July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai’i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai’i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB1299 HD1 SD1 CD1, without my approval and with the statement of objections relating to the measure.

HB1299 HD1 SD1 CD1 RELATING TO NON-GENERAL FUNDS.

Sincerely,

David Y. Ige
Governor, State of Hawai’i
STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1299

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 1299, entitled "A Bill for an Act Relating to Non-General Funds."

The purposes of this bill are to repeal, abolish, or amend various non-general funds and accounts and to transfer the unencumbered balances remaining in such funds and accounts to the general fund.

This bill is objectionable because there are several provisions that pose constitutional, operational, or legal issues. They are: (1) the repeal of the Milk Control Special Fund; (2) the reclassification of the Hawaiian Home Receipts Fund from a trust fund to a trust account; (3) the abolishment of the National Mortgage Settlement Trust Account; (4) the repeal of the Hawaii Technology Loan Revolving Fund; (5) the repeal of the Judiciary’s Probation Services Special Fund; (6) the repeal of University of Hawai‘i’s Community Service Special Fund; (7) the repeal of the Private Trade, Vocational, and Technical School Licensure Special Fund; (8) the repeal of the Hawaii Water Infrastructure Special Fund; and (9) the repeal of the Agricultural Development and Food Security Special Fund.

(1) The Milk Control Special Fund provides a source of funding for the regulatory oversight of the milk industry in Hawai‘i. It is funded by the license fees collected for its activities, which fees are deposited into the Milk Control Special Fund. Accordingly, the transfer of those regulatory fees may be subject to challenge under Hawaii Insurers Council v. Lingle, 120 Hawai‘i 51, 201 P.3d 564 (2008). In that case, the Hawai‘i Supreme Court opined that transferring "legitimate regulatory fees" from an insurance special fund into the State’s general fund violated the separation of powers.
doctrine because administrative fees and assessments imposed by an administrative agency can only be used for the purposes of providing services to the persons or entities paying such fees. Any other use of the fees would constitute a tax, which can only be imposed by a Legislature. The Court adopted a three-pronged test to determine whether any assessment was a regulatory fee and therefore was probably not transferable to the general fund. The test asks (1) whether a regulatory agency assesses the fee, (2) whether the agency places the money in a special fund, and (3) whether the assessment "is expended for general public purposes or [instead] used for the regulation or benefit of the parties on whom the assessment is imposed." Id. at 66, 201 P.3d at 579.

In this instance, the Department of Agriculture is the regulatory agency that assesses the fee, the subject moneys are placed in a special fund, and the assessment is used for the regulation of the parties on whom the assessment is imposed. Thus, I believe the moneys in the Milk Control Special Fund constitute regulatory fees that cannot be transferred to the general fund pursuant to Hawaii Insurers Council v. Lingle.

(2) The reclassification of the Hawaiian Home Receipts Fund from a trust fund to a trust account is contrary to the express provisions of section 213(d) of the Hawaiian Homes Commission Act, 1920. Section 213(d) reads as follows:

(d) There are established in the treasury of the State four trust funds, to be known respectively as the Hawaiian home operating fund, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund and one special fund to be known as the Hawaiian home administration account.

(Emphases added.)

(3) Section 62 of this bill abolishes the National Mortgage Settlement Trust Account, which was administratively established in 2012 based on a consent judgment that was filed along with 48 other states in U.S. District Court for the District of
Columbia, and lapses the unencumbered balance to the general fund. This Trust Account was established pursuant to a court order and the termination of the Trust Account may subject the State to sanctions because the purposes for which the Trust Account was established are still continuing.

(4) The repeal of the Hawaii Technology Revolving Loan Fund conflicts with H.B. 1191 Relating to Broadband Service Infrastructure, which retasks and renames this same fund to the Hawaii Broadband Infrastructure Fund.

(5) The repeal of the Judiciary’s Probation Services Special Fund defunds positions and services for the Judiciary’s statewide assessment database, which the Probation Program uses to supervise offenders, and eliminates the funding source for the Interstate Compact Offender System Coordinator position, which is responsible for compliance with federal rules for the tracking of offenders leaving and entering the State from Compact of Free Association states.

(6) The repeal of University of Hawaii’s Community Services Special Fund eliminates the funding source for the University’s non-credit Outreach College programs, which include the Substitute Teacher Course and conversational language courses, among others.

(7) The repeal of the Private Trade, Vocational, and Technical School Licensure Special Fund defunds a 0.50 FTE permanent positions and administrative/operational costs used for the protection of consumers from deceptive educational practices.

For the foregoing reasons, I am returning House Bill No. 1299 without my approval.

Respectfully,

David Y. Ige
Governor of Hawai‘i
A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

PART I. INTRODUCTION

SECTION 1. The coronavirus disease 2019 pandemic has swept across the nation and many parts of the world with unanticipated force and brought with it enormous challenges for governments at all levels. These challenges provide opportunities to restructure.

The legislature finds that, fundamentally, non-general funds must be reviewed and scrutinized just as much as general funds to determine if resources are being deployed effectively and efficiently.

The purpose of this Act is to trigger a full accounting of various non-general funded program objectives, performance, and results by repealing or abolishing those non-general funds and transferring any unencumbered balances to the general fund.

PART II. DEPARTMENT OF AGRICULTURE

SECTION 2. Section 145-38, Hawaii Revised Statutes, is amended to read as follows:
Civil penalty. Any person who violates any provision of this part or rule adopted pursuant to section 145-39 shall be subject to a civil penalty in an amount not to exceed $1,000 per violation. In determining the amount of any civil penalty, the board of agriculture shall give due consideration to:

(1) The history of the person's previous violations;
(2) The seriousness of the violation; and
(3) The demonstrated good faith of the person charged in attempting to achieve compliance with this part after being notified of the violation.

The penalty shall be collected by the department, and the proceeds shall be deposited into the agricultural development and food security special fund established pursuant to section 141-10, general fund."

SECTION 3. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

"§155-4 Powers and duties of the department. The department of agriculture shall have the following powers:

(1) Employ a secretary, who may be exempt from chapter 76, and other full-time and part-time employees, subject
to chapter 76, as are necessary to effectuate the purposes of this chapter, subject further to the limitation of funds in the agricultural loan reserve fund;

(2) Designate agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at rates the department in its discretion may fix;

(3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers;

(4) Cooperate with private and federal government farm loan sources to increase the amount of loan funds available to qualified farmers in the State;
1. Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes;

2. Insure loans made to qualified farmers and food manufacturers by private lenders under section 155-5;

3. Participate in loans made to qualified farmers and food manufacturers by private lenders under section 155-6;

4. Make direct loans to qualified farmers and food manufacturers under section 155-8;

5. Borrow money for loan purposes;

6. Assign and sell mortgages;

7. Hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of personal and real property acquired by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned;

8. Sue and be sued in the name of the "State of Hawaii";
(13) Exercise incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter;

(14) Delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed $25,000 of state funds; and

(15) Adopt rules pursuant to chapter 91 necessary for the purpose of this chapter."

SECTION 4. Section 155-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [All interest and fees collected by the department shall be deposited in the agricultural loan reserve fund to the extent needed to carry on the operations of the department including payments for consultative services that would strengthen the agriculture loan program; any moneys surplus to these needs shall be transferred to the agricultural loan revolving fund at the discretion of the department.] All payments received on account of principal shall be credited to the agricultural loan revolving fund."
SECTION 5. Section 155-31, Hawaii Revised Statutes, is amended by deleting the definition of "water infrastructure special fund".

[""Water-infrastructure-special-fund-means-the-special-fund-created-pursuant-to-section-155-34."\]

SECTION 6. Section 155-33, Hawaii Revised Statutes, is amended to read as follows:

§ 155-33 Powers of the department. The department shall have the following powers:

(1) Make loans and expend funds to finance the purchase or installation of water infrastructure equipment for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, water distribution systems, and water tanks;

(2) Hold and invest moneys in the water infrastructure special fund in investments as permitted by law;

(3) Hire employees necessary to perform its duties;

(4) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that
are necessary and proper for the implementation of the
loan program;

[+5+] (4) Enter into contracts for the administration of
the loan program, in accordance with chapter 103D;

[+6+] (5) Establish loan program guidelines to carry out
the purposes of this part;

[+7+] (6) Perform all functions necessary to effectuate the
purposes of this part;

[+8+] (7) Delegate authority to the chairperson of the
board of agriculture to approve loans where the
requested amount plus any principal balance on
existing loans to the applicant does not exceed
$25,000 of state funds; and

[+9+] (8) Adopt rules pursuant to chapter 91 necessary for
the purpose of this part."

SECTION 7. Section 243-3.5, Hawaii Revised Statutes, is
amended by amending subsections (a) and (b) to read as follows:

"(a) In addition to any other taxes provided by law,
subject to the exemptions set forth in section 243-7, there is
hereby imposed a state environmental response, energy, and food
security tax on each barrel or fractional part of a barrel of
petroleum product sold by a distributor to any retail dealer or
end user of petroleum product, other than a refiner. The tax
shall be $1.05 on each barrel or fractional part of a barrel of
petroleum product that is not aviation fuel; provided that of
the tax collected pursuant to this subsection:

(1) 5 cents of the tax on each barrel shall be deposited
into the environmental response revolving fund
established under section 128D-2;

(2) 5 cents of the tax on each barrel shall be deposited
into the energy security special fund established
under section 201-12.8; and

(3) 10 cents of the tax on each barrel shall be deposited
into the energy systems development special fund
established under section 304A-2169.1[and

(4) 15 cents of the tax on each barrel shall be deposited
into the agricultural development and food security
special fund established under section 141-10].

The tax imposed by this subsection shall be paid by the
distributor of the petroleum product.

(b) In addition to subsection (a), the tax shall also be
imposed on each one million British thermal units of fossil fuel
sold by a distributor to any retail dealer or end user, other than a refiner, of fossil fuel. The tax shall be 19 cents on each one million British thermal units of fossil fuel; provided that of the tax collected pursuant to this subsection:

1. 4.8 per cent of the tax on each one million British thermal units shall be deposited into the environmental response revolving fund established under section 128D-2;

2. 14.3 per cent of the tax on each one million British thermal units shall be deposited into the energy security special fund established under section 201-12.8; and

3. 9.5 per cent of the tax on each one million British thermal units shall be deposited into the energy systems development special fund established under section 304A-2169.1[—and

4. 14.3 per cent of the tax on each one million British thermal units shall be deposited into the agricultural development and food security special fund established under section 141-10].
The tax imposed by this subsection shall be paid by the distributor of the fossil fuel."

SECTION 8. Section 141-10, Hawaii Revised Statutes, is repealed.

[*§141-10 Agricultural development and food security special fund; establishment.* (a) There is established within the state treasury the agricultural development and food security special fund.

(b) The following moneys shall be deposited into the special fund:

(1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;

(2) Any appropriation by the legislature into the special fund;

(3) Any grant or donation made to the special fund; and

(4) Any interest earned on the balance of the special fund.

(e) Subject to legislative appropriation, moneys in the special fund may be expended for the following purposes:

(1) The awarding of grants to farmers for agricultural production or processing activity,
(2) The acquisition of real property for agricultural production or processing activity;

(3) The improvement of real property, dams, reservoirs, irrigation systems, and transportation networks necessary to promote agricultural production or processing activity, including investigative studies to identify and assess necessary improvements to dams, reservoirs, irrigation systems, and transportation networks;

(4) The purchase of equipment necessary for agricultural production or processing activity;

(5) The conduct of research on and testing of agricultural products and markets;

(6) The funding of agricultural inspector positions within the department of agriculture;

(7) The promotion and marketing of agricultural products grown or raised in the State;

(8) Water quality testing and improvement; and

(9) Any other activity intended to increase agricultural production or processing that may lead to reduced
importation of food, fodder, or feed from outside the State.

(d) The department of agriculture shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of existing programs and activities and the status of new programs and activities funded under the agricultural development and food security special fund. The report shall also include:

1. The spending plan of the agricultural development and food security special fund;
2. All expenditures of agricultural development and food security special fund moneys;
3. The targeted markets of the expenditures, including the reason for selecting those markets;
4. The persons to be served using the expenditures; and
5. The specific objectives of the expenditures, including measurable outcomes.]

SECTION 9. Section 155-34, Hawaii Revised Statutes, is repealed.
Section 157-29, Hawaii Revised Statutes, is repealed.

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["§157-29—Milk control special fund. There is established
the milk control special fund to be administered by the board of
agriculture. All moneys received by the board of agriculture as
application fees and for licenses or otherwise under this
chapter, and any state appropriations or other moneys made
available to carry out the purposes of this chapter, shall be
deposited into the special fund. All interest earned or accrued
on moneys deposited in the special fund shall become part of the
special fund. Moneys in the special fund shall be expended to
cover all costs of administering this chapter including but not
limited to the costs of salaries, fringe benefits, operating
expenses, equipment, motor vehicles, contracts for services, and
promotional expenses. Moneys in the special fund may be
transferred to the general fund for salaries and fringe benefits
of other state employees assisting in administering this chapter
and other related costs. A reserve in an amount of not less
than $300,000 shall be maintained in the special fund to cover
contingency costs including but not limited to accrued vacation
leave, audits, unemployment insurance, and workers' compensation."]
SECTION 11. Section 155-6.5(a), Hawaii Revised Statutes, is amended by substituting the words "general fund" or similar term wherever the words "agricultural loan reserve fund" or similar term appears, as the context requires.

SECTION 12. The following funds (account code) are abolished:

(1) Measurement standards (S-309-A);
(2) Biosecurity program (S-312-A);
(3) General administration for agriculture (S-319-A);
(4) Agr dev/food security - add (S-321-A);
(5) Agr dev/food security - pi (S-333-A);
(6) Agr dev/food security - arm (S-335-A);
(7) Agribusiness development & research (S-337-A); and
(8) Agricultural dev & food security spec fd (S-352-A), and any unencumbered balances shall lapse to the credit of the general fund.

PART III. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SECTION 13. The Leeward coast homeless project fund, account code S-335M, is abolished and any unencumbered balance shall lapse to the credit of the general fund.
PART IV. DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 14. The hydrogen investment capital special fund, account code S-308-B, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART V. DEPARTMENT OF EDUCATION

SECTION 15. Section 302A-425, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Fees collected pursuant to this section shall be deposited into the [private trade, vocational, and technical school licensure special] general fund."

SECTION 16. Section 302A-425.5, Hawaii Revised Statutes, is repealed.

"[§302A-425.5] Private trade, vocational, and technical school licensure special fund. There is created in the State treasury a special fund to be designated as the private trade, vocational, and technical school licensure special fund into which shall be deposited:

(1) All revenues and fees collected by the department pursuant to section 302A-425, and

(2) Appropriations from the general fund of the State."
Moneys in the private trade, vocational, and technical school licensure special fund shall be used to fund activities related to the licensure requirements established under section 302A-425, including funding for permanent staff positions and administrative and operational costs.

SECTION 17. The Hawaii teacher standards board special fund, account code S-321-E, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART VI. DEPARTMENT OF HEALTH

SECTION 18. Section 448B-10, Hawaii Revised Statutes, is repealed.

"5448B-10 Dietitian licensure special fund. (a) There is established in the state treasury a special fund to be known as the dietitian licensure special fund to be administered by the department. Fees collected under section 448B-9 shall be deposited in the dietitian licensure special fund and may be expended for costs associated with administering the licensure program, including but not limited to education.

(b) Not more than $30,000 of the dietitian licensure special fund may be used during any fiscal year for activities
associated with administering the licensure program including
the costs associated with administering the licensure program.

(e) Any amount in the dietitian licensure special fund in
excess of $35,000 on June 30 of each fiscal year shall be
deposited into the general fund.

(d) The department shall submit a report to the
legislature concerning the status of the dietitian licensure
special fund, including deposits to and expenditures from the
dietitian licensure special fund and the sources of receipts and
uses of expenditures, no later than twenty days prior to the
convening of each regular session.

PART VII. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
SECTION 19. Section 396-20, Hawaii Revised Statutes, is
repealed.

["§396-20—Hoisting-machine-operators' certification
revolving fund. (a) There is established in the state treasury
a revolving fund to be known as the hoisting-machine-operators'
certification revolving fund into which shall be deposited all
fees, penalties, fines, and interest collected from:

(1) Certification of hoisting-machine-operators;
(2) Interest and investment moneys earned on any moneys in the fund; and

(3) All moneys received for the fund from any source.

The moneys in the fund may be used to carry out the purposes of this section. The director of finance shall disburse the moneys in the fund in accordance with instructions from the director.

(b) The fund may be used for:

(1) Personnel and operating expenses, including consultants as necessary, for the hoisting machine operators advisory board;

(2) All necessary board costs and reimbursements;

(3) Preparation and dissemination of public information on hoisting machine operators' certification and training;

(4) Preparation of annual reports on certification program activities and accomplishments and on the fund; and

(5) Any reimbursements to the state general fund for funds appropriated by the legislature to establish the revolving fund.

(c) The director shall submit an annual report to the legislature on the status of the fund, including expenditures...
and program results, not less than twenty days prior to the convening of each regular session.

PART VIII. DEPARTMENT OF LAND AND NATURAL RESOURCES

SECTION 20. The iucn - sldf fund, account code S-371-C, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART IX. DEPARTMENT OF PUBLIC SAFETY

SECTION 21. The drug law enforcement equipment procurement fund, account code T-905-V1, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART X. AUDITOR'S REPORT NO. 20-01, DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 22. The purpose of this part is to reclassify, repeal, or abolish various non-general funds, including accounts of the department of business, economic development, and tourism pursuant to the recommendations made by the auditor in auditor's report no. 20-01 and to transfer the unencumbered balances to the general fund.

SECTION 23. Section 206E-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:
"(e) The authority shall adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section shall include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, [replacing] special funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions."

2. By amending subsection (g) to read:
"(g) All sums collected under this section shall be deposited in the Hawaii community development [revolving] special fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against [such] that fund, it shall be credited to and become a part of the Hawaii community development [revolving] special fund. Moneys in the Hawaii community development [revolving] special fund may be used to make up any deficiencies in the special fund."

SECTION 24. Section 206E-16, Hawaii Revised Statutes, is amended to read as follows:

"[§206E-16[§] Hawaii community development [revolving] special fund. There is created the Hawaii community development
[revolving] special fund into which all receipts and revenues of the authority shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter."

SECTION 25. Section 206E-16.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§206E-16.5[+] Expenditures of [revolving] special funds under the authority exempt from appropriation and allotment. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any [revolving] special fund administered by the authority may be made by the authority without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any [revolving] special fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any [revolving] special fund administered by the authority to be reappropriated annually."

SECTION 26. Section 206E-184, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:
"(a) In addition to the conditions and terms set forth in this part, any special facility lease entered into by the authority shall at least contain provisions obligating the other person to the special facility lease:

(1) To pay to the authority during the initial term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other person, a rental or rentals at the time or times and in the amount or amounts that will be sufficient:

(A) To pay the principal and interest on all special facility revenue bonds issued for the special facility;

(B) To establish or maintain any reserves for these payments; and

(C) To pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility;

(2) To pay to the authority:
(A) A ground rental, as determined by the authority, if the land on which the special facility is located was not acquired from the proceeds of the special facility revenue bonds; or

(B) A properly allocable share of the administrative costs of the authority in carrying out the special facility lease and administrating the special facility revenue bonds issued for the special facility, if the land was acquired from the proceeds of the special facility revenue bonds;

(3) To either operate, maintain, and repair the special facility and pay the costs thereof or to pay to the authority all costs of operation, maintenance, and repair of the special facility;

(4) To:

(A) Insure, or cause to be insured, the special facility under builder's risk insurance (or similar insurance) in the amount of the cost of construction of the special facility to be
financed from the proceeds of the special facility revenue bonds;

(B) Procure and maintain, or cause to be procured or maintained, to the extent commercially available, a comprehensive insurance policy providing protection and insuring the authority and its officers, agents, servants, and employees (and so long as special facility revenue bonds are outstanding, the trustee) against all direct or contingent loss or liability for damages for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the special facility or occasioned by reason of occupancy by and the operations of the other person upon, in, and around the special facility;

(C) Provide all risk casualty insurance, including insurance against loss or damage by fire, lightning, flood, earthquake, typhoon, or hurricane, with standard extended coverage and
standard vandalism and other malicious mischief endorsements; and

(D) Provide insurance for workers' compensation and employer's liability for personal injury or death or damage to property (the other party may self-insure for workers' compensation if permitted by law);

provided that all policies with respect to loss or damage of property including fire or other casualty and extended coverage and builder's risk shall provide for payments of the losses to the authority, the other person, or the trustee as their respective interests may appear; and provided further that the insurance may be procured and maintained as part of or in conjunction with other policies carried by the other person; and provided further that the insurance shall name the authority, and so long as any special facility revenue bonds are outstanding, the trustee, as additional insured; and

(5) To indemnify, save, and hold the authority, the trustee and their respective agents, officers,
members, and employees harmless from and against all
claims and actions and all costs and expenses
incidental to the investigation and defense thereof,
by or on behalf of any person, firm, or corporation,
based upon or arising out of the special facility or
the other person's use and occupancy thereof,
including, without limitation, from and against all
claims and actions based upon and arising from any:

(A) Condition of the special facility;

(B) Breach or default on the part of the other person
in the performance of any of the person's
obligations under the special facility lease;

(C) Fault or act of negligence of the other person or
the person's agents, contractors, servants,
employees, or licensees; or

(D) Accident to, or injury or death of, any person or
loss of, or damage to any property occurring in
or about the special facility, including any
claims or actions based upon or arising by reason
of the negligence or any act of the other person.
Any moneys received by the authority pursuant to paragraphs (2) and (3) shall be paid into the Hawaii community development [revolving] special fund and shall not be nor be deemed to be revenues of the special facility."

SECTION 27. Section 206E-185, Hawaii Revised Statutes, is amended to read as follows:

"§206E-185 Special facility revenue bonds. All special facility revenue bonds authorized to be issued in principal amounts not to exceed the total amount of bonds authorized by the legislature shall be issued pursuant to part III of chapter 39, except as follows:

(1) No revenue bonds shall be issued unless at the time of issuance the authority shall have entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;

(2) The revenue bonds shall be issued in the name of the authority, and not in the name of the State;

(3) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the authority from the special facility for which they are issued;
(4) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease;

(5) If deemed necessary or advisable by the authority, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the authority, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the authority to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. If any trustee shall be appointed, any trust indenture or agreement entered into by the authority with the trustee may contain the covenants and provisions authorized by part III of
chapter 39 to be inserted in a resolution adopted or certificate issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or agreement". The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the authority pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The authority may pledge and assign to the trustee the special facility lease and the rights of the authority including the revenues thereunder;

(6) If the authority, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the
principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The authority, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the authority may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the authority, with the approval of the director of finance, to appoint the trustee, or granted in sections 36-3 and 39-13 and the third sentence of section 39-68 to the director of finance.
to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;

(7) The authority may sell the revenue bonds either at public or private sale;

(8) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the Hawaii community development [revolving] special fund, to be applied solely to the carrying out of the
resolution, certificate, trust indenture, or trust
agreement authorizing or securing the revenue bonds;

(9) If the resolution, certificate, trust indenture, or
trust agreement shall provide that no revenue bonds
issued thereunder shall be valid or obligatory for any
purpose unless certified or authenticated by the
trustee for the holders of the revenue bonds,
signatures of the officers of the State upon the bonds
required by section 39-56 may be facsimiles of their
signatures;

(10) Proceeds of the revenue bonds may be used and applied
by the authority to reimburse the other person to the
special facility lease for all preliminary costs and
expenses, including architectural and legal costs; and

(11) If the special facility lease shall require the other
person to operate, maintain, and repair the special
facility which is the subject of the lease, at the
other person's expense, the requirement shall
constitute compliance by the authority with
section 39-61(a)(2), and none of the revenues derived
by the authority from the special facility shall be
required to be applied to the purposes of
section 39-62(2). Sections 39-62(4), 39-62(5), and
39-62(6) shall not apply to the revenues derived from
a special facility lease."

SECTION 28. Section 206E-195, Hawaii Revised Statutes, is
amended by amending its title and subsections (a) and (b) to
read as follows:

"[§206E-195] Kalaeloa community development
[reoving] special fund. (a) There is established in the
state treasury the Kalaeloa community development [reoving]
special fund, into which shall be deposited:

(1) All revenues, income, and receipts of the authority
for the Kalaeloa community development district,
notwithstanding any other law to the contrary,
including section 206E-16;

(2) Moneys directed, allocated, or disbursed to the
Kalaeloa community development district from
government agencies or private individuals or
organizations, including grants, gifts, awards,
donations, and assessments of landowners for costs to
administer and operate the Kalaeloa community
development district; and

(3) Moneys appropriated to the fund by the legislature.

(b) Moneys in the Kalaeloa community development
[reverving] special fund shall be used for the purposes of this
part."

SECTION 29. Section 206E-201, Hawaii Revised Statutes, is
amended by amending the definition of "fund" to read as follows:

"Fund" means the Heeia community development [reverving]
special fund."

SECTION 30. Section 206E-204, Hawaii Revised Statutes, is
amended by amending its title and subsection (a) to read as
follows:

"§206E-204[] Heeia community development [reverving]
special fund. (a) There is established in the state treasury
the Heeia community development [reverving] special fund, into
which shall be deposited:

(1) All revenues, income, and receipts of the authority
for the district, notwithstanding any other law to the
contrary, including section 206E-16;
(2) Moneys directed, allocated, or disbursed to the
district from government agencies or private
individuals or organizations, including grants, gifts,
awards, donations, and assessments of landowners for
costs to administer and operate the district; and
(3) Moneys appropriated to the fund by the legislature."

SECTION 31. Section 206M-15.2, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:
"(b) Subject to available funds, the research and
development program shall:

(1) Apply [the research and development special fund]
funds to support product development, technology
transfer, and commercialization;
(2) Provide capital to support accelerated
commercialization activities for qualified Hawaii-
based small businesses;
(3) Provide capital to sustain high-potential
infrastructure development to assist qualified Hawaii-
based small businesses towards commercial success;
(4) Promote efforts that reverse the loss of qualified
workers to other states by providing jobs to retain
existing Hawaii technology employees and enable highly
qualified scientists and engineers to return to
living-wage jobs in Hawaii;

(5) Promote efforts that keep technology companies in
Hawaii by limiting the need to seek out-of-state
venture capital, which dilutes local ownership and
increases the probability of high-potential technology
companies moving from Hawaii; and

(6) Provide grants of up to $300,000 for critical product
development that enables a qualified Hawaii-based
small business to achieve significant product
development and technical milestones."

SECTION 32. Section 210D-4, Hawaii Revised Statutes, is
amended to read as follows:

"§210D-4 Hawaii community-based economic development

[reversing] special fund; established. There is established a
[reversing] special fund to be known as the Hawaii community-
based economic development [reversing] special fund from which
moneys shall be loaned or granted by the department under this
chapter. All moneys appropriated to the fund by the
legislature, received as repayments of loans, payments of
interest or fees, and all other moneys received by the fund from any other source shall be deposited into the [revolving] special fund and used for the purposes of this chapter. The department may deposit moneys it receives from the repayments of loans and payments of interest or fees from the Hawaii capital loan program established by chapter 210, the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program established by part II of chapter 189, and the Hawaii small fishing vessel loan program established by part IV of chapter 189, into the Hawaii community-based economic development [revolving] special fund to be used for the purposes of this chapter. The department may use all appropriations and other moneys in the [revolving] special fund not appropriated for a designated purpose to make grants or loans."

SECTION 33. Section 210D-8, Hawaii Revised Statutes, is amended to read as follows:

"§210D-8 Powers and duties. The department shall have the necessary powers to carry out the purposes of this chapter, including the following:
With advice from the council, prescribe the qualifications for eligibility of applicants for loans and grants;

With advice from the council, establish preferences and priorities in determining eligibility for financial assistance;

Establish the conditions, consistent with the purpose of this chapter, for the awarding of financial assistance;

Provide for inspection at reasonable hours of facilities, books, and records of a community-based organization that has applied for or has been awarded financial assistance and require the submission of progress and final reports;

Provide loans and grants for community-based economic development activities and community-based enterprises for purposes consistent with this chapter;

Determine the necessity for and the extent of security required in a loan;

Prescribe and provide appropriate management counseling and monitoring of business activities;
Administer the Hawaii community-based economic development [revolving] special fund;

Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter;

Participate in loans made to qualified persons by private lenders;

Establish interest rates chargeable by the State for direct and participation loans; and

Adopt rules pursuant to chapter 91 to implement this chapter."

SECTION 34. Section 206M-15.3, Hawaii Revised Statutes, is repealed.

"[5206M-15.3]—Research-and-development-special-fund; established. There is established in the treasury of the State of Hawaii the research-and-development special fund to be administered by the development corporation pursuant to section 206M-15.2."

SECTION 35. Section 206M-15.6, Hawaii Revised Statutes, is repealed.
"[§206H-15.6]—Hawaii technology loan revolving fund.

There is established the Hawaii technology loan revolving fund for the purpose of investing in technology development in Hawaii. The following shall be deposited into the Hawaii technology loan revolving fund:

1. Appropriations from the legislature;
2. Moneys received as repayments of loans;
3. Investment earnings;
4. Royalties;
5. Premiums, or fees or equity charged by the corporation, or otherwise received by the corporation;

and

6. Loans that are convertible to equity,

provided that the total amount of moneys in the fund shall not exceed $2,000,000 at the end of any fiscal year.

SECTION 36. The Kalaeloa facilities trust account administratively established in 2018 is reclassified as a special fund.

SECTION 37. The energy audits - recipients' share of cost trust account administratively established in 2012 is abolished
and any unencumbered balance shall lapse to the credit of the
general fund.

PART XI. AUDITOR'S REPORT NO. 20-18, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

SECTION 38. The purpose of this part is to abolish or
reclassify various non-general funds pursuant to the
recommendations by the auditor in auditor's report no. 20-18 and
to transfer the unencumbered balances to other appropriate non-
general funds.

SECTION 39. The compliance resolution fund--appraisal
management registration program special fund administratively
established in 2017 is abolished and any remaining unencumbered
balance shall lapse to the credit of the compliance resolution
fund established pursuant to section 26-9(o), Hawaii Revised
Statutes.

SECTION 40. The electrical vehicle charging system rebate
program special fund administratively established in 2019 is
abolished and any remaining unencumbered balance shall lapse to
the credit of the public utilities commission special fund
established pursuant to section 269-33, Hawaii Revised Statutes.
SECTION 41. The service contract provider's financial security deposit trust account is reclassified as a trust fund.

PART XII. AUDITOR'S REPORT NO. 20-16, DEPARTMENT OF HAWAIIAN HOME LANDS

SECTION 42. The legislature finds that section 213(g) of the Hawaiian Homes Commission Act established the Hawaiian home receipts fund but did not specify whether the fund should be classified as a special fund, revolving fund, trust fund, or trust account. The department of Hawaiian home lands has classified the fund as a trust fund. However, the auditor, in auditor report no. 20-16, found that the fund does not meet all the criteria for a trust fund because it functions more like a trust account. Accordingly, the auditor recommended that the fund should be reclassified as a trust account.

The purpose of this part is to reclassify the Hawaiian home receipts fund as a trust account as recommended by the auditor.

SECTION 43. The Hawaiian home receipts fund established pursuant to the section 213(g) of the Hawaiian Homes Commission Act, 1920, as amended, is reclassified as a trust account.
PART XIII. AUDITOR'S REPORT NO. 20-17, JUDICIARY

SECTION 44. The purpose of this part is to repeal the
probation services special fund as recommended by the auditor in
auditor report no. 20-17.

SECTION 45. Section 353B-6, Hawaii Revised Statutes, is
amended to read as follows:

"§353B-6 Interstate transfer fee. The judiciary may
assess a fee not to exceed $200 for each application made by a
parolee or probationer for a transfer out of the State[+]
promised that the fees collected shall be deposited into the
probation services special fund established in section
706-649]."

SECTION 46. Section 706-648, Hawaii Revised Statutes, is
amended by amending subsection (4) to read as follows:

"(4) The defendant shall pay the fee to the clerk of the
court. [The fee shall be deposited with the director of finance
who shall transmit the fee to the probation services special
fund pursuant to section 706-649.]"

SECTION 47. Section 706-649, Hawaii Revised Statutes, is
repealed.
"§706-649 Probation services special fund. (1) There is
established in the state treasury a special fund to be known as
the probation services special fund. All probation services
fees collected under section 706-648 shall be deposited into
this fund.

(2) Moneys in the probation services special fund shall be
used by the judiciary to:

(a) Monitor and enforce compliance with the terms and
conditions of probation and other supervision programs
for defendants; and

(b) Support other duties and activities related to the
supervision of defendants."]

PART XIV. AUDITOR'S REPORT NO. 20-03, UNIVERSITY OF HAWAII

SECTION 48. The purpose of this part is to repeal or
reclassify certain non-general funds of the University of Hawaii
pursuant to the recommendations of the auditor in auditor's
report no. 20-03.

SECTION 49. Chapter 304A, Hawaii Revised Statutes, is
amended by adding a new section to part V, subpart D, to be
appropriately designated and to read as follows:
§304A— Community colleges revolving fund. (a) Section 304A-2003 notwithstanding, there is established a community colleges revolving fund to receive, disburse, and account for funds of programs and activities of the community colleges, including but not limited to off-campus programs, summer session programs, overseas programs, evening sessions, study abroad, exchange programs, cultural enrichment programs, and consultative services that help make available the resources of the community colleges to the communities they serve.

(b) The revolving fund may include deposits from:

(1) The University of Hawaii tuition and fees special fund established in section 304A-2153;

(2) Tuition, fees, and charges for affiliated instructional, training, and public service courses and programs; and

(3) Fees, fines, and other money collected for:

(A) Student health;

(B) Transcript and diploma;

(C) Library;

(D) Facility use;

(E) Child care;
(F) Auxiliary enterprises;

(G) Alumni; and

(H) Other related activities."

SECTION 50. Section 304A-2156, Hawaii Revised Statutes, is repealed.

"[§304A-2156]—University of Hawaii community services special fund. (a) There is established the University of Hawaii community services special fund. Except as otherwise provided by law, all revenues, including interest, derived and collected from the university's provision of public service programs shall be deposited into the University of Hawaii community services special fund. The university may establish and collect fees and charges for public service programs. All revenues deposited into the University of Hawaii community services special fund shall be used exclusively for the costs of providing public service programs. The university may establish accounts under the community services special fund to facilitate the administration of this fund among the various campuses and operating units of the University of Hawaii system. All expenditures from this fund shall be subject to legislative appropriation."
(b) As used in this section, "public service programs" means:

(1) Noncredit educational programs in professional development and training, personal growth, and cultural enrichment, and

(2) Cooperative extension and consultative services.

SECTION 51. Section 304A-2162, Hawaii Revised Statutes, is repealed.

['"§304A-2162]—Community colleges special fund. (a)

Section [304A-2003] notwithstanding, there is established a community colleges special fund to receive, disburse, and account for funds of programs and activities of the community colleges, including but not limited to off-campus programs, summer session programs, overseas programs, evening sessions, study abroad, exchange programs, cultural enrichment programs, and consultative services that help make available the resources of the community colleges to the communities they serve.

(b) The special fund may include deposits from:

(1) The University of Hawaii tuition and fees special fund established in section [304A-2153];
(2) Tuition, fees, and charges for affiliated instructional, training, and public service courses and programs; and

(3) Fees, fines, and other money collected for:

(A) Student health;
(B) Transcript and diploma;
(C) Library;
(D) Facility use;
(E) Child care;
(F) Auxiliary enterprises;
(G) Alumni; and
(H) Other related activities.

SECTION 52. Section 304A-2277, Hawaii Revised Statutes, is repealed.

[*[§304A-2277]—Professional student exchange program revolving fund. (a) There is established a professional student exchange program revolving fund to be administered and expended by the Hawaii commission.

(b) The following moneys shall be deposited into the revolving fund:
(1) Principal and interest payments received as repayment of financial support from former or current participants of the professional student exchange program, pursuant to section 304A-3209; and

(2) Interest earned or accrued on moneys in the revolving fund.

(c) Moneys in the revolving fund shall be expended to:

(1) Support the professional student exchange program's activities, including the provision of financial support to participants at Western Interstate Commission for Higher Education-receiver institutions;

and

(2) Enforce the collection of delinquent obligations."

SECTION 53. Any unencumbered balance remaining in the community colleges special fund repealed by this part shall lapse to the credit of the community colleges revolving fund established pursuant to this part.

SECTION 54. The university system bond and interest sinking fund revolving fund administratively established in 2002 is reclassified as a trust account.
PART XV. AUDITOR'S REPORT NO. 19-16, DEPARTMENT OF THE ATTORNEY GENERAL

SECTION 55. The purpose of this part is to reclassify or abolish certain non-general funds of the department of the attorney general pursuant to the recommendations by the auditor in auditor's report no. 19-16 and, for any abolished accounts, transfer the remaining unencumbered balances to the general fund.

SECTION 56. Section 28-16, Hawaii Revised Statutes, is amended to read as follows:

"[§]§28-16[§] Litigation deposits trust [fund] account.

(a) There is created in the state treasury the litigation deposits trust [fund] account. There shall be deposited into this [fund] account all moneys received through any civil action in which the State is a party where the settlement amount is $100,000 or higher, except for those actions involving departments able to procure their own legal services as provided for by section 28-8.3 and where no other state statute or court order specifically provides for the deposit of moneys received through the action.
(b) The [fund] account shall be administered by the department of the attorney general. The department shall maintain accounting records of [fund] account moneys, including subsidiary records of individual litigation deposits and disbursements thereof. Moneys in the [fund] account may be separated into subsidiary accounts; provided that one subsidiary account shall not be commingled with moneys from another subsidiary account except for deposit or investment purposes under subsection (d).

(c) Disbursements from each subsidiary account maintained under subsection (b) may include attorney's fees and other necessary expenses that the department determines to be reasonable and directly related to prosecution of the civil action for which the subsidiary account is maintained; provided that in the case of moneys deposited as a result of recoveries by an agency to which a non-general fund applies, the moneys shall be held and disbursed intact for deposit to the credit of the non-general fund. Money deposited in the [fund] litigation deposits trust account pursuant to an order of the court shall be disbursed in accordance with the order of the court. Any residual funds remaining in [an] a subsidiary account shall be
transferred to the respective non-general or general fund with
which the civil action is associated no later than thirty days
after the civil action for which the subsidiary account is
maintained is closed and all costs of that civil action have
been paid, unless otherwise provided for by statute.
(d) Moneys in the litigation deposits trust account
may be invested by the department in securities as provided by
section 36-21. Investment earnings shall be deposited in the
general fund.
(e) The department shall submit a report to the
legislature no later than twenty days prior to the convening of
each regular session on:
(1) The transactions, by subsidiary account, that take
place in the litigation deposits trust account
for each fiscal year; and
(2) A summary of the collections made in any amount on
behalf of other departments and agencies specifying
the appropriate number of transactions and amount
collected for each department and agency."

SECTION 57. Section 456-9, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:

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"(d) The moneys collected by the attorney general pursuant to this section shall be deposited into the notaries public [revolving] special fund established by section 456-9.5, except that if that fund is terminated, the moneys shall thereafter be deposited with the director of finance to the credit of the general fund."

SECTION 58. Section 456-9.5, Hawaii Revised Statutes, is amended to read as follows:

"§456-9.5 Notaries public [revolving] special fund. (a) There is established in the state treasury the notaries public [revolving] special fund into which shall be deposited:

(1) All fees, administrative fines, charges, or other payments received pursuant to section 456-9;

(2) Penalties and fines for violations of section 456-3 or 456-7;

(3) Appropriations made for deposit into the notaries public [revolving] special fund; and

(4) Interest earned on money in the notaries public [revolving] special fund.

(b) The notaries public [revolving] special fund shall be administered by the department of the attorney general."
Notwithstanding any law to the contrary, moneys in the notaries public [revolving] special fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public."

SECTION 59. Section 456-18, Hawaii Revised Statutes, is amended to read as follows:

"§456-18 Notaries in government service. Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department's subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States."
Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

(1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;

(2) Not be required to:

(A) Pay any fee to the clerk of any circuit court for filing a copy of the notary's commission;

(B) Pay any fee to the attorney general for the issuance of the notary's commission or the renewal thereof; or

(C) Furnish and file an official bond unless that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and

(3) Not demand or receive any fee for the notary's service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and convenience, the
notary may, but shall not be compelled to, administer
oaths or take acknowledgments in nongovernmental
matters, for which services the prescribed fees shall
be demanded and received as governmental realizations
and covered into the notaries public [revolving]
special fund established by section 456-9.5, except
that if that fund is terminated, the fees shall
thereafter be deposited into the general fund of the
State; provided further that with the prior written
approval of the attorney general, the notary public,
upon paying the fees prescribed by law and upon
executing, depositing, and filing at the notary's own
expense, the required official bond, may demand or
receive the fees prescribed by law for services
rendered by the notary in matters not pertaining to
such public business."

SECTION 60. Section 712A-16, Hawaii Revised Statutes, is
amended by amending subsection (4) to read as follows:

"(4) There is established in the department of the
attorney general a [revolving] special fund to be known as the
criminal forfeiture fund, hereinafter referred to as the "fund"
in which shall be deposited one-half of the proceeds of a
forfeiture and any penalties paid pursuant to section
712A-10(6). All moneys in the fund shall be expended by the
attorney general and are appropriated for the following
purposes:
(a) The payment of any expenses necessary to seize,
detain, appraise, inventory, safeguard, maintain,
advertise, or sell property seized, detained, or
forfeited pursuant to this chapter or of any other
necessary expenses incident to the seizure, detention,
or forfeiture of such property and such contract
services and payments to reimburse any federal, state,
or county agency for any expenditures made to perform
the foregoing functions;
(b) The payment of awards for information or assistance
leading to a civil or criminal proceeding;
(c) The payment of supplemental sums to state and county
agencies for law enforcement purposes;
(d) The payment of expenses arising in connection with
programs for training and education of law enforcement
officers;
(e) The payment of expenses arising in connection with enforcement pursuant to the drug nuisance abatement unit in the department of the attorney general; and

(f) The payment of expenses arising in connection with the law enforcement officer independent review board in the department of the attorney general."

SECTION 61. The Hawaii criminal justice commission trust account established in 1985 pursuant to the authority granted by section 28-10.6(a)(5), Hawaii Revised Statutes, is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

SECTION 62. The national mortgage settlement trust account administratively established in 2012 is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

PART XVI. AUDITOR'S REPORT NO. 19-05, DEPARTMENT OF TRANSPORTATION

SECTION 63. The purpose and intent of this part 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.

SECTION 64. Section 264-16, Hawaii Revised Statutes, is
amended to read as follows:

"[+]§264-16[+] 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[7] 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 65. 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] The legislature shall
appropriate funds from the safe routes to school program special
fund to the counties to be used for the implementation of county
safe routes to school program projects. No later than twenty
days prior to the convening of each regular session, each county
shall submit to the legislature an annual report on the status
and progress of its county safe routes to school program,
including an accounting of all grants provided through the
program and a timeline for future grant awards."

SECTION 66. Section 291C-4, Hawaii Revised Statutes, is
amended to read as follows:
"[§]§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 67. 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 68. The following revolving funds of the
department of transportation airports division 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.

SECTION 69. The following revolving funds of the department of transportation harbors division 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

SECTION 70. The risk management fire and casualty losses - harbors trust fund administratively created in 2006 is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

SECTION 71. The following revolving funds of the department of transportation highways division 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 72. The special deposits - highways trust account administratively created in 1979 is reclassified as a trust fund.

SECTION 73. Any unencumbered balance in the highway senior debt service reserve account revolving fund administratively
created in 1994 shall be transferred to the credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

SECTION 74. Any unencumbered balance remaining in the transportation improvement special fund repealed by this part shall be transferred to the credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

PART XVII. AUDITOR'S REPORT NO. 21-02, DEPARTMENT OF HUMAN SERVICES

SECTION 75. The purpose of this part is to repeal or reclassify certain non-general funds of the department of human services pursuant to the recommendations of the auditor in auditor report no. 21-02.

SECTION 76. The donations for social services trust account, a trust account that was administratively established and is administered by the department of human services, is reclassified as a trust fund.

SECTION 77. The Kahikolu Ohana O Waianae project, a trust fund that was administratively established in 2007 and is administered by the department of human services, is abolished.
and any unencumbered balance remaining shall be lapse to the 
credit of the general fund.

PART XVIII. AUDITOR'S REPORT NO. 21-02, HAWAII PUBLIC HOUSING 

AUTHORITY

SECTION 78. The purpose of this part is to repeal or 
reclassify certain non-general funds of the Hawaii public 
housing authority pursuant to the recommendations of the auditor 
in auditor report no. 21-02.

SECTION 79. Section 356D-11, Hawaii Revised Statutes, is 
amended by amending subsection (h) to read as follows:

"(h) In connection with the development of any public 
housing dwelling units under this chapter, the authority may 
also develop commercial and industrial properties and sell or 
lease other properties if it determines that the uses will be an 
integral part of the public housing development or a benefit to 
the community in which the properties are situated. The 
authority may designate any portions of the public housing 
development for commercial, industrial, or other use and shall 
have all the powers granted under this chapter with respect 
thereto. The authority may use any funding authorized under 
this chapter to implement this subsection."
The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing [revolving] special fund established by section 356D-28."

SECTION 80. Section 356D-28, Hawaii Revised Statutes, is amended to read as follows:

"§356D-28 Public housing [revolving] special fund. (a) There is established the public housing [revolving] special fund to be administered by the authority. Notwithstanding section 36-21, the proceeds in the fund shall be used for long-term and other special financings of the authority and for necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged, obligated, or required by law to be placed in any other special fund, shall be deposited into the public housing [revolving] special fund."

SECTION 81. The financial assistance for housing special fund, a special fund that was administratively established in 2001 and administered by the Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.
SECTION 82. The HPHA administration revolving fund, administratively established in 1982 and administered by the Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.

PART XIX. MISCELLANEOUS PROVISIONS

SECTION 83. Except as otherwise provided in this Act, all unencumbered balances in the funds repealed by this Act shall lapse to the credit of the general fund.

SECTION 84. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 85. This Act shall take effect on July 1, 2021; provided that the amendments made to section 712A-16, Hawaii Revised Statutes, in section 60 of this Act shall not be repealed when that section is repealed and reenacted on June 30, 2022, by Act 161, Session Laws of Hawaii 2016.

APPROVED this day of , 2021

GOVERNOR OF THE STATE OF HAWAII
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.

Scott K. Saiki
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives
THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.

[Signature]
President of the Senate

[Signature]
Clerk of the Senate