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# A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

1 **PART I**

2 SECTION 1. The severe recession of 2008 swept across the  
3 nation and many parts of the world with unanticipated force and  
4 brought with it enormous challenges for governments at all  
5 levels. Its effects on businesses and employment are still  
6 being felt today, including a profound impact on Hawaii in terms  
7 of tax revenues and the state budget.

8 The legislature finds that due to the extraordinary fiscal  
9 circumstances the State is facing, non-general funds must be  
10 reviewed and scrutinized to determine if there are excess  
11 balances available to help address the critical budget shortfall  
12 in fiscal year 2010-2011.

13 The purpose of this Act is to help address the fiscal year  
14 2010-2011 budget shortfall by transferring excess balances from  
15 various non-general funds into the State's general fund.

16 SECTION 2. The legislature determines that there is in the  
17 agriculture reserve fund at least \$1,500,000 in excess of the  
18 requirements of the fund. On July 1, 2010, the director of



1 finance is authorized to transfer from the agriculture reserve  
2 fund to the general fund the sum of \$1,500,000 or so much  
3 thereof as may be necessary for fiscal year 2010-2011.

4 SECTION 3. The legislature determines that there is in the  
5 state motor pool revolving fund at least \$1,500,000 in excess of  
6 the requirements of the fund. On July 1, 2010, the director of  
7 finance is authorized to transfer from the state motor pool  
8 revolving fund to the general fund the sum of \$1,500,000 or so  
9 much thereof as may be necessary for fiscal year 2010-2011.

10 SECTION 4. The legislature determines that there is in the  
11 state risk management revolving fund at least \$2,000,000 in  
12 excess of the requirements of the fund. On July 1, 2010, the  
13 director of finance is authorized to transfer from the state  
14 risk management revolving fund to the general fund the sum of  
15 \$2,000,000 or so much thereof as may be necessary for fiscal  
16 year 2010-2011.

17 SECTION 5. The legislature determines that there is in the  
18 wireless enhanced 911 special fund at least \$5,000,000 in excess  
19 of the requirements of the fund. On July 1, 2010, the director  
20 of finance is authorized to transfer from the wireless enhanced  
21 911 special fund to the general fund the sum of \$5,000,000 or so  
22 much thereof as may be necessary for fiscal year 2010-2011.



1 SECTION 6. The legislature determines that there is in the  
2 stadium special fund at least \$2,000,000 in excess of the  
3 requirements of the fund. On July 1, 2010, the director of  
4 finance is authorized to transfer from the stadium special fund  
5 to the general fund the sum of \$2,000,000 or so much thereof as  
6 may be necessary for fiscal year 2010-2011.

7 SECTION 7. The legislature determines that there is in the  
8 medicaid investigations recovery fund at least \$1,500,000 in  
9 excess of the requirements of the fund. On July 1, 2010, the  
10 director of finance is authorized to transfer from the medicaid  
11 investigations recovery fund to the general fund the sum of  
12 \$1,500,000 or so much thereof as may be necessary for fiscal  
13 year 2010-2011.

14 SECTION 8. The legislature determines that there is in the  
15 HCDA special assessment reserve fund at least \$2,000,000 in  
16 excess of the requirements of the fund. On July 1, 2010, the  
17 director of finance is authorized to transfer from the HCDA  
18 special assessment reserve fund to the general fund the sum of  
19 \$2,000,000 or so much thereof as may be necessary for fiscal  
20 year 2010-2011.

21 SECTION 9. The legislature determines that there is in the  
22 convention center enterprise special fund at least \$5,000,000 in



1 excess of the requirements of the fund. On July 1, 2010, the  
2 director of finance is authorized to transfer from the  
3 convention center enterprise special fund to the general fund  
4 the sum of \$5,000,000 or so much thereof as may be necessary for  
5 fiscal year 2010-2011.

6 SECTION 10. The legislature determines that there is in  
7 the foreign trade zone special fund at least \$500,000 in excess  
8 of the requirements of the fund. On July 1, 2010, the director  
9 of finance is authorized to transfer from the foreign trade zone  
10 special fund to the general fund the sum of \$500,000 or so much  
11 thereof as may be necessary for fiscal year 2010-2011.

12 SECTION 11. The legislature determines that there is in  
13 the compliance resolution fund - business registration fund at  
14 least \$1,500,000 in excess of the requirements of the fund. On  
15 July 1, 2010, the director of finance is authorized to transfer  
16 from the compliance resolution fund - business registration fund  
17 to the general fund the sum of \$1,500,000 or so much thereof as  
18 may be necessary for fiscal year 2010-2011.

19 SECTION 12. The legislature determines that there is in  
20 the department of commerce and consumer affairs driver education  
21 fund at least \$1,400,000 in excess of the requirements of the  
22 fund. On July 1, 2010, the director of finance is authorized to



1 transfer from the driver education fund to the general fund the  
2 sum of \$1,400,000 or so much thereof as may be necessary for  
3 fiscal year 2010-2011.

4 SECTION 13. The legislature determines that there is in  
5 the loss mitigation grant fund at least \$3,200,000 in excess of  
6 the requirements of the fund. On July 1, 2010, the director of  
7 finance is authorized to transfer from the loss mitigation grant  
8 fund to the general fund the sum of \$3,200,000 or so much  
9 thereof as may be necessary for fiscal year 2010-2011.

10 SECTION 14. The legislature determines that there is in  
11 the department of education driver education fund at least  
12 \$2,000,000 in excess of the requirements of the fund. On July  
13 1, 2010, the director of finance is authorized to transfer from  
14 the driver education fund to the general fund the sum of  
15 \$2,000,000 or so much thereof as may be necessary for fiscal  
16 year 2010-2011.

17 SECTION 15. The legislature determines that there is in  
18 the deposit beverage container special fund at least \$1,000,000  
19 in excess of the requirements of the fund. On July 1, 2010, the  
20 director of finance is authorized to transfer from the deposit  
21 beverage container special fund to the general fund the sum of



1 \$1,000,000 or so much thereof as may be necessary for fiscal  
2 year 2010-2011.

3 SECTION 16. The legislature determines that there is in  
4 the tobacco settlement special fund at least \$7,200,000 in  
5 excess of the requirements of the fund. On July 1, 2010, the  
6 director of finance is authorized to transfer from the tobacco  
7 settlement special fund to the general fund the sum of  
8 \$7,200,000 or so much thereof as may be necessary for fiscal  
9 year 2010-2011.

10 SECTION 17. The legislature determines that there is in  
11 the neurotrauma special fund at least \$1,000,000 in excess of  
12 the requirements of the fund. On July 1, 2010, the director of  
13 finance is authorized to transfer from the neurotrauma special  
14 fund to the general fund the sum of \$1,000,000 or so much  
15 thereof as may be necessary for fiscal year 2010-2011.

16 SECTION 18. The legislature determines that there is in  
17 the special fund for temporary disability benefits at least  
18 \$7,000,000 in excess of the requirements of the fund. On  
19 July 1, 2010, the director of finance is authorized to transfer  
20 from the special fund for temporary disability benefits to the  
21 general fund the sum of \$7,000,000 or so much thereof as may be  
22 necessary for fiscal year 2010-2011.



1 SECTION 19. The legislature determines that there is in  
2 the land conservation fund at least \$1,000,000 in excess of the  
3 requirements of the fund. On July 1, 2010, the director of  
4 finance is authorized to transfer from the land conservation  
5 fund to the general fund the sum of \$1,000,000 or so much  
6 thereof as may be necessary for fiscal year 2010-2011.

7 SECTION 20. The legislature determines that there is in  
8 the natural area reserve fund at least \$2,000,000 in excess of  
9 the requirements of the fund. On July 1, 2010, the director of  
10 finance is authorized to transfer from the natural area reserve  
11 fund to the general fund the sum of \$2,000,000 or so much  
12 thereof as may be necessary for fiscal year 2010-2011.

13 SECTION 21. The legislature determines that there is in  
14 the federal reimbursement maximization special fund at least  
15 \$500,000 in excess of the requirements of the fund. On July 1,  
16 2010, the director of finance is authorized to transfer from the  
17 federal reimbursement maximization special fund to the general  
18 fund the sum of \$500,000 or so much thereof as may be necessary  
19 for fiscal year 2010-2011.

20 SECTION 22. The legislature determines that there is in  
21 the University of Hawaii housing assistance revolving fund at  
22 least \$2,000,000 in excess of the requirements of the fund. On



1 July 1, 2010, the director of finance is authorized to transfer  
2 from the University of Hawaii housing assistance revolving fund  
3 to the general fund the sum of \$2,000,000 or so much thereof as  
4 may be necessary for fiscal year 2010-2011.

5 SECTION 23. The legislature determines that there is in  
6 the university revenue-undertakings fund at least \$5,000,000 in  
7 excess of the requirements of the fund. On July 1, 2010, the  
8 director of finance is authorized to transfer from the  
9 university revenue-undertakings fund to the general fund the sum  
10 of \$5,000,000 or so much thereof as may be necessary for fiscal  
11 year 2010-2011.

12 SECTION 24. The legislature determines that there is in  
13 the University of Hawaii research and training revolving fund at  
14 least \$ in excess of the requirements of the fund. On  
15 July 1, 2010, the director of finance is authorized to transfer  
16 from the University of Hawaii research and training revolving  
17 fund to the general fund the sum of \$ or so much  
18 thereof as may be necessary for fiscal year 2010-2011.

19 SECTION 25. The legislature determines that there is in  
20 the judiciary computer system special fund at least \$2,000,000  
21 in excess of the requirements of the fund. On July 1, 2010, the  
22 director of finance is authorized to transfer from the judiciary





1 computer system special fund to the general fund the sum of  
2 \$2,000,000 or so much thereof as may be necessary for fiscal  
3 year 2010-2011.

4 SECTION 26. The legislature determines that there is in  
5 the judiciary driver education and training special fund at  
6 least \$1,500,000 in excess of the requirements of the fund. On  
7 July 1, 2010, the director of finance is authorized to transfer  
8 from the driver education and training special fund to the  
9 general fund the sum of \$1,500,000 or so much thereof as may be  
10 necessary for fiscal year 2010-2011.

11 SECTION 27. On June 1, 2010, the director of finance is  
12 authorized to transfer from the department of business, economic  
13 development, and tourism to the general fund the sum of \$197,000  
14 or so much thereof remaining from the balance of funds received  
15 from the United States Department of Commerce Market Development  
16 Cooperator Program as a reimbursement to the State for fiscal  
17 year 2009-2010.

18 **PART II**

19 SECTION 28. Section 235-110.6, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:

21 "(c) The tax credit claimed under this section by the  
22 principal operator shall be deductible from the principal



1 operator's individual or corporate income tax liability, if any,  
2 for the tax year in which the credit is properly claimed;  
3 provided that a husband and wife filing separate returns for a  
4 taxable year for which a joint return could have been made by  
5 them shall claim only the tax credit to which they would have  
6 been entitled had a joint return been filed. If the tax credit  
7 claimed by the principal operator under this section exceeds the  
8 amount of the income tax payments due from the principal  
9 operator, the excess of credit over payments due shall be  
10 refunded to the principal operator[+] from the state highway  
11 fund; provided that the tax credit properly claimed by a  
12 principal operator who has no income tax liability shall be paid  
13 to the principal operator[+] from the state highway fund; and  
14 provided further no refunds or payments on account of the tax  
15 credit allowed by this section shall be made for amounts less  
16 than \$1."

17 **PART III**

18 SECTION 29. Section 328L-5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§328L-5 Hawaii tobacco prevention and control trust fund.**

21 (a) There is established the Hawaii tobacco prevention and  
22 control trust fund as a separate fund of a nonprofit entity



1 having a board of directors and qualifying under section  
2 501(c)(3) of the Internal Revenue Code of 1986, as amended, into  
3 which shall be deposited moneys received as provided under  
4 section 328L-2(b)(3). The director of health with the  
5 concurrence of the governor, shall select, in accordance with  
6 law, the entity based upon the proven record of accomplishment  
7 of the entity in administering a similar trust fund.

8 (b) Notwithstanding that the Hawaii tobacco prevention and  
9 control trust fund is established within a private entity, the  
10 department of budget and finance shall have oversight authority  
11 over the fund and may make periodic financial audits of the  
12 fund; provided that the director of finance may contract with a  
13 certified public accountancy firm for this purpose. The  
14 director of health with the concurrence of the governor in their  
15 sole discretion may rescind the selection of the entity. If the  
16 selection of the entity [is] rescinded, moneys in the trust fund  
17 shall revert back to the State and shall be deemed to be trust  
18 moneys.

19 (c) The entity selected under subsection (a), for each  
20 fiscal year, may expend up to fifty per cent of the total market  
21 value of the Hawaii tobacco prevention and control trust fund on  
22 the preceding June 30, for tobacco prevention and control,



1 including but not limited to, reducing cigarette smoking and  
2 tobacco use among youth and adults through education and  
3 enforcement activities, and controlling and preventing chronic  
4 diseases where tobacco is a risk factor.

5 (d) The Hawaii tobacco prevention and control trust fund  
6 may receive appropriations, contributions, grants, endowments,  
7 or gifts in cash or otherwise from any source, including the  
8 State, corporations or other businesses, foundations,  
9 government, individuals, and other interested parties; provided  
10 that any appropriations made by the State shall not supplant or  
11 diminish the funding of existing tobacco prevention and control  
12 programs or any health related programs funded in whole or in  
13 part by the State.

14 (e) The assets of the Hawaii tobacco prevention and  
15 control trust fund shall consist of:

- 16 (1) Moneys appropriated under section 328L-2(b)(3);  
17 (2) Moneys appropriated to the Hawaii tobacco prevention  
18 and control trust fund by the state, county, or  
19 federal government;  
20 (3) Private contributions of cash or property; and  
21 (4) Income and capital gains earned by the trust fund.



1        (f) All moneys in excess of \$7,000,000 that remain in the  
2 balance of the Hawaii tobacco prevention and control trust fund  
3 on June 30 of each fiscal year shall lapse to the credit of the  
4 emergency budget and reserve fund. On July 1 of each fiscal  
5 year, the director of finance is authorized to transfer the  
6 excess funds in the Hawaii tobacco prevention and control trust  
7 fund to the emergency budget and reserve fund.

8        [~~f~~] (g) The aggregate principal sum deposited in the  
9 Hawaii tobacco prevention and control trust fund shall be  
10 invested by the entity selected under subsection (a) in a manner  
11 intended to maximize the rate of return on investment of the  
12 trust fund consistent with the objective of preserving the trust  
13 fund's principal.

14        [~~g~~] (h) If the entity selected under subsection (a) is  
15 dissolved, the director of health, with the concurrence of the  
16 governor, shall select a successor entity. If the Hawaii  
17 tobacco prevention and control trust fund is terminated, the  
18 moneys remaining in the trust fund shall revert back to the  
19 State and shall be deemed to be trust moneys.

20        [~~h~~] (i) The administration of the Hawaii tobacco  
21 prevention and control trust fund shall be advised by the



1 tobacco prevention and control advisory board created under  
2 section 328L-6."

3 **PART IV**

4 SECTION 30. Section 245-15, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§245-15 **Disposition of revenues.** All moneys collected  
7 pursuant to this chapter shall be paid into the state treasury  
8 as state realizations to be kept and accounted for as provided  
9 by law; provided that, of the moneys collected under the tax  
10 imposed pursuant to:

11 (1) Section 245-3(a)(5), after September 30, 2006, and  
12 prior to October 1, 2007, 1.0 cent per cigarette shall  
13 be deposited to the credit of the Hawaii cancer  
14 research special fund, established pursuant to section  
15 304A-2168, for research and operating expenses and for  
16 capital expenditures;

17 (2) Section 245-3(a)(6), after September 30, 2007, and  
18 prior to October 1, 2008:

19 (A) 1.5 cents per cigarette shall be deposited to the  
20 credit of the Hawaii cancer research special  
21 fund, established pursuant to section 304A-2168,



1 for research and operating expenses and for  
2 capital expenditures;

3 (B) 0.25 cents per cigarette shall be deposited to  
4 the credit of the trauma system special fund  
5 established pursuant to section 321-22.5; and

6 (C) 0.25 cents per cigarette shall be deposited to  
7 the credit of the emergency medical services  
8 special fund established pursuant to section  
9 321-234;

10 (3) Section 245-3(a) (7), after September 30, 2008, and  
11 prior to July 1, 2009:

12 (A) 2.0 cents per cigarette shall be deposited to the  
13 credit of the Hawaii cancer research special  
14 fund, established pursuant to section 304A-2168,  
15 for research and operating expenses and for  
16 capital expenditures;

17 (B) 0.5 cents per cigarette shall be deposited to the  
18 credit of the trauma system special fund  
19 established pursuant to section 321-22.5;

20 (C) 0.25 cents per cigarette shall be deposited to  
21 the credit of the community health centers



1 special fund established pursuant to section  
2 321-1.65; and

3 (D) 0.25 cents per cigarette shall be deposited to  
4 the credit of the emergency medical services  
5 special fund established pursuant to section  
6 321-234;

7 (4) Section 245-3(a)(8), after June 30, 2009, and prior to  
8 July 1, [~~2010+~~] 2013:

9 (A) 2.0 cents per cigarette shall be deposited to the  
10 credit of the Hawaii cancer research special  
11 fund, established pursuant to section 304A-2168,  
12 for research and operating expenses and for  
13 capital expenditures;

14 (B) 0.75 cents per cigarette shall be deposited to  
15 the credit of the trauma system special fund  
16 established pursuant to section 321-22.5;

17 (C) 0.75 cents per cigarette shall be deposited to  
18 the credit of the community health centers  
19 special fund established pursuant to section  
20 321-1.65; and





1 (D) 0.5 cents per cigarette shall be deposited to the  
2 credit of the emergency medical services special  
3 fund established pursuant to section 321-234; and

4 [~~5) Section 245-3(a)(10), after June 30, 2010, and prior~~  
5 ~~to July 1, 2011:~~

6 ~~(A) 2.0 cents per cigarette shall be deposited to the~~  
7 ~~credit of the Hawaii cancer research special~~  
8 ~~fund, established pursuant to section 304A-2168,~~  
9 ~~for research and operating expenses and for~~  
10 ~~capital expenditures;~~

11 ~~(B) 1.0 cent per cigarette shall be deposited to the~~  
12 ~~credit of the trauma system special fund~~  
13 ~~established pursuant to section 321-22.5;~~

14 ~~(C) 1.0 cent per cigarette shall be deposited to the~~  
15 ~~credit of the community health centers special~~  
16 ~~fund established pursuant to section 321-1.65;~~  
17 ~~and~~

18 ~~(D) 1.0 cent per cigarette shall be deposited to the~~  
19 ~~credit of the emergency medical services special~~  
20 ~~fund established pursuant to section 321-234; and~~





1 SECTION 31. Section 392-62, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§392-62[+] **Management of the fund.** The director of  
4 finance shall be the treasurer and custodian of the special fund  
5 for disability benefits and shall administer the fund in  
6 accordance with the directions of the director of labor and  
7 industrial relations. ~~[All moneys in the fund shall be held in  
8 trust for the purposes of this part only and shall not be  
9 expended, released, or appropriated or otherwise disposed of for  
10 any other purpose.]~~ Moneys in the fund may be deposited in any  
11 depository bank in which general funds of the State may be  
12 deposited but such moneys shall not be commingled with other  
13 state funds and shall be maintained in separate accounts on the  
14 books of the depository bank. Such moneys shall be secured by  
15 the depository bank to the same extent and in the same manner as  
16 required by the general depository law of the State; and  
17 collateral pledged for this purpose shall be kept separate and  
18 distinct from any other collateral pledged to secure other funds  
19 of the State. The director of finance shall be liable for the  
20 performance of the director of finance's duties under this  
21 section as provided in chapter 37."



1 SECTION 32. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 33. This Act shall take effect on July 1, 2020.

4



**Report Title:**

Transfer of Non-general Funds; Fuel Tax Credit; Tobacco Moneys

**Description:**

Addresses the fiscal year 2009-2010 budget shortfall by transferring to the general fund an unspecified amount of excess balances from certain funds; amends the refundable charge of the fuel tax credit for commercial fishers to be from the state highway fund; requires moneys in excess of a certain amount in the Hawaii tobacco prevention and control trust fund to lapse to the emergency budget and reserve fund each June 30; amends the disposition of revenues collected pursuant to chapter 245, HRS. Effective July 1, 2020. (SD1)

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

