

STAND. COM. REP. NO.

1842

Honolulu, Hawaii

APR 04 2025

RE: H.B. No. 410
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 410, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to appropriate moneys to fund the operating expenses of the Office of Hawaiian Affairs for fiscal years 2025-2026 and 2026-2027.

Your Committee received written comments in support of this measure from the Office of Hawaiian Affairs; Kua'aina Ulu 'Auamo (KUA); Prince Kuhio Hawaiian Civic Club; Ko'olauloa Hawaiian Civic Club; Ohana Unity Party & Kingdom of The Hawaiian Islands; and thirty-six individuals.

Your Committee received written comments in opposition to this measure from the Center for Hawaiian Sovereignty Studies.

PART I. CONCERNS FROM THE OFFICE OF THE AUDITOR

Over the years, the Office of the Auditor has expressed concerns with the Office of Hawaiian Affairs, resulting from performance audits and non-general fund reviews.



In 2009, Report No. 09-08 found that while improvements have been made, critical elements of sound information technology governance are still missing. Furthermore, Audit Report No. 09-10 found that the Office of Hawaiian Affairs investment framework and process must be improved to ensure its fiduciary obligations to beneficiaries are met.

In 2013, Report No. 13-07 found the following:

- (1) Land management infrastructure is inadequate, unable to support the Office of Hawaiian Affairs' growing portfolio or any future land involvements;
- (2) Grant administration has been remiss in developing procedures and guidelines that are in accordance with all applicable statutes and Board of Trustees policies, leading to inadequate and inconsistent grant monitoring that fails to ensure that grants are achieving their intended results;
- (3) The Office of Hawaiian Affairs had not fully recognized the need for information systems to be managed at a strategic level and was not applying a strategic approach to updating its information systems; and
- (4) The Office of Hawaiian Affairs must improve its investment framework and process to ensure it meets its fiduciary duties to beneficiaries and the Board of Trustees as a whole lacked adequate investment or financial knowledge to properly oversee its trust investments.

In 2016, Report No. 16-10 found that the Office of Hawaiian Affairs did not file statutorily required reports for non-general funds and for administratively created funds. The report stated the following:

"Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight of these funds."

In 2018, Report No. 18-03 found that the Office of Hawaiian Affairs has spent with little restraint. In fiscal year 2014-2015



and fiscal year 2015-2016, the Office of Hawaiian Affairs spent nearly twice as much on discretionary disbursements as it did on planned, budgeted, and properly publicized, vetted, and monitored grants, drawing down from its fiscal reserve to fund these unplanned expenditures. Report No. 18-08, which summarized the performance audit of competitive grants for the Office of Hawaiian Affairs, found shortcomings in the way that the agency's grants staff monitors and evaluates these grants.

In 2022, Report No. 22-02 found that the Office of Hawaiian Affairs did not file statutorily required reports for non-general funds and for administratively created funds. The report stated the following:

"Accurate and complete reporting of all funds, as required by law, would greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility."

In 2023, the Auditor's summary of Report No. 23-04 stated:

"OHA has not fully developed its Commercial Property and Legacy Land Programs, neglecting to establish and adopt foundational strategies and policies to guide its real estate activities, strategies and policies that OHA, itself, identified as "guiding principles" more than a decade ago."

Despite the concerns noted by the Auditor, your Senate has supported the Office of Hawaiian Affairs to uphold its constitutional mandate for the betterment of the conditions of Native Hawaiians.



PART II. LEGISLATIVE HISTORY

The Office of Hawaiian Affairs was established in 1978 through a state constitutional amendment for the betterment of the conditions of Native Hawaiians.

In 2012, Senate Bill No. 2783 was enacted as Act 15. The purpose and intent of Act 15, Session Laws of Hawaii 2012, was to convey Kakaako Makai lands to the Office of Hawaiian Affairs; resolve all disputes and controversies; and extinguish, discharge and bar all claims, suits, and actions relating to the Office of Hawaiian Affairs' portion of income and proceeds from the public trust lands for the period November 7, 1978, through June 30, 2012. Accordingly, the Office of Hawaiian Affairs received approximately thirty acres in Kakaako Makai to resolve all disputes and controversies, and to extinguish, discharge and bar all claims, suits, and actions relating to the Office of Hawaiian Affairs' portion of income and proceeds from the public trust lands for the period November 7, 1978, through June 30, 2012.

In 2022, Senate Bill No. 2021, S.D. 1, H.D. 2, C.D. 1, was enacted as Act 226. The purpose and intent of Act 226, Session Laws of Hawaii 2022, was to:

- (1) Establish the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust;
- (2) Establish a working group to determine pro rata share of income and proceeds from the public land trust and back amounts due; and
- (3) Appropriate funds from the carry-forward trust holding account to the Office of Hawaiian Affairs.

Accordingly, the Office of Hawaiian Affairs' annual share of public land trust revenues was increased from \$15,100,000 to \$21,500,000, and \$64,000,000 was appropriated to return certain moneys previously claimed as Public Land Trust overpayments to the Office of Hawaiian Affairs. The Conference Committee Report No. 250-22 states:

"Your Committee on Conference further finds that the past-due sum owed to the Office of Hawaiian Affairs for any and all



underpayments of the pro-rata portion of the income and proceeds of the Public Land Trust for the period from July 1, 2012, to June 30, 2022, is \$64,000,000, and that this sum is intended to represent the cumulative impact of an inflation adjustment for that period."

Today, the intent and purpose of Senate Bill No. 903 is to establish a working group to determine the process by which the Office of Hawaiian Affairs may negotiate a settlement with the State and ensure that any settlement between the State and Office of Hawaiian Affairs is accurate and just, according to Standing Committee Report No. 804. Your Committee finds that any settlement valuation between the State and the Office of Hawaiian Affairs must be accurate, data-driven, and informed by due diligence, ensuring the State has the proper systems in place to accurately identify and calculate revenues from the public land trust.

PART III. THE BUDGET

This measure, as introduced, includes:

- (1) Housekeeping requests to delete non-existent general-funded full-time equivalent position counts and accurately reflect current positions funded by the Legislature, which, in doing so, eliminates all resources for ProgID OHA150 - Office of the Trustees, and eliminates all position counts for ProgID OHA175 - Beneficiary Advocacy;
- (2) Additions in general funds to create a Strategy and Implementation Division; and
- (3) Additions in general funds, matched in equal amounts by the Office of Hawaiian Affairs trust funds, for education, housing, legal services, economic development, social services, and protection of aina.



This measure, as introduced, appropriates:

	Proposed Budget for Fiscal Year 2025-2026		
	General Funds	OHA Trust Funds	Total
OHA150 - OFFICE OF THE TRUSTEES	\$0	\$0	\$0
OHA160 - ADMINISTRATION	\$1,258,454	\$0	\$1,258,454
OHA175 - BENEFICIARY ADVOCACY	\$3,600,000	\$3,600,000	\$7,200,000
Proposed Total Fiscal Year 2025-2026 Budget	\$4,858,454	\$3,600,000	\$8,458,454

	Proposed Budget for Fiscal Year 2026-2027		
	General Funds	OHA Trust Funds	Total
OHA150 - OFFICE OF THE TRUSTEES	\$0	\$0	\$0
OHA160 - ADMINISTRATION	\$1,296,208	\$0	\$1,296,208
OHA175 - BENEFICIARY ADVOCACY	\$3,700,000	\$3,700,000	\$7,400,000
Proposed Total Fiscal Year 2026-2027 Budget	\$4,996,208	\$3,700,000	\$8,696,208

Your Committee finds that Attachment C of Departmental Communications No. 296, dated December 31, 2024, that was submitted to the Legislature, identifies the following budgeted amounts for the Office of Hawaiian Affairs for fiscal years 2025-2026 and 2026-2027:

	Proposed Budget for Fiscal Year 2025-2026		
	General Funds	OHA Trust Funds	Total
OHA150 - OFFICE OF THE TRUSTEES	\$0	\$4,655,000	\$4,655,000
OHA160 - ADMINISTRATION	\$1,258,454	\$28,923,000	\$30,181,454
OHA175 - BENEFICIARY ADVOCACY	\$3,600,000	\$21,329,000	\$24,929,000
Proposed Total Fiscal Year 2025-2026 Budget	\$4,858,454	\$54,907,000	\$59,765,454



	Proposed Budget for Fiscal Year 2026-2027		
	General Funds	OHA Trust Funds	Total
OHA150 - OFFICE OF THE TRUSTEES	\$0	\$4,794,700	\$4,794,700
OHA160 - ADMINISTRATION	\$1,296,208	\$29,790,700	\$31,086,908
OHA175 - BENEFICIARY ADVOCACY	\$3,700,000	\$21,969,300	\$25,669,300
Proposed Total Fiscal Year 2026-2027 Budget	\$4,996,208	\$56,554,700	\$61,550,908

The above amounts accurately reflect only the general funds for OHA160 - Administration and OHA175 - Beneficiary Advocacy in fiscal years 2025-2026 and 2026-2027, all of which are either included in the base budget or being requested this legislative session. As such, this measure, as introduced, does not account for nearly \$100,000,000 in trust funds "budgeted" over the next fiscal biennium, according to Attachment C of Departmental Communications No. 296. Your Committee agrees with the Auditor that accurate and complete reporting will greatly improve the Legislature's oversight of these funds.

Your Committee further finds that the Legislature has previously made the following investments that align closely with the requests included in this measure, as introduced:

- (1) \$600,000,000 for the Department of Hawaiian Home Lands to pursue a multi-pronged approach to eliminating its waitlist, pursuant to Act 279, Session Laws of Hawaii 2022;
- (2) \$510,250 for a Small Business Coordinator to help ensure equal opportunity for businesses owned by Native Hawaiians, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024;
- (3) \$5,780,662 on a recurring basis for the Department of Education's Hawaiian Language Immersion Program and Hawaiian Studies Program, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024, which contributes to public Charter



Schools' funding on a per pupil basis, pursuant to Section 302D-28, Hawaii Revised Statutes;

- (4) \$3,544,683 for the Department of Education's Hawaiian Language Immersion Program, pursuant to Act 126, Session Laws of Hawaii 2024;
- (5) \$32,500,000 on a recurring basis for Department of Education teacher shortage differentials, including for Hawaiian language immersion teachers, pursuant to Act 88, Session Laws of Hawaii 2021, as amended by Act 248, Session Laws of Hawaii 2022;
- (6) \$30,000 for the State Public Charter School Commission to support traditional native speakers of Hawaiian, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024;
- (7) \$6,000,000 on a recurring basis for the Department of Education's Alternative Learning Program, which serves predominately Native Hawaiian at-promise youth, pursuant to Act 88, Session Laws of Hawaii 2021, as amended by Act 248, Session Laws of Hawaii 2022;
- (8) \$13,864,433 on a recurring basis for the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement for protection of aina, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024;
- (9) \$5,000,000 for the Festival of Pacific Arts and Culture, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024;
- (10) \$137,200 on a recurring basis for the Judiciary's Olelo Hawaii Program to provide Hawaiian language interpreters when parties in courtroom proceedings choose to express themselves through the Hawaiian language;
- (11) \$7,500,000 on a recurring basis for the State of Hawaii Museum of Natural and Cultural History, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024; and



- (12) \$2,000,000 on a recurring basis for the State of Hawaii Museum of Monarchy History, pursuant to Act 164, Session Laws of Hawaii 2023, as amended by Act 230, Session Laws of Hawaii 2024.

In this legislative session, your Committee continues to support efforts that align with the Office of Hawaiian Affairs, including the following appropriations in House Bill No. 300 Senate Draft 1:

- (1) \$4,000,000 for fiscal year 2025-2026 and fiscal year 2026-2027 for the Hoakea Program, in partnership with the Polynesian Voyaging Society;
- (2) \$465,000 for fiscal year 2025-2026 and fiscal year 2026-2027 for differentials for Charter Schools teachers, including for hard-to-fill and Hawaiian Immersion teachers;
- (3) \$4,967,103 for fiscal year 2025-2026 and \$2,002,972 for fiscal year 2026-2027 for the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement for protection of aina;
- (4) \$552,590 for fiscal year 2025-2026 and fiscal year 2026-2027 for teachers in the Department of Education's Hawaiian Language Immersion Program; and
- (5) \$142,500 for fiscal year 2025-2026 and fiscal year 2026-2027 for the University of Hawaii at Hilo's Kahuawaiola Indigenous Teacher Education Program.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying operating amounts;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (3) Making technical nonsubstantive amendments for the purposes of clarity, consistency, and style.



This measure, as amended, appropriates \$3,000,000 for fiscal years 2025-2026 and 2026-2027 in general funds and \$6,000,000 for fiscal years 2025-2026 and 2026-2027 across all means of financing.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 410, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 410, H.D. 1, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



