

JOSH GREEN, M.D.  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia'āina o ka Moku'āina 'o  
Hawaii*

SYLVIA J. LUKE  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia'āina o ka Moku'āina  
'o Hawaii*



KALI WATSON  
CHAIRMAN, HHC  
*Ka Luna Ho'okele*

KATIE L. DUCATT  
DEPUTY TO THE CHAIRMAN  
*Ka Hope Luna Ho'okele*

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**  
*Ka 'Oihana 'Āina Ho'opulapula Hawaii'i*

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
DECISION MAKING HEARING ON APRIL 4, 2024 AT 10:15AM IN CR 211

**HB 2420, HD 2, SD 1, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME  
LANDS**

April 4, 2024

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

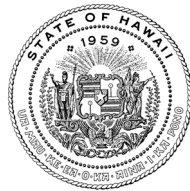
The Department of Hawaiian Home Lands (DHHL) strongly **supports** this bill which 1) establishes the Act 279 special fund until 6/30/2026; 2) deposits certain unexpended and unencumbered funds appropriated through Act 279, Session Laws of Hawaii 2022, that are set to lapse on 6/30/2024 into the Act 279 special fund and appropriates funds out of the special fund; and 3) lapses unencumbered monies from the appropriation out of the Act 279 special fund on 6/30/2026.

The Hawaii State Department of the Attorney General opined that Act 279, SLH 2022, authorization is only until June 30, 2024, given certain constitutional provisions that limit biennial appropriations to three years. Thus, as Act 279, SLH 2022, currently stands, funds not encumbered by June 30, 2024, would lapse.

HB2420, HD2, SD1 provides clarity that should any Act 279, SLH 2022, funds lapse on 6/30/2024, all unexpended and unencumbered funds would be deposited into an Act 279 special fund. Funds would then be appropriated out of the Act 279 special fund and any unencumbered monies to be appropriated out of the Act 279 special fund would lapse on 6/30/2026. This measure aligns with the apparent legislative intent that DHHL be provided at least three full years to encumber the funds appropriated under Act 279, SLH 2022.

This bill was approved by the Hawaiian Homes Commission and included in the Governor's administrative package by the request of DHHL.

Thank you for your consideration of our testimony.



JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
*Ka 'Oihana Mālama Mo'ohelu a Kālā*  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT

**WRITTEN ONLY**

TESTIMONY BY LUIS P. SALAVERIA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
HOUSE BILL NO. 2420, H.D. 2, S.D. 1

**April 4, 2024**  
**10:15 a.m.**

**Room 211 and Videoconference**

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

The Department of Budget and Finance (B&F) offers comments on this measure.

House Bill (H.B.) No. 2420, H.D. 2, S.D. 1: 1) establishes the Act 279 Special Fund that would derive revenues through legislative appropriations, grants, donations, contributions, interest, and other moneys to continue the purposes of Act 279, SLH 2022 (Act 279); 2) specifies that unexpended or unencumbered general funds authorized by Act 279 shall lapse into the Act 279 Special Fund on June 30, 2024; and 3) appropriates an unspecified sum of special funds for FY 25 for Act 279 efforts; and 4) mandates that the Act 279 Special Fund is abolished on June 30, 2026, and any unexpended or unencumbered funds will lapse to the general fund.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should:

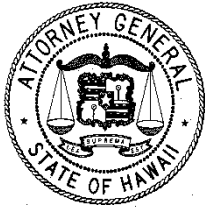
1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the

users or beneficiaries or a clear link between the program and the sources of revenue;

3) provide an appropriate means of financing for the program or activity; and

4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2420, H.D. 2, S.D. 1, it appears that the proposed temporary special fund has no source of revenue beside a lapsing of general funds, as such, we prefer the language in H.B. No. 2420, H.D. 1, which lapses the unencumbered general fund balance and re-appropriates general funds for FY 24-25 to accomplish the original intent of Act 279.

Thank you for your consideration of our comments.



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2420, H.D. 2, S.D. 1, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Thursday, April 4, 2024 **TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 211 and Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Alyssa-Marie Y. Kau,  
Deputy Attorney General, at (808) 586-0618)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The purpose of this bill is to make available to the Department of Hawaiian Home Lands (DHHL) any unexpended and unencumbered funds that were appropriated to DHHL by Act 279, Session Laws of Hawaii 2022 (Act 279), beyond the current lapse date of June 30 2024. The bill proposes to add a new section to the Hawaiian Homes Commission Act, 1920, as amended (HHCA), to establish the Act 279 Special Fund (Special Fund). The bill then amends section 6 of Act 279 to make any unexpended and unencumbered funds lapse to the Special Fund on June 30, 2024. The bill also appropriates an unspecified amount from the Special Fund for fiscal year 2024-2025 to DHHL. The bill further abolishes the Special Fund on June 30, 2026, and lapses any unexpended and unencumbered funds to the general fund on that date.

We recommend amending section 2 of the bill on page 2, line 11, through page 4, line 5, so that the Special Fund is established by a session law and not by a new section to the HHCA. Under section 4 of the Admission Act, amendments to the HHCA require congressional approval unless the amendment falls within certain exceptions, including amendments to "sections 202, 213, 219, 220, 222, 224, and 225 [of the HHCA] and other provisions relating to administration." But even if an exception might

apply, the United States Secretary of the Interior must first review all proposed amendments to the HHCA to determine whether the amendments require the approval of Congress. 43 CFR § 48.50. This federal review process almost certainly cannot be started, much less completed, before unexpended and unencumbered Act 279 funds must lapse to the Special Fund on June 30, 2024.

We further recommend amending the first paragraph of section 4 of the bill on page 4, lines 17-21, to make clear that the Special Fund appropriation shall be available to DHHL, and shall not lapse, until June 30, 2026, as follows:

SECTION 4. There is appropriated out of the Act 279 special fund the sum of \$            or so much thereof as may be necessary for fiscal year 2024-2025 for the purposes of the special fund; provided that the appropriation made by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided further that all moneys from the appropriation unexpended or unencumbered as of June 30, 2026, shall lapse as of that date.

Thank you for the opportunity to provide these comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Technical Correction to \$600 Million 2022 DHHL  
Appropriation

BILL NUMBER: HB 2420 HD 2 SD 1

INTRODUCED BY: Senate Committee on Hawaiian Affairs

EXECUTIVE SUMMARY: Establishes Act 279 special fund until 6/30/2026. Deposits certain unexpended and unencumbered funds appropriated through Act 279, Session Laws of Hawai‘i 2022, that are set to lapse on 6/30/2024 into the Act 279 special fund and appropriates funds out of the special fund.

SYNOPSIS: Amends the Hawaiian Homes Commission Act of 1920 to add a new section creating the “Act 279 special fund” (special fund), to be administered by the DHHL. Appropriations made by the legislature, grants made by governmental agencies, donations, contributions and other sources would be deposited into the fund.

Moneys in the special fund are to be used by DHHL to fulfill its fiduciary duties under the Hawaiian Homes Commission Act and Act 279, Session Laws of Hawaii 2022.

Section 3 of the bill amends Act 279, SLH 2022, to provide that unexpended or unencumbered moneys lapse to the special fund rather than the general fund, on June 30, 2024.

Section 4 of the bill appropriates \$\_\_\_\_\_ from the special fund as may be needed for fiscal year 2024-2025; provided unencumbered moneys as of June 30, 2026 shall lapse as of that date.

Section 5 abolishes the special fund on June 30, 2026, with any unexpended and unencumbered balances lapsing to the general fund.

EFFECTIVE DATE: Upon approval, provided Section 2 shall be repealed on June 30, 2026.

STAFF COMMENTS: This is an Administration measure sponsored by the Department of Hawaiian Home Lands and designated HHL-06 (24).

The Foundation recognizes this bill, as introduced, as a technical fix to conform to the original intent of the bill without running afoul of limitations in the Hawaii Constitution.

We are wondering why the current draft departs from the methodology in the bill as originally introduced and creates a new, temporary (at least for now) special fund. We see no testimony, from the Attorney General or otherwise, indicating that the mechanics in the original bill were unconstitutional or otherwise flawed. If it ain't broke, why are we fixing it?

Digested: 4/2/2024

**LATE**

**HB-2420-SD-1**

Submitted on: 4/3/2024 11:44:49 AM

Testimony for WAM on 4/4/2024 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lu Ann Mahiki Lankford-Faborito	Individual	Support	Written Testimony Only

Comments:

Strong support to continue putting hawaiians on hawaiian lands