



**HB37**  
RELATING TO NON-GENERAL FUNDS  
House Committee on Judiciary and Hawaiian Affairs

January 31, 2023

2:00 PM

Room 325

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The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees to **SUPPORT** HB37, which would abolish the Native Hawaiian Rights Fund of OHA, pursuant to the recommendation made by the auditor in Auditor’s report no. 22-02, and to transfer any unencumbered balance to the general fund.

On March 23, 2021, the OHA Board of Trustees voted in favor of Action Item RM #21-02: Approval to Close the Native Hawaiian Rights Fund as the purpose of the fund had been inactive.<sup>1</sup> On July 14, 2021, OHA notified the State Department of Accounting and General Services (DAGS) which replied that, “Appropriations cannot be closed but will be purged by FAMIS when we run the process. It is not completed frequently.” During this fund’s review, OHA inquired with the staff from the State Auditor if they knew how to close an inactive fund, to validate the response from DAGS, and the Auditor’s staff were not aware of the process. Therefore, OHA returned to and followed up with DAGS again (in early February 2022), to ask when the next purge activity would occur, and according to DAGS, the last purge was in 2019. OHA was not provided a definitive date by DAGS.<sup>2</sup>

OHA wishes to express that its funding support for Native Hawaiian Rights continues through alternative mechanisms, such as our current contract with the Native Hawaiian Legal Corporation, to ensure that Native Hawaiian rights to land, water, burials, and historic sites are protected; legal services are funded through requests for State general funds for the fiscal biennium that are leveraged with OHA trust funds. OHA remains committed to providing these services as the constitutionally established,<sup>3</sup> semi-autonomous agency of the State of Hawai‘i, mandated to better the conditions of Native Hawaiians, and as the principal public agency responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians.<sup>4</sup>

OHA appreciates the opportunity to support HB37. Mahalo nui loa.

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<sup>1</sup> OHA Board – Committee on Resource Management Minutes – Mar. 23, 2021, pp.4-5, available at <https://www.oha.org/wp-content/uploads/MINS-RM-2021-0323-FINAL-approved-and-signed.pdf>.

<sup>2</sup> Office of the Auditor, Report No. 22-02, P.21.

<sup>3</sup> Article XII, Section 5, Haw. Stat. Con.

<sup>4</sup> HRS §10-3.

# TAX FOUNDATION OF HAWAII

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SUBJECT: OHA; Auditor; Abolishment of Funds; Transfer of Balances

BILL NUMBER: HB 37

INTRODUCED BY: YAMASHITA

EXECUTIVE SUMMARY: Abolishes the Native Hawaiian rights fund of the Office of Hawaiian Affairs pursuant to the recommendation contained in Auditor's Report No. 22-02.

SYNOPSIS: Abolishes the fund, which was administratively established in 1987, with any balance lapsing to the general fund.

EFFECTIVE DATE: July 1, 2023.

STAFF COMMENTS: The 1989 Tax Review Commission noted that use of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Because of the spotlight of monies in special funds, HRS section 23-12 requires the State Auditor to review all existing special, revolving, and trust funds beginning in 2014 and at five-year intervals. This bill was the result of Auditor’s Report No. 22-02.

Digested: 1/28/2023