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**A BILL FOR AN ACT**

RELATING TO DEPOSITS INTO THE EMERGENCY AND BUDGET RESERVE FUND.

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

1           SECTION 1. The emergency and budget reserve fund was  
2 established by Act 304, Session Laws of Hawaii 1999, for the  
3 purpose of creating a financial reserve to lessen the negative  
4 impact of emergencies or economic downturns on the state budget.  
5 During periods of economic growth, tax collections can exceed  
6 spending needs thus creating a short-term budget surplus.  
7 However, when the economy is sluggish, tax revenues generally  
8 decline even as the need for important public services continues  
9 unabated, resulting in short-term budget deficits. Also known  
10 as a rainy day fund, the emergency and budget reserve fund  
11 provides critical resources for reducing the impact of these  
12 short-term deficits.

13           One of the key features of a rainy day fund is that it  
14 balances the highs and lows of an economic cycle by setting aside  
15 surplus revenues in good years, and using the saved revenues to  
16 offset budget shortfalls in bad years. Currently, the emergency  
17 and budget reserve fund is funded by a portion of the proceeds

1 from the Hawaii tobacco settlement and the State is not required  
2 to deposit surplus revenues into the fund.

3 To ensure that the emergency and budget reserve fund has  
4 sufficient resources to lessen the impact of short-term budget  
5 deficits, another source of funding must be made available to  
6 supplement moneys deposited through the Hawaii tobacco  
7 settlement.

8 The purpose of this Act is to require a percentage of  
9 surplus general fund revenues be deposited into the State's  
10 emergency and budget reserve fund during periods of economic  
11 growth in order to ensure that the fund functions as needed to  
12 meet budgeting requirements during periods of economic downturn.

13 SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended  
14 by adding to part V a new section to be appropriately designated  
15 and to read as follows:

16 **§37- Compliance with expenditure ceiling.**

17 Notwithstanding any other law to the contrary, the general fund  
18 expenditure ceiling requirement shall not apply to appropriations  
19 made to the emergency and budget reserve fund but shall apply to  
20 appropriations authorized from the emergency and budget reserve  
21 fund. "

1 SECTION 3. Section 328L-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§328L-3 Emergency and budget reserve fund.** (a) There is  
4 established in the state treasury the emergency and budget  
5 reserve fund which shall be a special fund administered by the  
6 director of finance, into which shall be deposited:

7 (1) Twenty-four and one-half per cent of the moneys  
8 received from the tobacco settlement moneys under  
9 section 328L-2(b)(1);

10 (2) Appropriations made by the legislature to the fund[-]  
11 ; and

12 (3) One per cent of the state general fund balance at the  
13 close of the fiscal year whenever:

14 (A) The general fund balance at the close of the  
15 fiscal year exceeds five per cent of general fund  
16 revenues for the fiscal year; and

17 (B) General fund revenues for the fiscal year exceed  
18 general fund revenues for the preceding fiscal  
19 year by five per cent.

20 The deposit to the emergency and budget reserve fund  
21 shall be made through an appropriation during the next  
22 regular session. For the purpose of this section, the

1           general fund balance at the close of the fiscal year  
2           shall take into account any tax refund or tax credit,  
3           pursuant to article VII, section 6 of the Constitution  
4           of the State of Hawaii, that is provided during the  
5           same regular session as the appropriation depositing  
6           such moneys to the emergency and budget reserve fund.

7           (b) All interest earned from moneys in the emergency and  
8 budget reserve fund shall be credited to the general fund.

9           (c) Expenditures from the emergency and budget reserve  
10 fund shall be a temporary supplemental source of funding for the  
11 State during times of emergency, economic downturn, or  
12 unforeseen reduction in revenues. No expenditures shall be made  
13 from the emergency and budget reserve fund except pursuant to  
14 appropriations. The general appropriations bill or the  
15 supplemental appropriations bill, as defined in section 9 of  
16 article VII of the Constitution of the State of Hawaii, shall  
17 not be used to appropriate moneys from the emergency and budget  
18 reserve fund. The governor, through an appropriations bill, may  
19 recommend expenditures from the emergency and budget reserve  
20 fund by setting forth the purposes of the expenditures  
21 consistent with subsection (d), the amounts, and the reasons  
22 justifying the necessity for the appropriations.

1 (d) The legislature may make appropriations from the fund  
2 for the following purposes:

3 (1) To maintain levels of programs determined to be  
4 essential to public health, safety, welfare, and  
5 education;

6 (2) To provide for counter cyclical economic and  
7 employment programs in periods of economic downturn;

8 (3) To restore facilities destroyed or damaged or services  
9 disrupted by disaster in any county; and

10 (4) To meet other emergencies when declared by the  
11 governor or determined to be urgent by the  
12 legislature.

13 Any act making appropriations from the emergency and budget  
14 reserve fund shall include a declaration of findings and  
15 purposes setting forth the purposes, the amounts, and the  
16 reasons why the appropriations are necessary and shall require a  
17 two-thirds majority vote of each house of the legislature.

18 (e) Appropriations for the following purposes from the  
19 emergency and budget reserve fund are specifically prohibited:

20 (1) To meet expenses of the legislature;

21 (2) To provide for salary adjustments for officials  
22 appointed pursuant to article V, section 6 or article

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1 VI, section 3 of the Constitution of the State of  
2 Hawaii and for others whose salaries are directly  
3 related to salaries of these officials; and  
4 (3) To fund cost items in any collective bargaining  
5 contract."

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect July 1, 2009.

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INTRODUCED BY: Calvin K. King

BY REQUEST

JAN 26 2009

**Report Title:**

Emergency and Budget Reserve Fund; Rainy Day Fund; Deposits

**Description:**

Ensures funds are available for future fiscal emergencies by replenishing and building-up the Emergency and Budget Reserve Fund when general fund carry-over balances become available.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO DEPOSITS INTO THE EMERGENCY AND BUDGET RESERVE FUND.

PURPOSE: Ensures funds are available for future fiscal emergencies by requiring a percentage of general fund surpluses to be deposited into the Emergency and Budget Reserve Fund (EBRF) for a fiscal year when both: 1) the general fund carry-over balance exceeds five per cent of general fund revenues, and 2) collected general fund revenues exceed collected revenues of the previous year by five percent. Also states that the general fund expenditure ceiling shall not apply to general fund appropriations made to the EBRF, but apply to appropriations authorized from the EBRF.

MEANS: Add a new section to part V of chapter 37, Hawaii Revised Statutes (HRS); amend section 328L-3, HRS.

JUSTIFICATION: The EBRF was established by Act 304, Session Laws of Hawaii 1999, for the purpose of creating a financial reserve to lessen the negative impact of emergencies or economic downturns on the state budget. To ensure that the EBRF has sufficient resources to lessen the impact of short-term budget deficits, another source of funding must be made available to supplement moneys deposited through the Hawaii tobacco settlement.

By requiring a portion of general fund carry-over balances to be deposited into the EBRF only when general fund revenues increase by more than five per cent per fiscal year and surpluses amount to more than five per cent of revenues collected, this bill ensures that contributions to the



EBRF are made without significant impact to the general fund budget.

This bill ensures that deposits into the EBRF are not counted towards the general fund expenditure ceiling since the moneys are being saved by being deposited into the EBRF, not spent. However, appropriations out of the EBRF must be counted towards the general fund expenditure ceiling because they represent expenditure of moneys that were previously general funds.

This bill also requires that the constitutional tax refund or tax credit, provided under article VII, section 6 of the Constitution of the State of Hawaii, take precedence over the deposit into the EBRF if the tax refund or credit is provided during the same regular session as the appropriation to deposit funds into the EBRF.

Impact on the public: Ensures that the EBRF can be maintained as a safety net for essential programs and services in future fiscal emergencies.

Impact on the department and other agencies: Ensures that the EBRF can be maintained as a safety net for essential programs and services in future fiscal emergencies.

GENERAL FUND: Transfers a portion of general fund carry-over balances to the EBRF.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: All agencies and branches of government utilizing general fund appropriations.

EFFECTIVE DATE: July 1, 2009.