A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

SECTION 1. The purpose and intent of this Act is to repeal or reclassify certain non-general funds and accounts of the department of transportation pursuant to the recommendations or commentary by the auditor in auditor's report no. 19-05 and the accompanying summary and to transfer the unencumbered balances to the general fund.

PART I

SECTION 2. The purpose and intent of this part is to reclassify certain revolving funds of the department of transportation airports division.

SECTION 3. The following revolving funds are reclassified as trust accounts:

(1) The airport sinking fund for retire term bond revolving fund administratively created in 1969;

(2) The airport system debt service reserve account revolving fund administratively created in 1969;
(3) The airport system interest account revolving fund administratively created in 1969;
(4) The airport system major maintenance, renewal, and replacement account revolving fund administratively created in 1969;
(5) The airport system serial bond principal account revolving fund administratively created in 1969;
(6) The debt service funded coverage revolving fund administratively created in 1994;
(7) The reserve for airline rate mitigation revolving fund administratively created in 1994; and
(8) The reserve for operating and maintenance expenses revolving fund administratively created in 1994.

PART II

SECTION 4. The purpose and intent of this part is to reclassify, repeal, or abolish certain non-general funds of the department of transportation harbors division.

SECTION 5. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:
"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

1. Special out-of-school time instructional program fund under section 302A-1310;
2. School cafeteria special funds of the department of education;
3. Special funds of the University of Hawaii;
4. State educational facilities improvement special fund;
5. Convention center enterprise special fund under section 201B-8;
6. Special funds established by section 206E-6;
7. Aloha Tower fund created by section 206J-17;
8. Funds of the employees' retirement system created by section 88-109;
9. Hawaii hurricane relief fund established under chapter 431P;
(9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
(10) Tourism special fund established under section 201B-11;
(11) Universal service fund established under section 269-42;
(12) Emergency and budget reserve fund under section 328L-3;
(13) Public schools special fees and charges fund under section 302A-1130;
(14) Sport fish special fund under section 187A-9.5;
(15) Neurotrauma special fund under section 321H-4;
(16) Glass advance disposal fee established by section 342G-82;
(17) Center for nursing special fund under section 304A-2163;
(18) Passenger facility charge special fund established by section 261-5.5;
(19) Solicitation of funds for charitable purposes special fund established by section 467B-15;
Land conservation fund established by section 173A-5;

Court interpreting services revolving fund under section 607-1.5;

Trauma system special fund under section 321-22.5;

Hawaii cancer research special fund;

Community health centers special fund;

Emergency medical services special fund;

Rental motor vehicle customer facility charge special fund established under section 261-5.6;

Shared services technology special fund under section 27-43;

Automated victim information and notification system special fund established under section 353-136;

Deposit beverage container deposit special fund under section 342G-104;

Hospital sustainability program special fund under [+]section 346G-4[+];
Nursing facility sustainability program special fund under [§]section 346F-4[§];
Hawaii 3R's school improvement fund under section 302A-1502.4;
After-school plus program revolving fund under section 302A-1149.5; and
Civil monetary penalty special fund under section 321-30.2,
shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of
the legislature, the director shall report all central service
assessments made during the preceding fiscal year."

SECTION 6. Section 36-30, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

(1) Special out-of-school time instructional program fund
   under section 302A-1310;

(2) School cafeteria special funds of the department of
   education;

(3) Special funds of the University of Hawaii;

(4) State educational facilities improvement special fund;

(5) Special funds established by section 206E-6;

(6) Aloha Tower fund created by section 206J-17;

(7) Funds of the employees' retirement system created
   by section 88-109;

(8) Hawaii hurricane relief fund established under
   chapter 431P;

(9) Convention center enterprise special fund
   established under section 201B-8;
(9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
(10) Tourism special fund established under section 201B-11;
(11) Universal service fund established under section 269-42;
(12) Emergency and budget reserve fund under section 328L-3;
(13) Public schools special fees and charges fund under section 302A-1130;
(14) Sport fish special fund under section 187A-9.5;
(15) Neurotrauma special fund under section 321H-4;
(16) Center for nursing special fund under section 304A-2163;
(17) Passenger facility charge special fund established by section 261-5.5;
(18) Court interpreting services revolving fund under section 607-1.5;
(19) Trauma system special fund under section 321-22.5;
H.B. NO. 1973

(21) Hawaii cancer research special fund;
(22) Community health centers special fund;
(23) Emergency medical services special fund;
(24) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
(25) Shared services technology special fund under section 27-43;
(26) Nursing facility sustainability program special fund established pursuant to section 346F-4;
(27) Automated victim information and notification system special fund established under section 353-136;
(28) Hospital sustainability program special fund under section 346G-4; and
(29) Civil monetary penalty special fund under section 321-30.2,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 7. Section 206J-17, Hawaii Revised Statutes, is repealed.
[*5206J-17—Aloha-Tower fund.*] (a) There is created the Aloha-Tower fund. All moneys, rentals, charges, other revenues of the development corporation, and moneys or charges received by the department of transportation, including reimbursements for costs and staff services as a result of planning, development, or redevelopment of the lands located seaward of Nimitz Highway between Pier 4 and Pier 11 shall be deposited into the fund.

(b) The development corporation may establish a separate account with respect to each issue of bonds issued under this chapter and direct that the moneys, rentals, charges, and other revenues pledged to the payment of the bond issue be credited to that account and, as permitted by section 206J-12(g)(7), designate a trustee to receive and receipt for, hold, and administer the moneys in the account. Moneys credited to a separate account held by a trustee may be paid directly to the trustee; provided that appropriate entries are made for purposes of accounting.

(c) The moneys on deposit in the fund shall be used for the purposes of this chapter, lease payments to the department
of transportation, and for the development, redevelopment, or
improvement of the Honolulu Waterfront located seaward of Nimitz
Highway between Pier 4 and Pier 11."

SECTION 8. The following revolving funds are reclassified
as trust accounts:

(1) The 1997 certificate - harbor interest account
    revolving fund administratively created in 1997;

(2) The 1997 certificate - harbor principal account
    revolving fund administratively created in 1997;

(3) The 7th supplemental certificate 2010A debt service
    reserve fund principal revolving fund administratively
    created in 2010; and

(4) The harbor extraordinary renewal/replacement reserve
    account revolving fund administratively created in
    1997.

SECTION 9. The risk management fire and casualty losses -
harbors trust fund administratively created in 2006 is abolished
and any remaining unencumbered balances shall lapse to the
credit of the general fund.
SECTION 10. All unencumbered balances remaining in the Aloha tower fund repealed by this part shall lapse to the credit of the general fund.

PART III

SECTION 11. The purpose and intent of this part is to reclassify, repeal, or abolish certain non-general funds of the department of transportation highways division.

SECTION 12. Section 264-16, Hawaii Revised Statutes, is amended to read as follows:

"State highway clearing accounts. The director of transportation may with the prior approval of the director of finance and comptroller establish the state highway payroll clearing account, employee benefits clearing account, construction administration clearing trust account, and any other necessary clearing account or clearing trust account to effectively account for program costs and appropriations.

The director of transportation may, from time to time, make advances to the clearing accounts or clearing trust accounts from the state highway fund or from any moneys appropriated or otherwise made available to the department. The advances shall
be in such amounts as may be required to meet the obligations of
the department which are authorized by the legislature.

As soon as practicable after an expenditure from a clearing
account[−] or clearing trust account, a determination shall be
made of the proper fund or appropriation to which the
expenditure should be charged. The fund or account from which
funds are advanced shall thereupon be reimbursed out of the
proper fund or appropriation."

SECTION 13. Section 264-19, Hawaii Revised Statutes, is
repealed.

"[§264-19] Transportation improvement special fund. (a) There is created within the state treasury the transportation
improvement special fund to fund qualified transportation
projects and to receive reimbursements from private developers
who have been advanced public funds to fulfill the conditions of
land use development relating to transportation.

The director may expend from the special fund such sums as
are necessary to advance transportation projects, including
administrative expenses, to the extent permissible.

(1) When such projects:
(A) Have been identified in or are consistent with
the statewide transportation plan adopted
pursuant to chapter 279A; and

(B) Satisfy all applicable federal and state
eligibility requirements; or

(2) When the director determines that funds previously
authorized for the aforementioned projects are
inadequate or any delay in the completion of such
projects would unnecessarily increase their cost or
intensify undesirable transportation conditions.

(b) Expenditures from the special fund shall be made on
vouchers approved by the director or such other officer as may
be designated by the director.

(c) There shall be credited to the special fund all
reimbursements and any interest earned or penalty accrued on
late payments thereon received from developers who have been
advanced public funds to fulfill the conditions of land use
development relating to transportation or other transportation
requirements imposed upon such developers.
(d) Expenditures from the special fund may not be made by the director without appropriation by the legislature. No expenditure shall be made from, and no obligation shall be incurred against, the special fund in excess of the amount standing to the credit of the special fund or for any purpose for which moneys from the special fund may not lawfully be expended.

(e) The department of transportation shall prepare and submit an annual report to the legislature on the use of the transportation improvement special fund which shall include, but not be limited to:

1. The [special] fund balance and the expenses made from the [special] fund for the immediately preceding fiscal year; and

2. Proposed appropriations from the [special] fund for the next fiscal year.

This report shall be submitted to the legislature no later than twenty days prior to the convening of each legislative session.
(f) The director may adopt rules pursuant to chapter 91 necessary to effectuate the purposes of, and to administer, this section.

(g) As used in this section:

"Director" means the director of transportation.

"Special fund" means the transportation improvement special fund.

SECTION 14. The following revolving funds are reclassified as trust accounts:

(1) The highway senior interest account revolving fund administratively created in 1994;

(2) The highway senior principal account revolving fund administratively created in 1994; and

(3) The highways accrued payroll overhead revolving fund administratively created in 1983.

SECTION 15. The special deposits - highways trust account administratively created in 1979 is reclassified as a trust fund.

SECTION 16. The highway senior debt service reserve account revolving fund administratively created in 1994 is
abolished and any remaining unencumbered balances shall lapse to
the credit of the general fund.

SECTION 17. All unencumbered balances remaining in the
transportation improvement special fund repealed by this part
shall lapse to the credit of the general fund.

PART IV

SECTION 18. The purpose of this part is to repeal the safe
routes to school program special fund.

SECTION 19. Section 291-16, Hawaii Revised Statutes, is
amended to read as follows:

"[{]\$291-16[{]} Safe routes to school program surcharge.

[a\+] In addition to any other civil penalties ordered by the
court, a person who violates any provision under this part shall
be ordered to pay a safe routes to school program surcharge of
$10.

[b\+] The person shall pay the surcharge to the clerk of
the court. [The surcharge shall be deposited with the director
of finance who shall credit the surcharge to the safe routes to
school program special fund established under section 291C 4-]"
SECTION 20. Section 291C-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The director of transportation, through the safe routes to school program coordinator and in consultation with county safe routes to school program coordinators, shall develop a mechanism to provide funds to county safe routes to school programs from [the safe routes to school program special fund established under section 291C-4] appropriations made by the legislature to be used for the implementation of county safe routes to school program projects."

SECTION 21. Section 291C-5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§291C-5[+] Safe routes to school program surcharge.

[+] In addition to any other civil penalties ordered by the court, a person who violates any provision under part X shall be ordered to pay a safe routes to school program surcharge of $10 if the violator is not already required to pay a safe routes to school program surcharge for the violation.

[+] The person shall pay the surcharge to the clerk of the court. [The surcharge shall be deposited with the director
of finance who shall transmit the surcharge to the safe routes
to school program special fund established under section
291C-4]."

SECTION 22. Section 291C-104, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) Any person who violates this section shall be fined
$250, may be charged with a surcharge of up to $100 to be
deposited into the trauma system special fund, and, where the
violation involves speeding in a school zone, shall be charged
with a safe routes to school program surcharge of $25 [to be
deposited into the safe routes to school program special fund]."

SECTION 23. Section 291C-4, Hawaii Revised Statutes, is
repealed.

"[§291C-4] Safe routes to school program special fund;
establishment. (a) There is established in the state treasury
the safe routes to school program special fund, into which shall
be deposited:
(1) Assessments collected for speeding in a school zone,
pursuant to section 291C-104; and
(2) Safe routes to school program surcharges collected in accordance with sections 291-16 and 291C-5.

Moneys in the fund shall be distributed by the director of transportation to the respective counties to expend.

(b) The director of transportation shall adopt rules pursuant to chapter 91 to implement this section. The rules shall establish a formula by which the moneys in the fund shall be distributed to each county and provide how the county shall expend the moneys for the purposes under [section] 291C-3 in public school zones.

SECTION 24. All unencumbered balances remaining in the safe routes to school program special fund repealed by this part shall lapse to the credit of the general fund.

PART V

SECTION 25. The purpose of this part is to repeal the motorcycle and motor scooter operations education fund.

SECTION 26. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every person licensed under any chapter within the jurisdiction of the department of commerce and consumer affairs
and every person licensed subject to chapter 485A or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485A-202(a)(26) shall be assessed, upon initial filing and at each renewal period in which a renewal is required, a fee that shall be prescribed by rules adopted under chapter 91, and that shall be deposited into the special fund established under this subsection. Any unpaid fee shall be paid by the licensed person, upon application for renewal, restoration, reactivation, or reinstatement of a license, and by the person responsible for the renewal, restoration, reactivation, or reinstatement of a license, upon the
application for renewal, restoration, reactivation, or reinstatement of the license. If the fees are not paid, the director may deny renewal, restoration, reactivation, or reinstatement of the license. The director may establish, increase, decrease, or repeal the fees when necessary pursuant to rules adopted under chapter 91. The director may also increase or decrease the fees pursuant to section 92-28.

There is created in the state treasury a special fund to be known as the compliance resolution fund to be expended by the director's designated representatives as provided by this subsection. Notwithstanding any law to the contrary, all revenues, fees, and fines collected by the department shall be deposited into the compliance resolution fund. Unencumbered balances existing on June 30, 1999, in the cable television fund under chapter 440G, the division of consumer advocacy fund under chapter 269, the financial institution examiners' revolving fund, section 412:2-109, the special handling fund, section 414-13, and unencumbered balances existing on June 30, 2002, in the insurance regulation fund, section 431:2-215, shall be deposited into the compliance resolution fund. This provision
shall not apply to the drivers education fund underwriters fee, [section 431:10C-115 [and 431:10C-107], insurance premium taxes and revenues, revenues of the workers' compensation special compensation fund, section 386-151, the captive insurance administrative fund, section 431:19-101.8, the insurance commissioner's education and training fund, section 431:2-214, the medical malpractice patients' compensation fund as administered under section 5 of Act 232, Session Laws of Hawaii 1984, and fees collected for deposit in the office of consumer protection restitution fund, section 487-14, the real estate appraisers fund, section 466K-1, the real estate recovery fund, section 467-16, the real estate education fund, section 467-19, the contractors recovery fund, section 444-26, the contractors education fund, section 444-29, the condominium education trust fund, section 514B-71, and the mortgage foreclosure dispute resolution special fund, section 667-86. Any law to the contrary notwithstanding, the director may use the moneys in the fund to employ, without regard to chapter 76, hearings officers and attorneys. All other employees may be employed in accordance with chapter 76. Any law to the contrary
notwithstanding, the moneys in the fund shall be used to fund the operations of the department. The moneys in the fund may be used to train personnel as the director deems necessary and for any other activity related to compliance resolution.

A separate special subaccount of the compliance resolution fund, to be known as the post-secondary education authorization special subaccount, shall be established for fees collected by the department of commerce and consumer affairs pursuant to chapter 305J. The special subaccount shall be governed by section 305J-19.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether:

(1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with that chapter;

(2) Any person subject to chapter 485A has complied with that chapter;

(3) Any person submitting any filing required by chapter 514E or section 485A-202(a)(26) has complied with
chapter 514E or section 485A-202(a)(26);

(4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or

(5) Any person subject to chapter 467B has complied with that chapter;

and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the department, consumer protection, and other activities of the department.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including non-payroll operating expenses."

SECTION 27. Section 431:2-215, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All assessments, fees, fines, penalties, and reimbursements collected by or on behalf of the insurance division under title 24, except for the commissioner's education and training fund (section 431:2-214), the patients'
compensation fund (Act 232, Session Laws of Hawaii 1984), the
drivers education fund underwriters fee [(sections] (section
431:10C-115 [and 431:10G-107]), and the captive insurance
administrative fund (section 431:19-101.8) to the extent
provided by section 431:19-101.8(b), shall be deposited into the
compliance resolution fund under section 26-9(o). All sums
transferred from the insurance division into the compliance
resolution fund may be expended by the commissioner to carry out
the commissioner's duties and obligations under title 24."

SECTION 28. Section 431:10G-107, Hawaii Revised Statutes,
is amended to read as follows:

"§431:10G-107 Drivers education fund underwriters fee[\[motorcycle
and motor scooter operators education fund. (a)]. The commissioner shall assess and levy upon each insurer, and
self-insurer, a drivers education fund underwriters fee of $2 a
year on each motorcycle or motor scooter insured by each insurer
or self-insurer. This fee shall be due and payable on an annual
basis by means and at a time to be determined by the
commissioner.
(b) There is created in the treasury of the State a special fund to be known as the motorcycle and motor scooter operators education fund. The commissioner shall deposit the fees collected under this section into the motorcycle and motor scooter operators education fund.

(c) The fees deposited for each fiscal year into the motorcycle and motor scooter operators education fund, when appropriated, shall be available to the department of transportation for the administration of a drivers education program for operators of motorcycles or motor scooters. The department of transportation may spend the amount collected from these fees for the purposes of this section."

SECTION 29. All unencumbered balances remaining in the motorcycle and motor scooter operators education fund repealed by this part shall lapse to the credit of the general fund.

PART VI

SECTION 30. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 31. This Act shall take effect on July 1, 2020.

INTRODUCED BY: 

JAN 17 2020
Report Title:
DOT; Reclassification of Funds; Repeal of Non-General Funds;
Transfer of Balances

Description:
Abolishes, repeals, or reclassifies various non-general funds of
the Department of Transportation.

The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.