism under the Kuleana Act. And whereas 'ohana who purchased land pursuant to the Kuleana Act, but not classified as kuleana land, do not benefit from the property tax relief provided by the counties. Whereas many 'ohana who purchased land pursuant to Kuleana Act, but not classified as kuleana land, are being priced out as a resort...result of skyrocketing property tax values that are causing property taxes to soar. Be it resolved by the Senate of the 31st Legislature of the Senate of Hawai'i, Regular Session of 2021, the counties are urged to expand property tax protections to include all lands purchased by Hawaiian Kingdom subjects under the Kuleana Act, and whose titleholders can trace lineal ownership of such lands of the Kuleana Act. This resolution, SR-39, SD-1, was passed on June 21st, 2021, and the second bill on this item today is intended to address the concerns they have raised. If there are no objections, I would like to designate Mr. Wayne Tanaka and Mr. Kaleikoa Ka'eo as designated resource personnel in accordance with Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR RAWLINS-FERNANDEZ: Mahalo, Members. So my intention for now is to invite Mr. Tanaka to provide the Committee a presentation, about five to ten minutes, followed by remarks from our Real Property Tax Administrator Marcy Martin, and then I will

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open up the floor to questions from the Members from our resource personnel. Okay?  
Mr. Tanaka. Hey.

MR. TANAKA: Hi, aloha.

CHAIR RAWLINS-FERNANDEZ: Thank you for being with us.

MR. TANAKA: Good afternoon, Chair Rawlins, Vice-Chair Paltin, Members of the Committee. Thank you so much for this opportunity to present this measure...proposal to you folks today. Committee Chair Rawlins-Fernandez and I have been kind of trying to figure out, you know, over the last year or so, you know, how we can provide some property tax relief for native Hawaiian families who are facing increasingly steep property tax assessments due, I think, to the escalation of property values that we've been seeing. I think recent, you know, \$1 million...over \$1 million median home price in Maui County just kind of underscores some of the rampant property value increases that we've been seeing and that are, you know, affecting native Hawaiian families. And I...so I do have a presentation of a PowerPoint, so I'm just going to share my screen if that's okay.

CHAIR RAWLINS-FERNANDEZ: Please proceed.

MR. TANAKA: Thank you.

CHAIR RAWLINS-FERNANDEZ: And if I didn't say so, Wayne is with the Office of Hawaiian Affairs.

MR. TANAKA: Oh, yeah. I'm sorry.

CHAIR RAWLINS-FERNANDEZ: He is the...

MR. TANAKA: Yes, I'm the Public Policy Manager here at the Office of Hawaiian Affairs. So let me...okay.

CHAIR RAWLINS-FERNANDEZ: Looks good.

MR. TANAKA: Okay. Awesome. So this is just a little presentation I put together on, you know, the proposal before you and some of the background and the history behind the Māhele and the Kuleana Act and the existing property tax exemption that the Council has adopted...why is it not...oh, okay. And so quick outline, I'll go...really top-level run through some of the history of the land tenure system in Hawai'i, how it changed through the Kingdom period leading up to the Māhele and the Kuleana Act. And then talk about government grant to share the subject of the proposal today. And then I'll also talk about the current kuleana property tax exemption, which we're seeking to expand or clarify, depending on your perspective. And then I'll run down real quickly through the proposal before you in BFED-80, and then I have some thoughts on the benefits of this measure from a more bigger picture standpoint. And, you know, as Professor Ka'eo said, you know, there's experts. I'm not an expert on these things, but I do have some background. You know, there's people that wrote entire dissertations



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on just portions of, you know, the Māhele and the Kuleana Act and, you know, there's a lot of information, great information out there. And...but I'm hoping just to, you know, give you a little bit of a background just so you can understand a little bit more where this is coming from. So real quick, you know, land tenure in the early years of the Kingdom is very similar to what was...you know, how land was thought of and administered prior to the Kingdom which is...you know, I think people call it the Ahapua'a system where essentially, you know, land wasn't owned in any Western private property sense, but it was stewarded and really held in a kind of trust. So the Maka'āinana or the tenants worked the land; the chiefs, through their konohiki, kind of administered their land resources, directed, you know, how land would be managed. And so under the Kingdom under Kamehameha I, the land tenure system was largely the same. When he passed away, they did change the system slightly so that chiefs could pass their, you know, lands down to their...down to...you know, to their children rather than through the former process, the kālai'āina process, where lands would just be redistributed. And then, you know, in the 1840 Constitution, you know, recognized that, you know, all the lands in Hawai'i, you know, it was really belonging to the chiefs and the people. That wasn't really something that was, you know, could be reduced to private possession. But unfortunately this, you know, eventually led to increasing conflict between foreigners who wanted...you know, had different Western concepts of land and land rights and so, you know, leading...including, you know, the Paulet affair where Hawai'i was occupied, which we...and eventually we . . . (inaudible). . . which we just celebrated with Lā Ho'ihō'i Ea. And so Kūikeyouli, King Kamehameha III, he...you know, he was taking advice from a lot of folks but, you know, he embarked on this process to kind of somewhat Westernize... not totally, but somewhat Westernize the land tenure system in Hawai'i. And, you know, there's different perspectives on, you know, his goals and the influences that went into the process. But, you know, really, I think if you look at the documentation, you can see, you know, the intent to really protect native Hawaiians, native Hawaiian tenants, secure a land base, and kind of using a more Western recognized land tenure system to kind of head off and prevent, you know, some of the things that were going on in other places in the Pacific especially. And so in December 1845, along with a number of other organizational developments in the government, the Board of Commissions to Quiet Land Titles or the Land Commission was established. They adopted principles to kind of guide their work. And then in December 1847, the King's Cabinet, the Privy Council, adopted some rules for how this Māhele process would take place. And so the initial vision or initial, I guess, opinion between some of his advisors was that the King would retain his private lands for himself, and then the rest of the lands would be divided between, you know, the government, the chiefs, and the konohiki, and native tenants, the Maka'āinana. And so the Māhele began in 1848 where lands were divided between the Mo'i, the king and his chiefs, and this was recorded in the Buke Māhele, which is on the right. So essentially, the King quitclaimed, or gave up his interest in specific Ahapua'a and ali'i to about 250...240-something to 251 or 2 chiefs and konohiki. And in return...and they then in return quitclaimed the interest in lands that he wanted. And so, you know, within a few months, he had about 2.5 million acres of land, and the chiefs received about 1.6 million acres. And what the King did was he almost immediately set aside about 1.5 million acres to the chiefs and the people...so basically, lands for the government to use. And so these would become the government lands of the kingdom.

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And then the lands that he retained, which was about 974,000 acres, became like considered what we now call the crown lands. And so it...you know, again, it's...you know, I think as Professor Ka'eo said, all lands throughout this process were subject to the rights of native tenants. So again, evidencing intent of the King and the Kingdom to kind of protect his people. But after this division, the final step...you know, and the ali'i and the konohiki still had to basically go...there was still more steps in the process for them to secure, you know, their fee or their allodial title to the lands, but, you know, as that was going on, you know, final step was to figure out how to divide out the interest of the Maka'ainana, the native tenants, many of whom were already being kind of dispossessed of lands that they had traditionally occupied. And so that's where the Kuleana Act came in. And so what this act did was it authorized the Land Commission to award the fee interest...or to award land essentially to native tenants who applied. They had to...they could only make a claim for land that they were actually cultivating, and they could also...plus a house of a quarter acre, of no more than an quarter acre. You know, as part of this process, they had to pay for survey of the land, which could be fairly expensive, they had to bring two witnesses to testify, you know, as to like the boundaries, and what the land was being used for and so forth. And there was a very limited time period, which was extended to some degree, but a relatively limited time period to make these claims. And so a number of issues arose that limited how much land was eventually awarded as kuleana under the Kuleana Act. And the process was very unfamiliar...I mean the concepts of land ownership was really unfamiliar. Land Commission members, many of them were foreign, so they were also unfamiliar, and not always sympathetic to the needs of native tenants. Again, there was a limited time frame. Kuleana awards, I think because of some of the pressures put on the commission members, were relatively limited in acreage, so not necessarily enough for folks to subsist off of. There were burden of proof issues, you know, there's...again, the cost...the surveys, the cost of surveys. Some of the ali'i didn't really want tenants to claim lands of theirs, and likewise, tenants were sometimes reluctant to try to make claims against the ali'i. And there was this kind of assumption that folks had too that, you know, the traditional system of land tenure would still either continue, or they would continue to have ways to take care of...allow them to, you know live as they had. But essentially what happened was at the end of the Māhele, the Land Commission had given out about 8,400 kuleana. They're relatively small, less than three acres on average, and so essentially, less than one percent of the total land went to Maka'ainana through the kuleana process. Which is, you know, a far cry from the...you know, the one-third of land that was envisioned to go to the Maka'ainana as part of the Māhele. However, there was another provision in the Kuleana Act, Section 4, that tried to provide for folks who could not...did not or could not get a kuleana. So this allowed native tenants to purchase between 1 and 50 acres of land of government lands for no less than 50 cents an acre. And this isn't the only mechanism by which government lands were sold, but, you know, under this provision and other mechanisms, approximately 3,400 were called "government grants" were issued by the...either the Land Commission or Minister of Interior 1893. And I believe 990 of these were on Maui...were in Maui. So...and this is all information that...there's a 1917 index that kind of comprehensively looks at all these government grants and where they went. And so Maka'ainana did receive another about 167,000 acres, both under this provision of the Kuleana Act, and then other mechanisms where government lands were being sold or granted. And, you

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know, unfortunately, you know, over the generations it's...you know, it was difficult for these recipients, the purchasers of land, you know, as in other cases, to maintain ownership of these lands. And so a significant amount of these lands have since been lost. But that, I think, underscores the importance of trying to preserve what little lands have continued to be maintained by the lineal descendants of the original purchasers and claimants. And so Maui County...so fast forward to about ten years ago. So, you know, in recognition of the importance of helping native Hawaiians maintain their ancestral lands and protect them from, you know, burdensome property taxes that could lead to these lands being lost, Maui County, along with other counties, have all adopted a "kuleana land tax exemption." So I think as Committee Chair Rawlins-Fernandez said, you know, these...this exemption in Maui is actually pretty unique in that it's a total exemption, so you don't have to pay any taxes if you qualify. And I...right now, from looking at the Finance communication, it looks like there's 49 current kuleana exemptions that are being recognized. And it's an annual renewal process, so you have to apply each year, so that number can change. But unfortunately, the government grant provisions...government grant lands acquired or purchased under the Kuleana Act are not considered eligible for this exemption. And so that is the issue that we are looking to try and address with this legislation. So as...so as it's been mentioned, there's a resolution passed in this past session to expand for the...urging the counties to expand their kuleana property tax exemption to include these government grants lands purchased under Section 4 of the Kuleana Act. And that is essentially what BFED-80, the bill contained in BFED-80 proposes to do. And so this BFED-80 proposal is...it pretty much tracks the current requirements to get an exemption for kuleana. So it has to have been...for the exemption to apply under this proposal, the land would have to be... have been acquired pursuant to Section 4 of the Kuleana Act. And as I said, there are different types of government grants but, you know, talking to you folks like Donovan Preza, talking to a genealogist here in the office, you know, there's certain factors you can look to, like that would provide presumptive assurances that these were, in fact, purchased under Section 4. So if the land that was acquired was between 1 and 50 acres, if the cost was commiserate with 50 cents an acre, if it was in the RP, Royal Patent issued by either the Land Commission or the Ministry of Interior between 1840 and 1893, they're fairly confident that you could identify those as Kuleana Act government grant lands. And in addition to that requirement, the land for this proposed exemption would also have to be held by a lineal descendant of the original purchaser. We do...there is some definitions of lineal descendant that includes...that would include non-person entities, like trusts or limited liability corporations, which kind of reflects what some Hawaiian families have done to help ensure that lands remain in their family and aren't...you know, aren't acquired, you know, through quiet title actions and forced petitions and so forth. So we did want to accommodate those situations. There is some revisions in there that I think Finance felt like were unnecessary. We pulled those from Kaua'i County legislation, which was to address some of the issues that they were seeing with people who believed they were owners of a kuleana parcel and they were paying taxes on it and taking care of the land, but because title can be very complicated after land has been in the family for a super long time for multiple generations and, you know, owners die without wills and it's...and the process to figure out the title issues can take a while. But it sounds like...and I'll defer to the Real Property Division Administrators' expertise and insight, but if this isn't an issue for Maui County, maybe we don't need to

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include those provisions. In terms of genealogy, we do...OHA does have a service where we verify genealogy for the current kuleana property tax exemptions, and so that process, that service, would still be available and it's recognized within the proposed bill. And then the land also has to not be used for commercial purposes except for agriculture. So if people want to do, like, lo'i kalo or pasture or so forth on a commercial level, then they would still be able to qualify for the exemption. And we think that's a good idea, you know, like, you know, local agriculture contributes to the food security and self-sufficiency of...you know, of the county. And so allowing accommodation for those kinds of commercial activities could be beneficial. And then it would also require a annual application from the landowners, so same as the current kuleana exemption. And so that's...oh, sorry. And then there's another provision to provide for retroactive applicability of the exemption. Sometimes it takes a long time to verify title and deed issues, takes a long time to do the genealogy verification. Folks might not have even known about the law. So like when the original kuleana property tax exemption was passed, I think that year, only seven people applied. But then over the years, you start seeing more and more applications...applicants. And so because of that, folks may have actually been taxed or have accrued delinquencies on lands that should have been exempted. And so it does...the proposal does include a provision for retroactive application. And I did want to note, there's alternative language from...in the Finance communication that I think would also solve that address this issue. So if...you know, something for the Committee to consider. But, yeah, I think that would be just as fine. And then I was just reading through the Finance Communication, and they did do an assessment of the potential fiscal impact. And it was in the order of approximately \$1 and 2 million just based on the numbers that they've been able to crunch, but I'll defer to...again, to the Administration as to their assessment. And that's about it for the bill. I just really wanted (*audio interference*) kind of (*audio interference*) a beneficial important measure for the Council to adopt. You know, first, I think...you know, and I think as I mentioned, you know, the few 'ohana that have been able to maintain their ancestral land since the Māhele, these are families that are part of Maui's historical and cultural legacy and heritage. And their continued efforts to maintain their connections through the lands are really...it's something that I think perpetuates, you know, this legacy that they've...that they are a foundation of, and really helps perpetuate the unique character of Maui County's communities in general, so that's something that I think would be of interest to the Council and to the overall community. For families that are facing, you know, extremely high tax assessments, you know, they may actually have to resort to using their land for...in ways that aren't consistent with their, you know, traditional character. So, you know, like converting to Airbnb or short-term rentals and so forth, or doing other things to try and generate revenue just to pay off the taxes. And so providing them relief would also allow them to kind of maintain the traditional character of their lands and their relationship to their lands. And this...the relief that are provided to these families, you know, they will also be reinvested locally. I mean, you can give tax credits to offshore entities and, you know, it's not clear whether that money will go back into the local economy. But, you know, to the extent that we can provide relief for local families, then we can be relatively confident that that relief will also help...you know, that money will be reinvested back into the local economy. And then in our...so OHA did submit testimony in support of this measure. And we did kind of emphasize this idea of restorative justice, which is really just thinking about justice as a way of

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fixing unjust, and in particular unique harms, that are felt by indigenous communities and native Hawaiians. And, you know, the disposition of land...the historical disposition of land has been, you know, especially and uniquely impactful on the native Hawaiian community who...you know, who have, you know, special, very deep attachments to the 'āina, and especially to their 'āina kūpuna, their ancestral lands. And so providing some relief and through BFED-80 does, you know, provide in some ways a redress for these unique harms and recognizes that. And I did want to note, you know, the County...with all of these increasing property values in the County, I would assume that's seeing increased revenues from these, you know, as we see speculation development. And so to the extent there may be a cost impact, it may actually be...you know, to some degree offset by the increased revenues that we're seeing that are also contributing to the strains that are being placed on longtime multigenerational families. And I think that's all I had for this presentation. Happy to answer any questions if...yeah, at any time, either now or in the future as well. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Tanaka, for your presentation. Okay. And then you can stop sharing your screen now. So Members, it's 3:07. We'll take our mid-afternoon break at this time...let's see, to 3:20. Is 3:20 okay? That's 13 minutes. Okay. And then when we return, I'll call on Ms. Martin for her remarks, and then I'll open the floor for questions. Okay, so it's 3:07. We'll return at...now it's 3:08, and we'll return at 3:20 on August 4th. The Budget, Finance, and Economic Development Committee is now in recess. . . .*(gavel)*. . .

RECESS: 3:08 p.m.  
RECONVENE: 3:20 p.m.

CHAIR RAWLINS-FERNANDEZ: . . .*(gavel)*. . .Will the Budget, Finance, and Economic Development Committee please return to order. It's 3:20 on August 4th, and we are on BFED-80. At this time I would like to invite our Real Property Tax Administrator, Marcy Martin, on to share with us some remarks. Aloha, Ms. Martin.

MS. MARTIN: Thank you, Chair. The Real Property Assessment Division has reviewed the proposed ordinance, and has transmitted comments. The Division has also reviewed Senate Resolution 39, Draft 1, and we are prepared to answer your questions today.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Very concise. Okay, Members. We have our three resource persons on; Mr. Tanaka, Ms. Martin, and Mr. Ka'eo. I'll put two minutes on the clock, and just please raise your hand if you have questions. Chair Lee, followed by Member Paltin, and then Member Molina.

COUNCILMEMBER LEE: Good afternoon, Marcy. Welcome back from your vacation. I didn't have a chance to go over all of your responses, but how many parcels would be affected, and how much would the exemptions amount to in dollars?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair, thank you. So we really don't know how many parcels will be affected.

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It will just be an estimate, but the number of the Royal Patent grants is lower than the number of kuleana exemptions. So we would expect it to be less than the number of kuleana exemptions. So in my chart in my response, I estimated that it would be about 50 percent of the number of kuleana exemptions, but that was just an estimate.

COUNCILMEMBER LEE: So how many parcels would that be?

MS. MARTIN: That would be about 25.

COUNCILMEMBER LEE: Twenty-five parcels?

MS. MARTIN: Yeah. Right now we have 49 kuleana exemptions, so...

COUNCILMEMBER LEE: Okay. And then in dollars, how much would the exemption amount to? Total --

MS. MARTIN: Chair.

COUNCILMEMBER LEE: -- exempt?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: So the kuleana exemption, the tax relief is about \$165,000 a year, so half of that is a little over \$80,000 a year.

COUNCILMEMBER LEE: Okay. And so you would be able to verify all of the applications, et cetera? . . .*(timer sounds)*. . .

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: We are successfully implementing the current kuleana exemptions, so I feel confident that we could implement this amendment.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee. Member Paltin, followed by Member Molina, and then Member Sugimura.

VICE-CHAIR PALTIN: Is this just for questions for Ms. Martin or any of the resource?

CHAIR RAWLINS-FERNANDEZ: Any of the resources.

VICE-CHAIR PALTIN: Oh, okay. So my question is, I guess on number three and four and the definition of family member, on three...number three on page...the first number three on page two, it says a family member of any owner listed on the most recent title of the

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property who died intestate, and who is a lineal descendant of the person who received the original title to the kuleana land, or Kuleana Act government grant land, or no owner listed on the most recent title is living. So is that saying, like, if spouse is considered a family member, does the spouse also be a lineal descendant or not? I'm not clear on the legalize-ish stuff.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Thank you, Chair. So it is possible to have someone deceased listed on title after division. And while that deceased person is on title, meaning they...their will hasn't been...or their interest hasn't been conveyed yet, that person would be the qualifying person because they would be the owner. And then if and when their interest was demised to somebody else, then it would be a reapplication, and that next group of people would apply.

VICE-CHAIR PALTIN: Okay. Any objection to removing spouse from the family member definition for this purposes?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin?

MS. MARTIN: I would leave that up to this body.

VICE-CHAIR PALTIN: Okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Okay. And then for Members' reference, I did share the Finance Department's feedback on the bill in the chat. And to your question, Member Paltin, in the correspondence we received, the recommendation is to remove E.4, and that's where spouse is. So the entire section is recommended to be removed. Okay. And then I'd like to call on Mr. Ka'eo to add a little bit...to add to the clarification.

MR. KA'EO: Okay, I think I'm back on, right? Okay. I think I just wanted to just add into, I think, what Councilperson Lee's question about when we look at the number...it gets real complicated because part of the issue is I think a lot of people don't understand the difference between what's called a TMK or tax map key and kuleana land. So you might have a TMK, for example, we'll take something like in Paukukalo, you know, that piece of County property in Paukukalo. I'm not exactly...you know, maybe 20 acres. But within that 20 acres, that's one TMK where the County is responsible in regards to taxation. You will have multiple...I think there're like seven or eight actual kuleana awards within that County parcel. And this is where I think you have this kind of misunderstanding because the TMKs deal with the taxes, which I think this actual bill is about, right? It's about who's going to...in other words, who's going to pay for the taxes. But what you find is that you will have a TMK with multiple kuleanas within that so-called TMK, or you will have kuleanas that border two or three TMK, or vice versa. So it's really a lot more complicated than just simply coming up with a number. I mean, you can find...you can find the amount of awards, that's pretty easy to find, and semi-easy to identify where those TMKs are located. Whether or not the taxes for those

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so...the . . .(timer sounds). . . kuleanas within the TMKs being paid for, that's another kind of question. So it's a very difficult question to come up with a number, and I guess that's my answer. You kind of got to really understand that there is a difference between the tax map key and the so-called kuleana. Because the kuleana...the defined borders of the kuleana is not the same at all as the TMK. And in fact, the TMK really has nothing to do with ownership. The TMK has to do with paying the taxes, and so this is where you get these kind of misunderstandings about...and so I guess I'm trying to say we have to be...kind of be careful and just kind of understand that there are potentially hundreds...if not hundreds, thousands of kuleana awards out there that could apply for an exemption. But the exemption...in other words, it might be a one acre within a 40-acre parcel. So this is where you cannot understand. So a kuleana owner is only responsible for that one acre, versus the 40 acres maybe what the assessment may be for the whole TMK. And so you cannot just kind of really understand that they're not one and the same. Anyway...

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Ka'eo. Chair Lee, a follow up?

COUNCILMEMBER LEE: If I could follow up, Mr. Ka'eo. Yeah, we understand this is a complicated issue. But we got to get started, right? And it doesn't have to be perfect out of the gate, but we can work toward covering all of these issues whether, you know, there's a way to make things retroactive so those who find out about this, you know, two, three years from now can be, you know, included. So my thing--and I'm sure the rest of the Members feel the same way--we would like to do something, you know. And unfortunately, it may not be a perfect solution the first time, okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee. Member Molina, followed by Member Sugimura.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Question for Ms. Martin from the Department. Do we have any kuleana land parcels that have delinquent taxes and/or penalties currently? And if so, what is that total amount? And to your knowledge, has the Department ever had to auction a kuleana land parcel due to delinquent taxes?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. I think there may be one parcel. I'm not aware of what the taxes and the penalty and interest are owing. We...as...I think it was Wayne had mentioned, when the program started, there were 7 applicants, and now there's 49. So it has taken some time to catch on, and for people to learn about it. So my interpretation of the retroactivity would have everyone to have a fair start in the first year, 2010. That would leave about potentially 42 people who could apply for the exemption retroactively. And if they did, and they had delinquent taxes, when the exemption was applied retroactively, the delinquency would then be cleared because there wouldn't be any taxes owing to be delinquent. And to my knowledge, we have not auctioned off any kuleana properties, but I'm not 100 percent sure of that.



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COUNCILMEMBER MOLINA: Okay. Thank you very much. Thank you, Madam Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So Professor Ka'eo, earlier you said that there were 1,200 claimants. I'm trying to understand where all these numbers are going. Did I lose all of you? My screen just went blank.

CHAIR RAWLINS-FERNANDEZ: We can hear you.

COUNCILMEMBER SUGIMURA: Oh ,you can, okay. I'm going to turn off my video then, I'm...yeah, so hopefully you can hear me and we can have a conversation. So explain to me...because in your testimony, you said there were 1,200 claimants under the Kuleana Act. But yet, this chart that we got from the Real Property Tax, it shows that number of exemptions, and I'm guessing that this is the large parcels of land that you described earlier in this section where you said you could have like in Paukukalo, this large acreage, and there could be many TMK...I don't know...parcels assigned to that TMK, and I'm guessing that these are the 1,200 claimants. But can you explain that to me so I can understand this?

MR. KA'EO: Actually, I should correct. Sorry. For the whole Kuleana Act, so just the... say again, yeah, so just the Kuleana Act of 1850, there are actually 12,000. Sorry, I misspoke, 12,000 claimants throughout the islands. So you can actually locate...you can actually locate the number...exact number in Maui. I can actually find it for you guys if you want to look at the Land Commission Awards. Now, each award can have multiple...how...what we call in Hawaiian, 'āpana or pieces. In other words, I can have one award, but I might have six separate parcels of that award. So it gets more complicated than just counting the awards because you have to also count the number of 'āpana or parcels that are in that award. Now, what I was saying about earlier, that this is part of the complexity about the situation is that I think...we got two things. We have land title, which is what the Kuleana Act has to do with, and then you have tax map keys or TMKs which, of course, are the tax base. But they're not necessarily one and the same. And so when you talk about...you know, for example, I'm going use that Paukukalo parcel, maybe it's worth, I don't know, \$1 million and the taxes are \$10,000 per year. Well, you may have claim...you may have...I would expect you would have claimants of kuleana landowners within that parcel who I would expect would come forward with an exemption for their taxes, which may be . . . *(timer sounds)* . . . only one acre within the larger framework. So again, it gets a little more complicated because I think we talking about two different things, but I definitely, just like Councilperson Lee believes, yeah, I think we need to take the step forward and understand...see, historically, these so-called kuleana lands were also...when they were first given out to the Maka'āinana, they were given in a special way in which they were given allodial title. And in fact, it basically says the government couldn't do anything, basically, to remove those so-called vested rights back from them, which included commutation fees or taxation fees. So it's kind of...historically it's kind of always been that way, where the people were given those lands forever. So there's this kind of complication about the language, I think, a lot of people don't really understand, yeah.

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CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Mahalo, Mr. Ka'eo. Okay, Member King, I have two minutes on the clock.

COUNCILMEMBER KING: Okay. I didn't...was there someone before me? I didn't know...I thought Member Johnson was before me.

CHAIR RAWLINS-FERNANDEZ: Oh...

COUNCILMEMBER KING: No? Okay.

CHAIR RAWLINS-FERNANDEZ: Okay . . .(inaudible). . .

COUNCILMEMBER KING: I was just asking.

CHAIR RAWLINS-FERNANDEZ: Member King . . .(inaudible). . .

COUNCILMEMBER KING: . . .(inaudible). . . my fault. But no, I have a couple questions for Marcy, and they're basically related to questions you put in your letter, and I didn't know if you got an answer. It says...one of them, it says there appears to be a 241 grants given to those who are non-Hawaiians. Will these be eligible for an exemption? So I don't know if someone can answer that. Did you get an answer to that, Marcy? Or is that something, Chair, you can answer?

CHAIR RAWLINS-FERNANDEZ: Okay. And so Member King is asking about...it appears that about 241 grants were given to those who are non-Hawaiians. Will these be eligible for the exemption as well? If not, the definition needs to be explained or amended to include specific language. And then I'll call on Mr. Tanaka. My understanding is the lineal descendancy would need to be satisfied for genealogy for OHA.

COUNCILMEMBER KING: . . .(inaudible). . . Mr. Tanaka?

MR. TANAKA: Hi.

COUNCILMEMBER KING: Oh, there you are. Hi, Wayne. So did you see the question? The question is from Marcy Martin, actually. I'm just reading off of her list of questions.

MR. TANAKA: I mean, I think as...so non-Hawaiians did receive some government grant lands. The majority after looking...you know, Donovan Preza took a look through like all of the government grant awards, and he found that by a conservative estimate, 71 percent of these grants did go to native Hawaiians. But at this point, he had to use kind of like assumptions, like looking at their names, looking at the language that the grants were written in. And that...used that to determine, you know, what...you know, who might've been a native Hawaiian versus a non-native Hawaiian. And so I think it would be difficult to ascertain the...you know, definitively whether the original claimant was...you'd have to apply that it was actually native Hawaiian or not. But I think given the breakdown, you know, we benefit probably mostly native Hawaiians but, you know,

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I mean, I don't...you know, to some degree...

COUNCILMEMBER KING: But the bill doesn't differentiate then --

MR. TANAKA: No, it doesn't.

COUNCILMEMBER KING: -- is what you're saying. Okay . . .*(timer sounds)*. . . so there's not that need to track down the lineal descendancy. Is that what you're saying?

MR. TANAKA: Yeah. Well, you'd have to track the lineal descendancy, but as to whether they're a native Hawaiian or not, that might be difficult to ascertain at this point.

COUNCILMEMBER KING: Okay. I had some other questions, but I think my time is up. So thank you. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. And we can do another round. I think...Member Sinenci, did you have your hand up?

COUNCILMEMBER SINENCI: Mahalo, Chair. Yeah, I had a question...I don't know if it's for Ms. Martin. So what happens to kuleana lands that has been sold on the market? Are those lands still eligible for these exemptions if they were bought by another lineal descendant or a Hawaiian?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Yeah, thank you. So if the kuleana land is purchased by a non-lineal descendant, the exemption is removed, and the property goes back to being taxable.

COUNCILMEMBER SINENCI: Back to it. So...and maybe for Mr. Tanaka, does OHA keep a record of the original awardees of each of the parcels?

MR. TANAKA: Chair, so we...what we do is we look at...we help people track down these original records. So I'm not sure if we have, like, you know, like a...like we access databases and we do have our Papakilo and Kipuka database.

COUNCILMEMBER SINENCI: Okay.

MR. TANAKA: Yeah.

COUNCILMEMBER SINENCI: All right.

MR. TANAKA: So we can assist with that.

COUNCILMEMBER SINENCI: Mahalo for that. So for Ms. Martins, does the County have a list of...I know Mr. Ka'eo mentioned that indices with the original awardees. Does the County have this indices list so that we can match...match the lineals to the list?

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CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. So we do have some lists. The DLNR has some lists. If we don't have the information, we will defer to another organization that has it. But the lineal descendency, the application says the proof of genealogy verification will be issued by the Office of Hawaiian Affairs or by court order.

COUNCILMEMBER SINENCI: Oh, okay.

MS. MARTIN: . . .*(inaudible)*. . .

COUNCILMEMBER SINENCI: So Keeaumoku mentioned an affidavit process. So there is a process already in place that will go to OHA or through the court system?

MS. MARTIN: Yes.

COUNCILMEMBER SINENCI: Oh, okay. All right. . . .*(timer sounds)*. . . Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Members who...Member Johnson, did you have any questions? I think you are the only one that didn't ask. You don't have to have questions, I'm just asking.

COUNCILMEMBER JOHNSON: Thank you, Chair. I...you know, I keep mulling over that number for Lānaʻi, it's 12. So small. It's not a question, it's just a grumble. Thank you. I don't have any questions right now. I'm learning a lot, so I'm just going to let the discussion flow. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Johnson. Okay. And then for myself, Mr. Kumu Kaʻeo. Regarding the...to follow up on Member Molina's question about delinquency and kuleana land being auctioned off, do you have any information --

MR. KAʻEO: I mean...

CHAIR RAWLINS-FERNANDEZ: -- that you could share?

MR. KAʻEO: I know for sure there have been TMKs that have been auctioned off whereby kuleana lands which were within that TMK have been...have been auctioned off or especially regard to delinquent taxes and so forth. And this is part of the issue because some of the kuleana owners are still claiming, which I would argue also, I would agree still are claiming rights to their kuleana because again, it gets very complicated understanding what a kuleana's particular title is versus a person's title that they might have bought from somebody else, from somebody else that might have been an original award. And so yes, that has happened. But secondly, I just wanted to also add on that I think part of the conversation...to be clear, there's a difference between kuleana awards to the Kuleana Act of 1850, that's the 12,000, 29,000 acres -- versus...which was part of later kuleana rights that were given to...which became like hui lands whereby families would get together, and they would purchase from the government, which were basically

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kuleana government lands, for what are called land grants. In fact, if you look at...I would say like...you know, Councilperson Sinenci would realize in Hāna, for example, you have many lands, in fact, which are land grants. They're not actually kuleana lands too you see. That's why I say you kind of got to understand. So they may have purchased...as a hui, you know, they might have purchased 50 acres by ten families, and so sometimes people will refer to those lands as kuleana lands also. So that's why I say, you kind of got to be very clear on exactly what we're talking about. And I think the way I'm looking at this and I understand this right now, it seems like on one level you're talking about this narrow version, which are so-called kuleana lands as specified in the 1850 Kuleana Act. And then you have those land grant lands which were bought from the government lands by which the native tenants, as native tenants, had vested rights in the land already, you see. So that's why it gets real complicated. So they bought these larger parcels later on, and this is where you have some non-Hawaiians who purchased lands, you see. . . .(timer sounds). . . So the non-Hawaiians are not really part of the 1850 so-called kuleana lands, which were from the Hoa'āina. You have some Chinese and Americans who were in Hawai'i at that time, who were part of business ventures, who later on would purchase lands that the Hawaiians did not bid on in auction. So that's why I say it gets complicated. So when I kind of look at that, I don't see the question of the non-Hawaiian being so much as an issue if you're talking about kuleana in the narrow sense. Anyway, try to clarify, yeah. I wish I...I got a whole PowerPoint for my class, I can kind of detail all of that would be a lot easier, yeah.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Kumu Ka'eo. Okay. Members, for your second round...or would you like me to bring up the bill, and then we can kind of ask questions based on the bill and work our way through it to see if we can pass something today? Chair Lee.

COUNCILMEMBER LEE: Yeah, these are very valid points people are bringing up. Did you anticipate that? Did you anticipate having difficulty perhaps defining the group that we are actually going to help?

CHAIR RAWLINS-FERNANDEZ: Yeah. I mean, that's why it's taken a year. I proposed the delinquent and penalty...delinquent tax and penalty tax last August 2020, and there were a lot of questions, which is why I invited resource personnel to help us make these decisions this time.

COUNCILMEMBER LEE: I know, but...no offense, but they keep telling us it's complicated. So...but, you know, what we're trying to do is trying to figure out the solutions on how to navigate through this, and try to be as fair as possible.

CHAIR RAWLINS-FERNANDEZ: Uh-huh.

COUNCILMEMBER LEE: But I'm sure you took that into consideration, and you figured it all out already. So I'll just back off and let the --

CHAIR RAWLINS-FERNANDEZ: Okay.

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COUNCILMEMBER LEE: -- let it roll.

CHAIR RAWLINS-FERNANDEZ: Okay. I will share my screen, and then we can go through it one by one. And then if Members have questions, then we have our resource personnel to help us work through it, and then that way we can make decisions on these policies. Okay. Member King.

COUNCILMEMBER KING: Thank you, Chair. So some of my questions...I still don't have a good grasp on what is already exempted and what additional exemptions we're possibly looking for, but are there going to be opportunities to ask those questions within the scope of going through the bill line by line?

CHAIR RAWLINS-FERNANDEZ: Right.

COUNCILMEMBER KING: Okay.

CHAIR RAWLINS-FERNANDEZ: So for example, your earlier question about the 241 grants.

COUNCILMEMBER KING: Yeah, that was the question that Marcy had asked.

CHAIR RAWLINS-FERNANDEZ: Right, and Member Paltin's question about the spouse. So those are in the bill, and then we can go through it section at a time. And then if you have questions on those...and if we're good, then we can have consensus, and then that way we can get through the bill today if possible.

COUNCILMEMBER KING: Okay. I was just...had some additional questions, but I'll see if I can ask them in the scope of going through the bill.

CHAIR RAWLINS-FERNANDEZ: Not my committee notes. Okay. So this is the first section, exemption kuleana land and Kuleana Act government grant. So the underlined is the new proposed language. A. Those portions of real property designated as kuleana land or Kuleana Act government grant land. And so throughout the bill, it adds "or Kuleana Act government grant land." Okay. And then we'll start. Any questions on that? Okay, Member Paltin, followed by Member Sugimura, and then Member King.

VICE-CHAIR PALTIN: Thank you, Chair. My question was what we're looking at when you share screen, is that the one...is that bill incorporated the responses from the Finance Department? Or is it just the proposed bill that...

CHAIR RAWLINS-FERNANDEZ: Yeah. So that's why I'm going through it like a section at a time because I did add in blue some of the recommendations from the Department.

VICE-CHAIR PALTIN: Okay. And then so would that kuleana government one be defined later in the definitions?

CHAIR RAWLINS-FERNANDEZ: No. That is the definition.

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VICE-CHAIR PALTIN: Oh, okay.

CHAIR RAWLINS-FERNANDEZ: Oh, yes. Okay, yes. Is that Section D? Yeah. So that's Section D.

VICE-CHAIR PALTIN: Okay. All right, that's my question. Thanks.

CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Paltin. Member Sugimura.

COUNCILMEMBER SUGIMURA: That was what I was going to ask about because it was talked about earlier about the government lands, and I just wanted to be sure that we understood the Kuleana Act government land and its definition, so...and how that would impact this change. So thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Member King.

COUNCILMEMBER KING: Thank you, Chair. So I'm still confused as far as...because I heard from Wayne that there didn't seem to be a way to figure out the government...the land grants that were given to non-Hawaiians. But then I thought Mr. Ka'eo said that that's pretty easy to do. So is that...Mr. Ka'eo, is that what you were saying, that you could figure that out fairly easily, and that...and should the intent be...and I'm just asking a question, I don't really have an opinion on this, but should the intent be to remove the ones that were given to non-Hawaiians? Is that...

CHAIR RAWLINS-FERNANDEZ: Kumu Ka'eo.

MR. KA'EO: Well, that's a political question also because now you're getting into...I mean, you kind of got to understand a little bit about the political history and so...well, it's difficult. You have those who were non-Hawaiians who are citizens of the Hawaiian Kingdom also, you see. So I don't...for me, I don't think it's so much them being non-Hawaiian as much perhaps as they can show that they were descendants of someone who was a citizen of the Hawaiian Kingdom perhaps might be a more correct way of looking...because they also enjoyed the full rights as non-Hawaiian subject citizens also. So for me, I would say anyone...I mean, it could be a Chinese person, for example, who was nationalized during the Hawaiian Kingdom period, who also was part of a hui along with Hawaiians who purchased an interest using this particular law. So I guess I'm trying to say there are ways to kind of figure out, you know, it's not somebody that just moved over here, you know, five years ago, but that they would be able to show a direct connection to the . . . *(timer sounds)* . . . original awardee perhaps might be a better kind of language. So I don't think it's too difficult, I think it's pretty easy to actually do. So...which of course would be that you would have a direct...anybody that was involved with the original award, whether they're Hawaiian or non-Hawaiian. Because I think the number's about 70 percent, if I remember right, were native Hawaiians also, that I would be confident that if they're worthy of an exemption, they would be able to directly contact their genealogy to that person of the original award, whether non-Kanaka or Kanaka.

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COUNCILMEMBER KING: It's...

MR. KA'EO: That might be a more kind of --

COUNCILMEMBER KING: So if it's...

MR. KA'EO: -- fair way of looking at that.

COUNCILMEMBER KING: So the way it's worded it doesn't really specify...it just says land grant . . . *(inaudible)* . . .

MR. KA'EO: Yeah, I...

COUNCILMEMBER KING: Are you okay with that?

MR. KA'EO: Yeah, I don't see it as...because again, when I look at that issue, I would almost be certainly...I would be surprised...let me just say, I would be surprised if any of those...they might be a few, I mean, I'm not saying they not, but I would say the vast majority were...if not Hawaiian by blood, were Hawaiian by national citizenship at that time also. So I don't think it's an issue at all.

COUNCILMEMBER KING: Okay, I think that answers that question then for me. Looks like Marcy's nodding her head, so...

CHAIR RAWLINS-FERNANDEZ: Okay --

COUNCILMEMBER KING: Thank you.

CHAIR RAWLINS-FERNANDEZ: -- mahalo, Member King. All right. So that's the first part. Okay. I'll share my screen again, and we'll go to that section in the definition. And that's Section D. D. For the purposes of the ownership and lineal descendant requirements of this section, an owner who is a lineal descendant of a person(s) who received the original title to kuleana land or kuleana government grant may include: 1. A trust where the trustees or beneficiaries are lineal descendants of the person or persons who received the original title to the kuleana land or Kuleana Act government grant land. And here is...the Department recommended the deletion of the "majority of." 2. A corporation, limited liability company, non-profit organization, or a similar entity where the owners or board of directors are lineal descendants of the person who received the original title to the kuleana land or Kuleana Act government grant. And then again, majority of the Department recommended the deletion of. And then there are 3. and 4., both of which were recommended to be deleted by the Department. And as Mr. Tanaka explained, these are sections that are included in the Hawai'i ordinance. And so it reads -- "3. A family member of any owner listed on the most recent title of the property who died intestate," so without a will, "and who is a lineal descendant of the person or persons who received the original title to the kuleana land or Kuleana Act government grant land where no owner listed on the most recent title is living." Or "4. A family member or a person who is a lineal descendant of the person or persons who



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received the original title to the kuleana land or Kuleana Act government grant, and who may have potential claim to the property where the Director determines that no record of property ownership has been established.” So for the D. and then 1. and 2., Ms. Martin, there wasn’t any recommended amendments to those sections aside from the majority of...did you have any comments before I open the floor for questions?

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Now that I’m reading it, I’m...I would ask Kristina if it should say “a trust where a trustee or beneficiary is a lineal descendant,” so that it’s not trustees or beneficiaries. So for example, currently with the kuleana exemption, if you had ten owners, but one owner was the lineal descendant, they would still get the exemption.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin. Deputy Corporation Counsel Toshikiyo.

MS. TOSHIKIYO: Hi, yes. Thank you, Chair. Can you hear me okay? Okay, wonderful. I’ve been having problems with my mic. I haven’t had an opportunity to review the proposed bill, and I’m just kind of looking through it right now. And I would love to be able to provide any kind of comments after I’ve reviewed it, as well as Finance Department’s comments. But regarding Ms. Martin’s question, I think that that could be a policy issue for the body to determine, you know, whether or not the majority, all the trustees or one trustee is a lineal descendant. But again, that’s my comment without having read the whole and done all the research.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Toshikiyo. Okay, Chair Lee.

COUNCILMEMBER LEE: Can I ask Mr. Ka’eo’s comments on this, please?

CHAIR RAWLINS-FERNANDEZ: Kumu Ka’eo.

COUNCILMEMBER LEE: If you see that we’re missing something, please speak up.

MR. KA’EO: Okay, just to clarify the question for sure so I’m answering the right question, just my comments on the...yeah, I guess for me, the big issue is, I don’t really foresee there being so much an issue about...if anyone that can make a claim for an exemption, I believe, should be able to have a direct connection to one of the original awardees for those who did perhaps on the...and I know we looking totally specifically on the Kuleana Act government lands. So these are the land grants that came out of the Hawaiian Kingdom. So I don’t...that’s why I don’t think the issue of them being only Hawaiians or not Hawaiians is such a big issue. I think what’s more important is that they can actually have a direct connection with that...

COUNCILMEMBER LEE: Even if it’s just one person of a trust or a board?

MR. KA’EO: That’s the one I...that’s a good question. I mean, I don’t...I mean, I don’t...put

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it...the Hawaiians I know, I don't know too many of them on this trust and boards, so I cannot speak for that community at all. I don't...you know...you know...because I know people are asking me about, you know, the wealth of these lands and, you know, for me, these kuleana owners are those who have still been blessed, like my own family, to hold some of these lands. We're definitely not people that, you know, have a lot of money and stuff. And so I don't...I don't know of any of those...I mean, there maybe someone with wills and, you know, those kinds of trust after death and that kind of stuff. I'm not sure of it all. But I would...you know, I would think they would be able...again, to directly connect themselves to the original awardees.

COUNCILMEMBER LEE: At least one of the trustees?

MR. KA'EO: I would think so. Yeah.

COUNCILMEMBER LEE: Thank you.

MR. KA'EO: Yeah.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. This is all so interesting. So the Budget...the Budget Office, on page 3, this chart that they gave all of us, right, that has...and I want to see how this ties into what Professor Ka'eo just said with all the numbers we're hearing. So according to this chart, it went from number of exemptions was 7 is now at 49. So how does this...what we're doing, is...how is this going to impact the numbers that you see on this chart, and how much is it going to cost, and what is the impact? Do we understand the magnitude of this vote? Marcy, did...do you see the...I'm looking at your letter. Thank you.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Well, we don't know, but we know that there are less Royal Patent grants than there are kuleana awards. And I think Wayne can elaborate on that. So my assumption was that the impact would be less than what we have for the kuleana, but it is an estimate. You know, the number of people who've owned property for over 100 years is limited, and that's why this bill is being heard.

COUNCILMEMBER SUGIMURA: So no impact. Or little impact, I guess you're saying, yeah? Okay.

MS. MARTIN: Well, my estimate is, per year, around 80,000.

COUNCILMEMBER SUGIMURA: Oh, okay. That's what you told us in the beginning. Okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Okay. And then I'd like to thank Kumu Ka'eo for serving as a resource for our Committee today. Mahalo. Member King.

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COUNCILMEMBER KING: Yeah, did he have to leave?

CHAIR RAWLINS-FERNANDEZ: Yeah, he had to go and teach a class.

COUNCILMEMBER KING: Oh, okay. Yeah, what a great resource. So I'm...are we still on the number for the trustees or are we...not sure what issue we're on.

CHAIR RAWLINS-FERNANDEZ: That whole section.

COUNCILMEMBER KING: Okay. So I think we were trying to debate whether we should say...we should take out majority to say a trustee or it sounded like maybe at least one trustee, at least one person...one trustee or beneficiary is what we were probably landing on. And then that would...I mean, because what we're trying to do here is afford these...the folks the chance to hang on to their land, so maybe doesn't really matter. If there's one person on there that's connected to the land, then they need to be able to maintain that and retain it. So I would support that just saying a trustee or beneficiary or at . . .*(timer sounds)*. . . least one . . .*(inaudible)*. . . beneficiary.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. In regards to the majority, I kind of like the majority. I was reading up on this before the meeting about what happened with the Zuckerberg in Kaua'i, and all it took was one person of all the families...there was many families involved in that, and they put...they used that one person to kind of bring it to the quiet title court. So I kind of like the idea of having a majority. You know, we're talking about families, right? Family members ideally, and could you get a majority of family members to agree with that, that would be more...as opposed with just one person, which is what happened in Kaua'i, and then it became that big front page news. So I think I like kind of where it just says the majority of trustees. That's my two cents on it. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Johnson.

VICE-CHAIR PALTIN: Point of information.

CHAIR RAWLINS-FERNANDEZ: Member Paltin.

VICE-CHAIR PALTIN: I just wanted to clarify what Member Johnson was saying. It's in order to qualify for the exemption, the board has to have a majority of trustees being lineal descendants. It's not to make a decision or sell the land or anything else like that, right? It's just in order to qualify to get an exemption. Is that correct, and your understanding, Member Johnson?

CHAIR RAWLINS-FERNANDEZ: Yeah. So those are different processes, and I'll call on Mr. Tanaka to help clarify so that we're not conflating separate issues under this. Mr. Tanaka.

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MR. TANAKA: Thank you, Chair. Yeah, so that's actually...that situation in Kaua'i is actually why families would create these trusts, and then everyone would agree...you know, before all...you know, as generations go on, you know, people have children, and their children have children, and all of a sudden you have 100 people with an interest in this piece of property. And then if one of them sells their interest, which is what happened in Kaua'i to, like, an outside person, then that person could potentially...and there's been some recent amendments to the law, but could, in that case, force the partition...they basically go to court and say, I want to cash out my undivided interest. And oftentimes these people have a ton of money, and so they'll force the auction of the property, and they'll just buy the whole property. And that's exactly why Hawaiians have created trusts...like trusts or LLCs or non-profits to kind of hold the land. And so the intent was to kind of allow...you know, provide the tax exemption for those situations. I understand the concern about having a majority, you know, especially if you have beneficiaries. You could have, like, 100 beneficiaries and to prove, like, that 51 of them are lineal descendants could be pretty burdensome. And so I can totally understand where Finance is coming from. And our original...when we put in the majority language, we were trying to, you know, ensure it was narrow enough to prevent, you know, like inappropriate situations. But I think when you look at the other requirements, like, no commercial use of the property except for commercial agriculture, like, that also...and that will in itself, I think, significantly narrow, like, who can qualify. So yeah, I don't see...at this point, I...personally, I would be open to Ms. Martin's suggestion about just having a single person.

CHAIR RAWLINS-FERNANDEZ: Okay.

MR. TANAKA: Thank you. . . .*(timer sounds)*. . .

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Tanaka. Mahalo, Member Paltin. Okay, any other questions on Section D? Okay. We'll go on to the next section. Okay. And I'll share my screen again. Okay. And so in combining the idea of relief for delinquent taxes and penalties, Finance Department offered this language as a suggestion, which would read, "for a period of one year beginning January 1, 2022, applications for this section will be accepted retroactively for assessment years 2010 through 2021." In the bill I proposed last year, that language would read here, "which is those portions of Real Property designated as kuleana or Kuleana Act government grant land are exempt from paying real property taxes, delinquent taxes, and penalties." Okay. And then my question for Ms. Martin, so I...personally I prefer to have that ongoing relief because I know how long it takes for descendants to go through the process of verification through OHA's genealogy. And also going through probate court, it can take years. And so I'm just concerned that we're...if we're just going to do that for one year that we're still going to miss a lot of people, and I'd like to encourage people who are descendants of the original kuleana land or land grant to go through this process so that they can establish title. I've heard stories from people that have been deterred from going through this process because of the potential delinquent tax that they would then be responsible for. So it's become also a deterrents, and I want to reconnect people to their generational family land as much as possible. So as far as exempt from paying real property taxes,

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delinquent taxes, and penalties, is your concern about the administration of it, or would you please explain your proposal, Ms. Martin.

MS. MARTIN: Chair. Thank you. The retroactive period is a policy decision. My reason for moving it to that section would be that our Code already covers the process of providing refunds, and so I didn't want any of the language to contradict one another. I just wanted to maybe leave it to the application, and then the refund process would be covered under other sections of the Code. And it would be our normal refund process, so the period would be a policy decision for this body.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin. Member King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I don't have it right in front of me, but if we change that wording to initiate the process in that one year, then would that open it up to however long it takes to complete that application? One of my concerns is that when I looked at that was I thought...I thought about all the people that have...well, the few people that have complained to us that they missed the window for homeowners' exemption. And so they...you know, I think we heard from a few people during Budget that they didn't realize that there was a homeowners' exemption, but they're not allowed to go back and retroactively apply for it for all the years that they actually were a homeowner, and some of them were, like, condo owners, so they didn't think of themselves as "homeowners." But if there was a period like that that...that the action would have to be initiated, would that serve whatever administrative issues that you have with that, Ms. Martin?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. So I think the retroactive application was only for this exemption, not for other exemptions. That's why it would be under the...only this section of the Code.

COUNCILMEMBER KING: Oh, I understand that, I'm just saying that...you know, are we going to get requests that, hey, you know, I have...for five years I've been a homeowner. Can I go back and, you know, retroactively get that exemption. Which is not the same thing that we're talking about here, but I can see us, you know, fielding those questions.

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Yes, we do get those situations, and they are unfortunate. This bill is a little different. You know, with the home exemption it's buying, selling, buying, selling. These are people who have owned their properties over 100 years, so I think this program can be...I guess that would be a question for Corporation Counsel, that it can be evaluated individually based upon the circumstances of the relief that we're trying to provide here.

COUNCILMEMBER KING: But could you...I guess my question is, if the wording were that it had to be initiated within that one-year period . . . *(timer sounds)* . . . could that serve

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whatever purposes, or does that still...is that still...I mean, that...would that help with the fact that some of these processes may take more than a year and take a couple of two or three years, as long as it was initiated that, you know, if they didn't complete their application within that year, they would still be eligible?

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Briefly. The timer went off, Ms. Martin.

MS. MARTIN: Oh, okay. Well, it just...you can see how long it took for the kuleana exemption to catch on between 2010 and 2013, so it does take time.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin. Mahalo, Member King. And yeah, Members, if that's something that you would like to help homeowners with, then that can be a separate bill, but that's not on the agenda today, and that's a policy decision. If we're trying to help lineal descendants not lose their generational family land from the 1800s, I think it's a different situation here. It's a long process to go through probate court to establish title. So it's just a really long process. Okay. Any other questions on that section? Okay, seeing no other hands...okay. Okay. On the Section E. Okay. Again, adding Kuleana Act government grant here. And Department recommended deleting the proposed Section 4., which defines family member means spouse, child or descendant of a child, sibling or descendant of a sibling, parent or ancestor of a parent, or sibling of the person's parent. The proposed Section 5. "Kuleana Act government land grant means those lands set aside in accordance with Section 4 of L, 1850, p. 202 entitled "An Act Confirming Certain Resolutions of the King and Privy Council passed on the 21st day of December A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges" as amended by L, 1851, p. 98 entitled, "An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots and Certain Other Privileges" and as further amended by subsequent legislation, and title to which the purchased or otherwise obtained through a Royal Patent Grant issued by the Land Commission or Minister of the Interior." Okay. And we received a comment from the Department on E.5. In order for this exemption to be implemented as intended, it is important that the definition of Kuleana Act government grant be clearly defined so that the laypersons and RPAD understands who qualifies. Is there any additional precise language that could be included within definition? I think we talked about it. So for example, would it be possible to include grant numbers, dates issued, defined recipients (native tenants versus plantation owners), or an index book reference? So I think, Ms. Martin, the language that we added there that cite the different laws, is that a clear enough definition for Kuleana Act government grant land?

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: The division's done quite a bit of research. We feel at this time it is sufficient. Again, if we have questions, we would look to, you know, experts, such as OHA. And

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again, we're working with the other counties, so this language will probably be passed around, so we just want to make sure, you know, we put it out there, and as everyone shared, that people will understand. And most importantly, will the applicants understand. We just want to make sure everyone understands.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin. And then Mr. Tanaka, you have any remarks regarding this section?

MR. TANAKA: Chair. Yeah. So, you know, we also have been doing our research and talking to experts in the field. And so I...you know, I think I mentioned earlier, you know, their recommendation. And I don't know if this needs to be codified but...versus just incorporated into the Real Property Division's interpretation application of the law, but the factors that they recommended looking at to verify that any government Royal Patent grants were issued under Section 4 of the Kuleana Act would include, again, land area size of between 1 and 50 acres and a purchase price that's commensurate with 50 cents an acre. And then also would have to have been issued within the relevant time period.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Tanaka. I see a question from Member Paltin.

VICE-CHAIR PALTIN: Thank you. I had a question on E.2. Is that...is this the appropriate time? Okay. And my question would be, I guess, for Mr. Tanaka. And I'm not sure if it applies to kuleana lands and Kuleana Act government grant lands, but I know in, like, 'āina 'ōhana lands, sometimes, I guess, you know the case you were talking about with Zuckerberg came to mind where one person might sell out to the rest of the family, and the amount that they sell out for is so much that the rest of the family needs to take out a huge, like, mortgage loan and the only way that they can then pay off that mortgage loan is to engage in commercial activities, whether it be bed and breakfasts or what have you. I just was wondering if you had any data on how often that occurs for kuleana lands or Kuleana Act government grant lands, where it's not that they're doing that commercial activity because they want to, but they're doing it in order to keep that land within the lineal descendancy.

MR. TANAKA: Chair. Unfortunately I don't have a solid answer in terms of how often these kinds of situations arise. And the tricky thing with quiet title and forced petition is these situations can be so diverse. I think in this case, what we're trying to do is provide relief from taxation versus relief from other situations where, you know, someone acquires an undivided interest, and then forces the rest of the family to deal with the situation. So we're only looking at...and I don't know if this bill can address that part...that kind of situation, but what we're really focusing in on is to just try to ensure that County taxes don't force families to have to, you know, sell their lands or monetize it in a way that might not be, you know, in their interest or that's consistent with the character of the land traditionally.

VICE-CHAIR PALTIN: Thank you. I just was wondering because, you know, before we provided this relief, that could've been a reason why somebody just wanted to sell out, you know. Especially with the coastal lands, how expensive the taxes were, you know, 70, 80 grand in some cases. And maybe some members of the family were like, I don't want to deal

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with this, you know. And other members are like, no, it's our family land and we got to keep it. And then they have...there's half the amount of the family carrying this burden in addition to the taxes. But if you feel like not allowing commercial purposes, then I'll keep it like that.

MR. TANAKA: Yeah, I think part...I mean, so that commercial purposes language is in the existing kuleana property tax exemption, so we're just following the policy that was established by the Council in 2009.

VICE-CHAIR PALTIN: Okay.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Member Molina. And I see that we have five minutes until 5:30...4:30. Member Molina.

COUNCILMEMBER MOLINA: Sorry, Madam Chair. Don't mean to spoil the party, but I'll make it real quick. You know in this section, Madam Chair, the documents that are being referenced, I don't know if that could be possibly transmitted into the record if that'll help. You know, all of these, an Act Confirming Certain Resolutions of the King and Privy Council and so forth. So would it be possible to have that transmitted into the record? If not, you know, so be it. But just wondering in case people want to do more, you know, research into what the documents are all about. And the second thing for Mr. Wong [sic]...sorry, this is kind of a dumb question but...now OHA, you advocate for to benefit the Hawaiian...native Hawaiians, and we appreciate your support for this legislation. Do you guys provide resources as well for any native Hawaiian causes? Because I'm thinking in lines of establishing a partnership with the County. For example, the refunding for those with, you know, kuleana parcels, if you guys could cost-share with the County. For example, I don't know if you guys...if that's appropriate or not. And, you know, Madam Chair, you can chime in on this as well. I don't know if that was ever potentially discussed. Because you...OHA, you do have resources, right? And...

CHAIR RAWLINS-FERNANDEZ: Mr. Tanaka.

MR. TANAKA: Yeah, we haven't discussed about cost-sharing. I mean, that's a decision that's controlled by, you know, our board ultimately. So it would be difficult for me to, you know, make any kind of assurances.

COUNCILMEMBER MOLINA: Oh.

MR. TANAKA: But --

COUNCILMEMBER MOLINA: Well, at least --

MR. TANAKA: -- I think...

COUNCILMEMBER MOLINA: -- throw that topic out to the board or something. You know, I'm just curious. I'm sorry, I referred to you as Mr. Wong, Mr. Tanaka. I'm thinking of



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someone else who has the same first name. I apologize.

MR. TANAKA: Oh, thank you.

COUNCILMEMBER MOLINA: So anyway, that's something I'd like to just throw out at you if that's something you'd like to bring up to the OHA board.

MR. TANAKA: I will mention it. I'll put it...mention it to our administration and see what they...

COUNCILMEMBER MOLINA: Okay.

MR. TANAKA: Yeah.

COUNCILMEMBER MOLINA: Thank you.

MR. TANAKA: Thank you.

COUNCILMEMBER MOLINA: That's it, Madam Chair. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. Okay, Members, it's 4:27. We went through the entire bill and asked everyone's questions. I see Member Paltin offered to stay until 5:45. I don't know if you meant until 4:45 in the chat.

VICE-CHAIR PALTIN: I just have to pick up my kids at 6:00.

CHAIR RAWLINS-FERNANDEZ: Okay. So Members, I would like to finish this item, and then if...so are Members open to staying to finish this first item? And then I know the County TAT was a really...is a really hot topic, so if Members would like to just see that, we can also do that. So the first thing is are Members willing to stay to finish the kuleana land tax item?

COUNCILMEMBER KING: Chair, I can stay until 5:00.

COUNCILMEMBER MOLINA: Same here, until 5:00.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay. Sounds good. All right. I think we can get this one done since we went through the entire thing section by section. So I think the last part...so I'll...oh, okay. I will go over the bill first as amended, and then I'll entertain a motion. Oh, Member King, are you raising your hand?

COUNCILMEMBER KING: Yeah, I was...I actually had a question I wanted to ask about this chart here, but I can wait until there's a motion and then ask...will we still have our resources once we make the motion?

CHAIR RAWLINS-FERNANDEZ: Yeah, we have Ms. Martin on.

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COUNCILMEMBER KING: Okay. Because sometimes I know we don't use our resources once we make a motion. But if we can, then I'll wait until after the motion's made.

CHAIR RAWLINS-FERNANDEZ: Okay. Go ahead and ask your question --

COUNCILMEMBER KING: Okay.

CHAIR RAWLINS-FERNANDEZ: -- to Ms. Martin.

COUNCILMEMBER KING: Okay. Are you there, Marcy? So the...on this chart you have on page 3, there's, you know, the total projected impact. How much of that impact is a one-time impact for the retroactive? Because assuming once we pay the retroactive, that's a one-shot deal, right? So how much of that is ongoing, like, annual expense, and how much of it is retroactive?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. The annual expense would be about \$165,000 for the kuleana, and then an additional \$82,500 for the expansion to the grants.

COUNCILMEMBER KING: Okay, but the 165...

MS. MARTIN: That would be the annual cost.

COUNCILMEMBER KING: Okay, but isn't the 165...we're already paying that?

MS. MARTIN: Yes.

COUNCILMEMBER KING: Okay. So the new expense would be less than 100,000 is what you're saying.

MS. MARTIN: Yes.

COUNCILMEMBER KING: And then retroactively, is that the 1.5 million that we're talking about in retroactive? Or...

MS. MARTIN: Yes. That would be if you would allow every person to apply back to 2010.

COUNCILMEMBER KING: Okay. All right. It's just what I wanted to clarify. That's pretty...so going forward, pretty minimal. We're talking less than 100,000 of new tax exemption. Pretty minimal. All right. Thank you. Thank you for letting me ask that, Chair. That was important.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Okay, Chair Lee.

COUNCILMEMBER LEE: I thought you said earlier that this will help one segment, but not another segment? So that...is there another bill that you're contemplating?

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CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER LEE: Does this one bill take care of all the people that have come to us with problems with kuleana lands and so forth? No.

CHAIR RAWLINS-FERNANDEZ: Right. So there are lands that came to some people who testified before, and that was the distinction I made before I opened public testimony. Because not all generational families got their land through the Kuleana Act process. Some families got their land through fee simple in the late 1800s, early 1900s through purchase of fee simple. And so it doesn't qualify under kuleana because they're not kuleana land.

COUNCILMEMBER LEE: Okay. So that one family that keeps coming to us every year in Makena is not going to be helped by this?

CHAIR RAWLINS-FERNANDEZ: No, because that's not kuleana. But that bill I hope to introduce by next month.

COUNCILMEMBER LEE: All right. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee. Any other questions? Okay. Seeing none. All right. I will share my screen. Okay. All right. So I've combined the back tax, delinquent tax and penalties here. So here's the...what you have on Granicus. So the Kuleana Act government grant land. Oh, and also up in the title. And then I've combined it to include the delinquent taxes and penalties. And Kuleana Act here, Kuleana Act here, must, must...and then added the recommendation from the Department: "For a period of one year beginning January 1st, 2022, applications for this section will be accepted retroactively for assessment...assessment years 2010 through 2021." And section D., D.1., and D.2., without "majority" and adding "a trustee," deleting the "s," "or a beneficiary." We are not adding 3. and 4. And deleting E.4., and keeping in E.5. And then removing this section because we added the recommendation here. Okay. The Chair will entertain a motion to recommend passage on first reading of the proposed bill, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO KULEANA LAND," --

VICE-CHAIR PALTIN: So moved.

CHAIR RAWLINS-FERNANDEZ: -- incorporating any non-substantive revisions, and filing of County Communication 20-113. Moved by Member Paltin.

COUNCILMEMBER KING: Second.

CHAIR RAWLINS-FERNANDEZ: Second by Member King. Discussion Members?

MS. MILNER: Chair.

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CHAIR RAWLINS-FERNANDEZ: Member Paltin. Oh.

MS. MILNER: Sorry, this is Lesley. Sorry to interrupt. Are you passing the one on kuleana land or kuleana tax exemptions?

CHAIR RAWLINS-FERNANDEZ: The one that we introduced this year. So that's the... "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO KULEANA TAX EXEMPTIONS."

MS. MILNER: Okay. Mahalo, Chair, I just wanted to clarify for the record.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Milner. Member Paltin.

VICE-CHAIR PALTIN: I'd like...I move to amend the bill to change the one year period to ten years.

CHAIR RAWLINS-FERNANDEZ: Is there a second?

COUNCILMEMBER SINENCI: (raising his hand seconding the motion)

CHAIR RAWLINS-FERNANDEZ: Seconded by Member Sinenci. Member Paltin.

VICE-CHAIR PALTIN: I'm not sure what probate is, but I believe you when it says...you said it take a long time. So ten years seems like a long time, would be my discussion.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Members, any other discussion? Chair Lee.

COUNCILMEMBER LEE: I'd like to know the financial impact of that, Marcy...that amendment?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. When I did the financial impact I estimated that everyone who would apply would apply for the retroactive exemption...it just depends on what this body wants to achieve.

COUNCILMEMBER LEE: In other words, you gave us the total as if everybody applied for an exemption retroactively. So whether they have one year to do it or ten years to do it, it doesn't matter.

MS. MARTIN: Yes. If they have ten years to do it, then the expense may not occur in one year, it might occur over a few years. But say if someone found out about the exemption five years from now for some reason, then they would have the ability to, I guess, apply for the exemption all the way back to 2010 because that would be within the ten years. Is that my understanding?

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COUNCILMEMBER LEE: Okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee. Member King.

COUNCILMEMBER KING: Thank you, Chair. So, Marcy does that mean if someone didn't apply for five years then you would be charging them tax for the next five years, and then they'd be retroactive for 15 years by the time they got their application in?

MS. MARTIN: Chair.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Yes. So they would be paying taxes now, they've paid taxes for the past ten years, and then they would be paying taxes for the next five years. And then if they were retroactively allowed to apply through 2010 when the exemption was first initiated, yeah, they would get all those...all those years of taxes refunded to them if it was applied retroactively.

COUNCILMEMBER KING: Okay. And you don't have a way of knowing if someone's paying their taxes whether they would be owed and you should get them started on their application?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Yes. It's very difficult to determine who qualifies and who doesn't. The owners really have to know themselves if they qualify.

COUNCILMEMBER KING: Okay. All right. Thanks.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Member Molina.

COUNCILMEMBER MOLINA: Okay. Thank you, Madam Chair.

CHAIR RAWLINS-FERNANDEZ: Followed by Member Sugimura.

COUNCILMEMBER MOLINA: Question for Ms. Martin. So simply put...so to go from one year to ten years, Ms. Martin, would this be more...cause more complexities for the Department?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Yes. It would cause us to have to make adjustments going back in time. So yes, it would be difficult. And again, it's a policy decision. There aren't that many applicants in the program, so I'm not, you know, concerned that we can't do it. But of course, it will be difficult. Yes.

COUNCILMEMBER MOLINA: Okay. Thank you.

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CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Question for the Department then. How does this impact the budget and estimated revenue, or does it?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair. So it will impact revenue because it won't be necessarily budgeted. You would have to...it won't show up in the certification, for example, because it's retroactive.

CHAIR RAWLINS-FERNANDEZ: Member Sugimura.

COUNCILMEMBER SUGIMURA: Okay. Well, how about going forward then? I mean, how does this impact our budget? And if it's small and minor is what you're implying...is that what you're saying?

MS. MARTIN: Chair. Well, again, we don't know how many applicants there will be. I've made an estimate here of 1.5 million if everyone applied retroactively. That would be your revenue loss. The only amount that would appear in your budget would be once people have actually applied for the exemptions. Any refunds or retroactive application will be a revenue loss that won't appear in our certification, our real property tax certification.

COUNCILMEMBER SUGIMURA: It's like a circuit breaker. Kind of like circuit breaker.

MS. MARTIN: Chair. Well, we do provide an estimate for circuit breaker, so that's an idea, that we could provide an estimate in the certification kind of like we do for circuit breaker.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Member King.

COUNCILMEMBER KING: Okay. Sorry to go back to this, but if...the way it's worded, if somebody...I mean, how do they apply? Do they...if they put in an application and then they have to go back to court and do all these things, and it does take, say, three years, as long as the application's in in the first year, does that still qualify? Or does it have to be completed in the first year...in that one-year period? Because I think that's the biggest issue is how long it takes them to start into the process.

CHAIR RAWLINS-FERNANDEZ: Ms. Martin.

MS. MARTIN: Chair, thank you. Yes, that is an issue because to qualify, you have to show that you are a lineal descendant. So once you get your application in, the qualifying documents should reference the date that you applied.

COUNCILMEMBER KING: Okay. So...but my question is as long as they apply within that

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one-year period, it can take however many years it takes for them to get through the process, but they qualify as long as they get an application in in that one-year period, is that?

MS. MARTIN: Yes.

COUNCILMEMBER KING: Okay. So it may take five or ten years for it to happen, but it's still legitimate...it's still legitimate as long as they got their application in, the initial application? Okay.

MS. MARTIN: Yes. No application means no exemption.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. I'll be voting in support of the motion to amend. This is a set list that will not grow because whoever received the land grant in 1850-ish time frame, that's it. They...no one can apply to get a kuleana land grant or an LCA or an RP, Royal Patent, Land Commission Award, none of those. So if you didn't get it or if your ancestor didn't get it in the 1850s, then you can't qualify. So that is a limited pool of people, and that limited pool of people will not grow on that limited pool of land, whatever land is left. I understand that there was, you know, pae 'āina wide 12,000 claimants, but so much of that land has already been sold or lost in some way. As Kumu Ka'eo talked about, there's lands that span a number of TMKs that could've been auctioned off. And so losing parcels of land...because the TMK doesn't follow the kuleana land awards, and so it has been dwindling, and dwindling, and dwindling. And...and I understand that that's why this policy was put in place in 2009, and that's why the Senate passed the resolution because it...it's a crisis. And, you know, I support everything that we can do to support the generational families that, you know, have barely anything left. So I'll be voting in support of the motion. I see no more hands for discussion. So, I will call for the question. Member Sinenci, are you voting already, or do you have a comment on the motion to amend?

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. Just a quick comment. I was trying to look at some of the names in Maui from that LCA's 1,700 pages. And looking through, I don't...we don't...you're exactly right, from 1800s, there's very few, especially with plantation, now that the families have just kind of come...you know, mixed in, I don't see a lot of familiar names back from 1800s. So I think for modern families to go back and do research back to 1800s...and I...and I think this was one of the appeals to the CWRM order and decision with Nā Wai 'Ehā because going all the way back to 1800 is kind of difficult to go 100 years back. So I believe you're exactly right, it would take more time for people to trace their modern lineage back over 100 years to find your ancestors that received those kuleana awards. So I'm support of extending it to give those families time to do *(audio interference)*

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Anyone else wishing to speak to the motion to amend the main motion? Seeing none, I'll call for the question. All those in favor of the motion to amend the main motion, please raise your hand.

COUNCILMEMBERS: (raising their hands in favor of motion)

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CHAIR RAWLINS-FERNANDEZ: Okay, I see a unanimous...that's eight ayes; one excused, Pro Tem Kama.

**VOTE:**        **AYES:**        **Chair Rawlins-Fernandez, Vice-Chair Paltin, and Councilmembers Johnson, King, Lee, Molina, Sinenci, and Sugimura.**

**NOES:**        **None.**

**ABSTAIN:**        **None.**

**ABSENT:**        **None.**

**EXC.:**        **Councilmember Kama.**

**MOTION CARRIED.**

**ACTION:        APPROVE**

CHAIR RAWLINS-FERNANDEZ: Okay. We are on the main motion as amended. In my trying to combine the two bills under this item, I failed to include Section 2 of the delinquent and penalty bill. So the Chair would entertain a motion to amend Section 2. to amend Section 3.48.140, Maui County Code, to add a sentence to the end stating that: "If kuleana land or Kuleana Act grant...government grant land classification is granted, the portions of real property designated as kuleana land or Kuleana Act government grant land, will be listed as exempt on the assessment lists, and all delinquent taxes and penalties must be removed from the portions of real property designated as kuleana land or Kuleana Act government grant land in accordance with Section 3.48.554."

COUNCILMEMBER LEE: So moved.

VICE-CHAIR PALTIN: Second.

CHAIR RAWLINS-FERNANDEZ: Moved by Chair Lee, seconded by Member Paltin. Members, discussion? Okay, Member Molina.

COUNCILMEMBER MOLINA: Yeah, Madam Chair. At some point...you know, some of the issues that Ms. Costa brought up in testimony, if we could get, you know, some type of written...I don't know if the questions were submitted in writing, if Ms. Costa can do that. So we can just make sure we get some type of answers or some type of responses for Ms. Costa with her concerns. I think it would...I mean, I'm ready to support the bill, but I think in fairness to Ms. Costa's concerns, I'd like to get some kind of feedback with regards to her questions at some point --



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CHAIR RAWLINS-FERNANDEZ: Okay. I see...

COUNCILMEMBER MOLINA: -- prior to first reading.

CHAIR RAWLINS-FERNANDEZ: Okay, I see Ms. Costa responded to your question in the chat, so we can follow up with her. But right now, we're not voting on the bill yet, there...we're voting on an amendment to the bill.

COUNCILMEMBER MOLINA: Yeah, okay. Thank you.

CHAIR RAWLINS-FERNANDEZ: All right. Any other discussion on the amendment to the main motion to add a new Section 2? Seeing none, I'll call for the question. All those in favor please raise your hand and say "aye."

COUNCILMEMBERS: (raising their hands in favor of motion)

COUNCILMEMBER KING: Aye.

CHAIR RAWLINS-FERNANDEZ: Okay, I see eight ayes; one excused, Pro Tem Kama.

<b>VOTE:</b>	<b>AYES:</b>	<b>Chair Rawlins-Fernandez, Vice-Chair Paltin, and Councilmembers Johnson, King, Lee, Molina, Sinenci, and Sugimura.</b>
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	<b>NOES:</b>	<b>None.</b>
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	<b>ABSTAIN:</b>	<b>None.</b>
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	<b>ABSENT:</b>	<b>None.</b>
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	<b>EXC.:</b>	<b>Councilmember Kama.</b>
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**MOTION CARRIED.**

**ACTION:     APPROVE**

CHAIR RAWLINS-FERNANDEZ: All right, any other amendments? If not, I'll call for the main motion as amended. Okay, and then we'll follow up on Member Molina's request. Member Paltin.

VICE-CHAIR PALTIN: Oh, I don't have any more amendments, just a discussion. I think this is a...

CHAIR RAWLINS-FERNANDEZ: . . .*(inaudible)*. . .

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VICE-CHAIR PALTIN: Oh, thanks. I think this is a good bill, you know, was listening to Kumu Ka'eo speak at the recent Lā Ho'ihō'i Ea, and this is...you know, while we don't have jurisdiction to exempt or tax these properties, it's part of walking one foot in the two worlds that exist with illegal occupation and the American Government. And, you know, I think this is the least we can do for the descendants of the citizens who had their entire nation stolen and continue to be illegally occupied. So I speak in support of the bill. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Anyone else wishing to discuss the main motion as amended? Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. I just want to speak in support as well. I...just seeing recently how Maui...outside investors are just picking up Maui properties like hot cakes, sight unseen, over full cash offers and over asking price. So I think we, you know, have to keep...like some of our predecessors way back then that wanted to, you know, actually create a land base. We've seen that through the years, that that land base has greatly dwindled through outside investors. So I think this is a good start. Mahalo for bringing it up. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. And then I just got a message from Staff that would like me to make the motion clear. So the Chair will entertain a motion to incorporate the amendments that we discussed that are in blue here, and these are the amendments from the Department, the Finance Department, that we went through section by section. So if --

VICE-CHAIR PALTIN: So moved.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Moved by Member Paltin, seconded by Member Sinenci?

COUNCILMEMBER KING: (raising her hand seconding the motion).

CHAIR RAWLINS-FERNANDEZ: Oh, sorry. Okay. All those in favor...or discussion? Okay, all those in favor, please raise your hand say aye.

COUNCILMEMBERS: (raising their hands in favor of motion)

COUNCILMEMBER KING: Aye.

CHAIR RAWLINS-FERNANDEZ: Okay, eight ayes; zero noes; one excused, Pro Tem Kama.

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**VOTE:**      **AYES:**      **Chair Rawlins-Fernandez, Vice-Chair Paltin, and Councilmembers Johnson, King, Lee, Molina, Sinenci, and Sugimura.**

**NOES:**      **None.**

**ABSTAIN:**      **None.**

**ABSENT:**      **None.**

**EXC.:**      **Councilmember Kama.**

**MOTION CARRIED.**

**ACTION:**      **APPROVE**

CHAIR RAWLINS-FERNANDEZ: Okay. So any further discussion before I call for the question on the main motion as amended?

COUNCILMEMBER KING: Oh, I thought that's what we were doing.

CHAIR RAWLINS-FERNANDEZ: I had to incorporate the amendments that we had discussed before because the bill as posted needed to be amended just for the record and for procedure. Okay. So now our...the vote is on the main motion to recommend passage of the bill, as amended, and to file the County Communication, and to incorporate any non-substantive changes. All those in favor, please raise your hand and say aye.

COUNCILMEMBERS: (raising their hands in favor of motion)

COUNCILMEMBER KING: Aye.

COUNCILMEMBER SINENCI: Aye.

COUNCILMEMBER LEE: Aye.

CHAIR RAWLINS-FERNANDEZ: Eight ayes; zero noes; one excused, Pro Tem Kama.

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**VOTE:**        **AYES:**        **Chair Rawlins-Fernandez, Vice-Chair Paltin, and Councilmembers Johnson, King, Lee, Molina, Sinenci, and Sugimura.**

**NOES:**        **None.**

**ABSTAIN:**        **None.**

**ABSENT:**        **None.**

**EXC.:**        **Councilmember Kama.**

**MOTION CARRIED.**

**ACTION:**        **Recommending FIRST READING** of revised bill and **FILING** of communication by C.R.

**ITEM 52:**        **COUNTY TRANSIENT ACCOMMODATIONS TAX** (CC 21-354)

CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Members. Okay. And the second item on our agenda is BFED-52, and that's the County Transient Accommodation Tax. It's 4:55, so I can defer the item. It's on Granicus.

COUNCILMEMBER MOLINA: No objections to deferral.

CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KING: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay. But please review it, and I'll have that scheduled at the next BFED meeting. Okay. So BFED-52 County Transient Accommodation Tax has been deferred. Member King, you have a question?

COUNCILMEMBER KING: Yeah. I just wondered if in the discussion you were going to talk about how the collection would happen. You know, if you...

CHAIR RAWLINS-FERNANDEZ: Staff...

COUNCILMEMBER KING: You know, if there would be...I'm sorry, I didn't look at the bill yet because I was focused on the earlier one. But if there would be...if there's an intent to discuss if we want the County to collect it, or if we want the State to collect it.

CHAIR RAWLINS-FERNANDEZ: Oh, okay. If you want to discuss it for four minutes...

COUNCILMEMBER KING: Oh, I don't want to do it right now, I just wondered if you were intending to make that part of the discussion on the bill.

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CHAIR RAWLINS-FERNANDEZ: Oh, yeah.

COUNCILMEMBER KING: . . .*(inaudible)*. . .

CHAIR RAWLINS-FERNANDEZ: So I sent questions, and that correspondence is on Granicus. The questions include one, what are your recommendations for how the County transient accommodation tax system should operate; two, what considerations are being made in deciding who should be responsible for TAT collection, the County or the State; and three, the purpose of the proposed bill is to establish a TAT of three percent on all gross rental, gross rental proceeds, and fair market value, rental value, considered taxable under the definitions of Section 237(d)-1 HRS? Do you have any additional comments on BFED Committee...that the BFED Committee should consider regarding the bill? So those are the three questions that I sent to both the Finance Department and the Management...Department of Management.

COUNCILMEMBER KING: Okay.

CHAIR RAWLINS-FERNANDEZ: We'll be discussing that at the next Committee.

COUNCILMEMBER KING: Okay. I was just asking because it comes up at HSAC because, you know, they're saying that the State's either going to do all of them or none of them. So I told them that Maui wasn't...hadn't decided yet how we want to them.

CHAIR RAWLINS-FERNANDEZ: Yeah. And we weren't going to decide today either. We were going to just go through the bill and discuss some of the things...some of the factors that the Department is, you know, trying to get information on so that we can make a decision.

COUNCILMEMBER KING: Okay.

CHAIR RAWLINS-FERNANDEZ: Hopefully we'll be able to have all that information and be able to make a decision on the bill at the next BFED Committee meeting.

COUNCILMEMBER KING: Awesome.

CHAIR RAWLINS-FERNANDEZ: Okay?

COUNCILMEMBER KING: Okay, great.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member King. Okay. All right. So it's 4:58. Mahalo again, Members, for staying longer than the scheduled committee meeting. Let's see, we have a PSLU Committee meeting tomorrow at 9:00, so we'll see you all there. Any last announcements before I adjourn?

COUNCILMEMBER SUGIMURA: You have 1:30 for Infrastructure Transportation Committee.

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CHAIR RAWLINS-FERNANDEZ: Okay, we'll see everyone at...

COUNCILMEMBER SUGIMURA: We're doing Mr. Molina's four-way stop. We need you all there.

CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR RAWLINS-FERNANDEZ: So the PSLU Committee at 9:00, IT Committee at 1:30. Okay. Mahalo for all your hard work, Members. Oh, what? What's the matter?

COUNCILMEMBER JOHNSON: They want you to gavel hard.

COUNCILMEMBER SINENCI: Gavel out.

COUNCILMEMBER MOLINA: Bang, bang, bang, bang.

CHAIR RAWLINS-FERNANDEZ: . . .*(laughter)*. . . Okay. Staff, did I miss anything before I adjourn?

MS. MILNER: No, Chair, you're good. Thank you.

CHAIR RAWLINS-FERNANDEZ: Wonderful. Mahalo, Ms. Milner. All right. It's August 4th at 4:59, and the Budget, Finance, and Economic Development Committee is now adjourned. . . .*(gavel)*. . .

**ACTION: DEFER, no discussion.**

ADJOURN: 4:59 p.m.

APPROVED:



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KEANI N.W. RAWLINS-FERNANDEZ, Chair  
Budget, Finance, and Economic Development Committee

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Sakai

Transcribed by: Crystal

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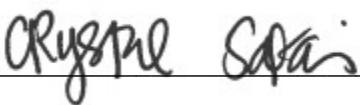
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CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 63 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 8th day of September 2021, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read "Crystal Sakai", is written over a horizontal line.

Crystal Sakai