

EXECUTIVE CHAMBERS

HONOLULU

April 30, 2004

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2743

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2743, entitled "A Bill for an Act Relating to Non-General Funds."

The stated purpose of this bill is to transfer moneys from certain special and revolving funds to the general fund, including setting up a mechanism to "automatically" take money out of the Tobacco Settlement Special Fund and the State Parking Revolving Fund at the end of each fiscal year.

This bill is a manifestation of the questionable financial practices that have plagued the State for too long. Using moneys out of special funds to pay for ongoing expenses, such as arbitrated pay raises, is further evidence that the State is living beyond its means. This is not unlike a family taking money out of the children's college fund or an IRA account to pay its grocery bills. This practice must cease if we are to ensure the State's long-term fiscal health and well-being.

While I believe this practice should not continue over the long term, I realize that without some use of these moneys, the biennium budget will remain out of balance. Of the transfers of money made by this bill, I object to the following transfers, because I believe that these transfers will most severely compromise the ability of the State to carry out legally mandated programs:

1. The \$800,000 transfer from the Animal Quarantine Special Fund to the general fund. While the Legislature determined that there was \$800,000 in excess of the requirements of this fund and authorized the deposit of that amount to the general fund, I believe that a reduction of that magnitude would deplete this fund by fiscal year 2006 and cause the quarantine operations to close down. The impact on the health of our community by this action cannot be overstated.

2. The \$900,000 transfer from the Agricultural Loan Reserve Fund to the general fund. While the Legislature determined that there was \$900,000 in excess of the requirements of this fund and authorized the deposit of that amount to the general fund, this action would cripple the Department of Agriculture's ability to provide loans to farmers in the event of natural disasters, such as the recent floods experienced on all islands.

3. The \$3,000,000 transfer from the Special Land and Development Fund to the general fund. While the Legislature determined that there was \$3 million in excess of the requirements of this fund and authorized the deposit of that amount to the general fund, taking this action would severely impact our ability to manage our parks, recreational, and conservation areas.

4. The \$12,500,000 transfer from the State Highway Fund to the general fund. This fund provides moneys critical to the repair and maintenance of our state highways. The recent flooding that has caused serious disrepair to our roadways is ample evidence of the need for

these moneys. Additionally, money in this fund can be utilized to match federal highway dollars in a 20 percent to 80 percent ratio. Thus, taking \$12.5 million in highway funds is equivalent to the State losing \$50 million.

Section 5 of Article VII of the State Constitution provides that "[n]o public money shall be expended except pursuant to appropriations made by law." The removal of money from the special and revolving funds constitute expenditures of that money from those special and revolving funds and must be authorized by "appropriations made by law." While this bill uses the term "transfer" to authorize the removal of money out of various special and revolving funds, these authorizations to remove money by "transfers" are "appropriations made by law" within the requirement of Section 5 of Article VII of the State Constitution. Section 16 of Article III of the State Constitution provides that, "[e]xcept for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same." Because of the foregoing objections, I have taken the following actions pursuant to my line item veto authority:

1. Stricken out the \$800,000 special fund appropriation out of the Animal Quarantine Special Fund on page 1, line 6 and changed it to \$0.

2. Stricken out the \$900,000 special fund appropriation out of the Agricultural Loan Reserve Fund on page 1, line 12 and changed it to \$0.

3. Stricken out the \$1,500,000 special fund appropriation out of the Special Land and Development Fund effective July 1, 2004 on page 5, line 15 and changed it to \$0.

4. Stricken out the \$1,500,000 special fund appropriation out of the Special Land and Development Fund, effective January 1, 2005, on page 6, line 1 and changed it to \$0.

5. Stricken out the \$11,000,000 special fund appropriation out of the State Highway Fund, effective January 1, 2004, on page 6, line 7 and changed it to \$0.

6. Stricken out the \$1,500,000 special fund appropriation out of the State Highway Fund, effective June 29, 2005, on page 6, line 13 and changed it to \$0.

For the foregoing reasons, I am returning House Bill No. 2743 with the special fund appropriations for fiscal year 2004-2005 set forth above, totaling \$17,200,000, stricken from the bill.

Respectfully,



LINDA LINGLE
Governor of Hawaii

ORIGINAL

HOUSE OF REPRESENTATIVES
TWENTY-SECOND LEGISLATURE, 2004
STATE OF HAWAII

H.B. NO. 2743
H.D. 2
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1

2 SECTION 1. The legislature determines that there is in the
3 animal quarantine special fund at least \$800,000 in excess of
4 the requirements of the fund. On July 1, 2004, the director of
5 finance is authorized to transfer from the animal quarantine
6 special fund to the general fund the sum of ~~\$800,000~~^{\$022} or so much
7 thereof as may be necessary for fiscal year 2004-2005.

8 SECTION 2. The legislature determines that there is in the
9 agricultural loan reserve fund at least \$900,000 in excess of
10 the requirements of the fund. On July 1, 2004, the director of
11 finance is authorized to transfer from the agricultural loan
12 reserve fund to the general fund the sum of ~~\$900,000~~^{\$022} or so much
13 thereof as may be necessary for fiscal year 2004-2005.

14 SECTION 3. The legislature determines that there is in the
15 stadium special fund at least \$600,000 in excess of the
16 requirements of the fund. On July 1, 2004, the director of
17 finance is authorized to transfer from the stadium special fund



1 to the general fund the sum of \$600,000 or so much thereof as
2 may be necessary for fiscal year 2004-2005.

3 SECTION 4. The legislature determines that there is in the
4 state motor pool revolving fund at least \$1,000,000 in excess of
5 the requirements of the fund. On July 1, 2004, the director of
6 finance is authorized to transfer from the state motor pool
7 revolving fund to the general fund the sum of \$1,000,000 or so
8 much thereof as may be necessary for fiscal year 2004-2005.

9 SECTION 5. The legislature determines that there is in the
10 state identification revolving fund at least \$300,000 in excess
11 of the requirements of the fund. On July 1, 2004, the director
12 of finance is authorized to transfer from the state
13 identification revolving fund to the general fund the sum of
14 \$300,000 or so much thereof as may be necessary for fiscal
15 year 2004-2005.

16 SECTION 6. The legislature determines that there is in the
17 medicaid investigations recovery fund at least \$500,000 in
18 excess of the requirements of the fund. On July 1, 2004, the
19 director of finance is authorized to transfer from the medicaid
20 investigations recovery fund to the general fund the sum of
21 \$500,000 or so much thereof as may be necessary for fiscal
22 year 2004-2005.



1 SECTION 7. The legislature determines that there is in the
2 research subaccount of the tourism special fund at least
3 \$200,000 in excess of the requirements of the fund. On July 1,
4 2004, the director of finance is authorized to transfer from the
5 research subaccount of the tourism special fund to the general
6 fund the sum of \$200,000 or so much thereof as may be necessary
7 for fiscal year 2004-2005.

8 SECTION 8. The legislature determines that there is in the
9 foreign-trade zones special fund at least \$400,000 in excess of
10 the requirements of the fund. On July 1, 2004, the director of
11 finance is authorized to transfer from the foreign-trade zones
12 special fund to the general fund the sum of \$400,000 or so much
13 thereof as may be necessary for fiscal year 2004-2005.

14 SECTION 9. The legislature determines that there is in the
15 Aloha tower fund at least \$750,000 in excess of the requirements
16 of the fund. On July 1, 2004, the director of finance is
17 authorized to transfer from the Aloha tower fund to the general
18 fund the sum of \$750,000 or so much thereof as may be necessary
19 for fiscal year 2004-2005.

20 SECTION 10. The legislature determines that there is in
21 the Hawaii community development revolving fund at least
22 \$10,000,000 in excess of the requirements of the fund. On

1 July 1, 2004, the director of finance is authorized to transfer
2 from the Hawaii community development revolving fund to the
3 general fund the sum of \$10,000,000 or so much thereof as may be
4 necessary for fiscal year 2004-2005.

5 SECTION 11. The legislature determines that there is in
6 the dwelling unit revolving fund at least \$10,000,000 in excess
7 of the requirements of the fund. On July 1, 2004, the director
8 of finance is authorized to transfer from the dwelling unit
9 revolving fund to the general fund the sum of \$10,000,000 or so
10 much thereof as may be necessary for fiscal year 2004-2005.

11 SECTION 12. The legislature determines that there is in
12 the human resources development special fund at least \$150,000
13 in excess of the requirements of the fund. On July 1, 2004, the
14 director of finance is authorized to transfer from the human
15 resources development special fund to the general fund the sum
16 of \$150,000 or so much thereof as may be necessary for fiscal
17 year 2004-2005.

18 SECTION 13. The legislature determines that there is in
19 the environmental response revolving fund at least \$500,000 in
20 excess of the requirements of the fund. On July 1, 2004, the
21 director of finance is authorized to transfer from the
22 environmental response revolving fund to the general fund the

1 sum of \$500,000 or so much thereof as may be necessary for
2 fiscal year 2004-2005.

3 SECTION 14. The legislature determines that there is in
4 the environmental management special fund at least \$2,000,000 in
5 excess of the requirements of the fund. On July 1, 2004, the
6 director of finance is authorized to transfer from the
7 environmental management special fund to the general fund the
8 sum of \$2,000,000 or so much thereof as may be necessary for
9 fiscal year 2004-2005.

10 SECTION 15. The legislature determines that there is in
11 the special land and development fund at least \$1,500,000 in
12 excess of the requirements of the fund. On July 1, 2004, the
13 director of finance is authorized to transfer from the special
14 land and development fund to the general fund the sum of
15 ~~\$1,500,000~~ ^{\$0 22} or so much thereof as may be necessary for fiscal
16 year 2004-2005.

17 SECTION 16. The legislature determines that there is in
18 the special land and development fund at least \$1,500,000 in
19 excess of the requirements of the fund. On January 1, 2005, the
20 director of finance is authorized to transfer from the special
21 land and development fund to the general fund the sum of

~~\$022~~

1 ~~\$1,500,000~~ or so much thereof as may be necessary for fiscal
2 year 2004-2005.

3 SECTION 17. The legislature determines that there is in
4 the state highway fund at least \$11,000,000 in excess of the
5 requirements of the fund. On July 1, 2004, the director of
6 finance is authorized to transfer from the state highway fund to
7 the general fund the sum of ~~\$11,000,000~~ ~~\$022~~ or so much thereof as
8 may be necessary for fiscal year 2004-2005.

9 SECTION 18. The legislature determines that there is in
10 the state highway fund at least \$1,500,000 in excess of the
11 requirements of the fund. On June 29, 2005, the director of
12 finance is authorized to transfer from the state highway fund to
13 the general fund the sum of ~~\$1,500,000~~ ~~\$022~~ or so much thereof as may
14 be necessary for fiscal year 2004-2005.

15 PART II

16 SECTION 19. Section 28-15, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) All unencumbered and unexpended moneys in excess of
19 [~~\$1,000,000~~] \$500,000 remaining on balance in the tobacco
20 enforcement special fund at the close of June 30 of each year
21 shall lapse to the credit of the state general fund."

1 SECTION 20. Section 107-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§107-11 Parking; control by comptroller. (a) The
4 comptroller may assess and collect reasonable fees for parking
5 for all government officials and employees, install parking
6 meters, and restrict and otherwise control parking on all state
7 lands within the comptroller's jurisdiction.

8 (b) The comptroller may make such rules [~~and regulations~~]
9 as may be found necessary to carry out the objects and
10 provisions of this section relating to the control and
11 restriction of parking on all lands of the State which are
12 within the comptroller's jurisdiction. The rules [~~and~~
13 ~~regulations~~] shall be [~~promulgated~~] adopted as provided in
14 chapter 91.

15 (c) Any person who violates any of the rules adopted by
16 the comptroller shall be fined not more than \$50 for each
17 violation; provided that a person violating any provision of
18 part III of chapter 291, or any rule adopted thereunder, shall
19 be guilty of a traffic infraction under chapter 291D and shall
20 be fined or otherwise penalized in accordance with part III of
21 chapter 291.

1 (d) The comptroller is authorized to confer the powers of
2 police officers, including the power to serve and execute
3 warrants, arrest offenders, and serve notices and orders, to
4 employees of the department of accounting and general services
5 who are engaged as special officers to enforce this section.

6 (e) There is hereby created a fund to be known as the
7 "state parking revolving fund" which shall be used to carry out
8 the purposes of this section. Such amounts shall be expended by
9 the comptroller from the fund, as may be necessary, to defray
10 the cost of paving parking areas, the purchase and installation
11 of parking meters and the operation thereof, and of other
12 parking facilities on state land within the comptroller's
13 jurisdiction. The state parking revolving fund shall be
14 ~~utilized~~ used to conform with the special fund depository
15 requirements under section 39-62 for all revenues and user taxes
16 received as the result of the issuance of any state parking
17 facility undertaking or loan program revenue bonds.

18 (f) All fees, charges, and other moneys collected pursuant
19 to this section, and all revenues and user taxes received
20 pursuant to section 39-62 as the result of the issuance of any
21 state parking facility undertaking or loan program revenue bonds
22 shall be deposited in the state parking revolving fund.



1 (g) All moneys in excess of \$500,000 remaining on balance
2 in the state parking revolving fund on June 30 of each fiscal
3 year shall lapse to the credit of the state general fund. On
4 July 1 of each year, the director of finance is authorized to
5 transfer any excess funds in the state parking revolving fund to
6 the state general fund."

PART III

8 SECTION 21. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 22. This Act shall take effect on June 30, 2004.

H.B. NO. 2743
HD2 SD1
CD1

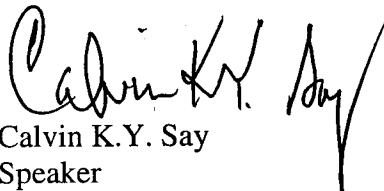
APPROVED this day of ,2004

GOVERNOR OF THE STATE OF HAWAII

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 16, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Calvin K.Y. Say
Speaker
House of Representatives

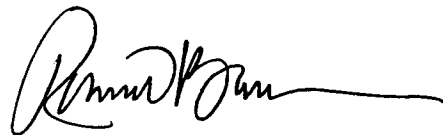


Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: April 15, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate