
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 agricultural loan reserve fund at least \$1,000,000 in excess of
18 the requirements of the fund. On July 1, 2010, the director of



1 finance is authorized to transfer from the agricultural loan
2 reserve fund to the general fund the sum of \$1,000,000 or so
3 much 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 stadium special fund at least \$2,000,000 in excess of the
19 requirements of the fund. On July 1, 2010, the director of
20 finance is authorized to transfer from the stadium special fund
21 to the general fund the sum of \$2,000,000 or so much thereof as
22 may be necessary for fiscal year 2010-2011.



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

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

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



1 SECTION 9. The legislature determines that there is in the
2 foreign trade zones special fund at least \$300,000 in excess of
3 the requirements of the fund. On July 1, 2010, the director of
4 finance is authorized to transfer from the foreign trade zones
5 special fund to the general fund the sum of \$300,000 or so much
6 thereof as may be necessary for fiscal year 2010-2011.

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

15 SECTION 11. The legislature determines that there is in
16 the department of commerce and consumer affairs special drivers
17 education fund account at least \$1,400,000 in excess of the
18 requirements of the fund account. On July 1, 2010, the director
19 of finance is authorized to transfer from the special drivers
20 education fund account to the general fund the sum of \$1,400,000
21 or so much thereof as may be necessary for fiscal year 2010-
22 2011.



1 SECTION 12. The legislature determines that there is in
2 the loss mitigation grant fund at least \$3,200,000 in excess of
3 the requirements of the fund. On July 1, 2010, the director of
4 finance is authorized to transfer from the loss mitigation grant
5 fund to the general fund the sum of \$3,200,000 or so much
6 thereof as may be necessary for fiscal year 2010-2011.

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

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

21 SECTION 15. The legislature determines that there is in
22 the Hawaii tobacco settlement special fund at least \$7,200,000



1 in excess of the requirements of the fund. On July 1, 2010, the
2 director of finance is authorized to transfer from the Hawaii
3 tobacco settlement special fund to the general fund the sum of
4 \$7,200,000 or so much thereof as may be necessary for fiscal
5 year 2010-2011.

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

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

19 SECTION 18. The legislature determines that there is in
20 the land conservation fund at least \$1,000,000 in excess of the
21 requirements of the fund. On July 1, 2010, the director of
22 finance is authorized to transfer from the land conservation



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

3 SECTION 19. The legislature determines that there is in
4 the natural area reserve fund at least \$500,000 in excess of the
5 requirements of the fund. On July 1, 2010, the director of
6 finance is authorized to transfer from the natural area reserve
7 fund to the general fund the sum of \$500,000 or so much thereof
8 as may be necessary for fiscal year 2010-2011.

9 SECTION 20. The legislature determines that there is in
10 the federal reimbursement maximization special fund at least
11 \$500,000 in excess of the requirements of the fund. On July 1,
12 2010, the director of finance is authorized to transfer from the
13 federal reimbursement maximization special fund to the general
14 fund the sum of \$500,000 or so much thereof as may be necessary
15 for fiscal year 2010-2011.

16 SECTION 21. The legislature determines that there is in
17 the University of Hawaii housing assistance revolving fund at
18 least \$2,000,000 in excess of the requirements of the fund. On
19 July 1, 2010, the director of finance is authorized to transfer
20 from the University of Hawaii housing assistance revolving fund
21 to the general fund the sum of \$2,000,000 or so much thereof as
22 may be necessary for fiscal year 2010-2011.



1 SECTION 22. The legislature determines that there is in
2 the university revenue-undertakings fund at least \$2,500,000 in
3 excess of the requirements of the fund. On July 1, 2010, the
4 director of finance is authorized to transfer from the
5 university revenue-undertakings fund to the general fund the sum
6 of \$2,500,000 or so much thereof as may be necessary for fiscal
7 year 2010-2011.

8 SECTION 23. The legislature determines that there is in
9 the University of Hawaii research and training revolving fund at
10 least \$400,000 in excess of the requirements of the fund. On
11 July 1, 2010, the director of finance is authorized to transfer
12 from the University of Hawaii research and training revolving
13 fund to the general fund the sum of \$400,000 or so much thereof
14 as may be necessary for fiscal year 2010-2011.

15 SECTION 24. The legislature determines that there is in
16 the judiciary computer system special fund at least \$2,000,000
17 in excess of the requirements of the fund. On July 1, 2010, the
18 director of finance is authorized to transfer from the judiciary
19 computer system special fund to the general fund the sum of
20 \$2,000,000 or so much thereof as may be necessary for fiscal
21 year 2010-2011.



1 SECTION 25. The legislature determines that there is in
2 the driver education and training fund, under the judiciary, at
3 least \$1,500,000 in excess of the requirements of the fund. On
4 July 1, 2010, the director of finance is authorized to transfer
5 from the driver education and training fund to the general fund
6 the sum of \$1,500,000 or so much thereof as may be necessary for
7 fiscal year 2010-2011.

8 SECTION 26. On June 1, 2010, the director of finance is
9 authorized to transfer from the department of business, economic
10 development, and tourism to the general fund the sum of \$197,000
11 or so much thereof remaining from the balance of funds received
12 from the United States Department of Commerce Market Development
13 Cooperator Program as a reimbursement to the State for fiscal
14 year 2009-2010.

15 PART II

16 SECTION 27. Section 235-110.6, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) The tax credit claimed under this section by the
19 principal operator shall be deductible from the principal
20 operator's individual or corporate income tax liability, if any,
21 for the tax year in which the credit is properly claimed;
22 provided that a husband and wife filing separate returns for a



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

14 **PART III**

15 SECTION 28. Section 328L-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§328L-5 Hawaii tobacco prevention and control trust fund.**

18 (a) There is established the Hawaii tobacco prevention and
19 control trust fund as a separate fund of a nonprofit entity
20 having a board of directors and qualifying under section
21 501(c)(3) of the Internal Revenue Code of 1986, as amended, into
22 which shall be deposited moneys received as provided under



1 section 328L-2(b)(3). The director of health with the
2 concurrence of the governor, shall select, in accordance with
3 law, the entity based upon the proven record of accomplishment
4 of the entity in administering a similar trust fund.

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

16 (c) The entity selected under subsection (a), for each
17 fiscal year, may expend up to fifty per cent of the total market
18 value of the Hawaii tobacco prevention and control trust fund on
19 the preceding June 30, for tobacco prevention and control,
20 including but not limited to, reducing cigarette smoking and
21 tobacco use among youth and adults through education and



1 enforcement activities, and controlling and preventing chronic
2 diseases where tobacco is a risk factor.

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

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

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

20 (f) All moneys in excess of \$14,000,000 that remain in the
21 balance of the Hawaii tobacco prevention and control trust fund
22 on June 30 of each fiscal year shall lapse to the credit of the



1 emergency and budget reserve fund. On July 1 of each fiscal
2 year, the director of finance is authorized to transfer the
3 excess funds in the Hawaii tobacco prevention and control trust
4 fund to the emergency and budget reserve fund; provided that the
5 moneys transferred to the emergency and budget reserve fund may
6 be used to support programs such as kupuna care, adult dental
7 services, respite services, health aging partnership, domestic
8 violence shelters, outreach services, housing placement
9 services, and similar programs or services.

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

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



1 [-(h)] (i) The administration of the Hawaii tobacco
2 prevention and control trust fund shall be advised by the
3 tobacco prevention and control advisory board created under
4 section 328L-6."

5 PART IV

6 SECTION 29. Section 245-15, Hawaii Revised Statutes, is
7 amended to read as follows:

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

13 (1) Section 245-3(a)(5), after September 30, 2006, and
14 prior to October 1, 2007, 1.0 cent per cigarette shall
15 be deposited to the credit of the Hawaii cancer
16 research special fund, established pursuant to section
17 304A-2168, for research and operating expenses and for
18 capital expenditures;

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

21 (A) 1.5 cents per cigarette shall be deposited to the
22 credit of the Hawaii cancer research special



1 fund, established pursuant to section 304A-2168,
2 for research and operating expenses and for
3 capital expenditures;

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

7 (C) 0.25 cents per cigarette shall be deposited to
8 the credit of the emergency medical services
9 special fund established pursuant to section
10 321-234;

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

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

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

21 (C) 0.25 cents per cigarette shall be deposited to
22 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 ~~(6)]~~ (5) Section 245-3(a)(11), after June 30, ~~[2011,]~~
2 2013, and thereafter:
3 (A) 2.0 cents per cigarette shall be deposited to the
4 credit of the Hawaii cancer research special
5 fund, established pursuant to section 304A-2168,
6 for research and operating expenses and for
7 capital expenditures;
8 (B) 1.5 cents per cigarette shall be deposited to the
9 credit of the trauma system special fund
10 established pursuant to section 321-22.5;
11 (C) 1.25 cents per cigarette shall be deposited to
12 the credit of the community health centers
13 special fund established pursuant to section
14 321-1.65; and
15 (D) 1.25 cents per cigarette shall be deposited to
16 the credit of the emergency medical services
17 special fund established pursuant to section
18 321-234.
19 The department shall provide an annual accounting of these
20 dispositions to the legislature."



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PART V

SECTION 30. Section 392-61, Hawaii Revised Statutes, is amended to read as follows:

"§392-61 Establishment of special fund for disability benefits. There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a special fund for disability benefits [~~which shall be administered by the director exclusively for the purposes of this chapter,~~] and for the establishment and maintenance of a family leave data collection system under section 398-9.5. All contributions pursuant to this part shall be paid into the fund and all benefits payable under this part shall be paid from the fund. The fund shall consist of:

- (1) [~~all~~] All contributions collected pursuant to this part, together with any interest thereon;
- (2) [~~all~~] All fines and penalties for the fund pursuant to this chapter;
- (3) [~~all~~] All moneys collected by way of subrogation;
- (4) [~~interest~~] Interest earned on any moneys in the fund;
- (5) [~~any~~] Any property or securities acquired through the use of moneys belonging to the fund;



- 1 (6) ~~[a11]~~ All earnings of such property and securities;
2 and
3 (7) ~~[a11]~~ All other moneys received for the fund from any
4 source."

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

7 "~~[+] §392-62 [1]~~ **Management of the fund.** The director of
8 finance shall be the treasurer and custodian of the special fund
9 for disability benefits and shall administer the fund in
10 accordance with the directions of the director of labor and
11 industrial relations. ~~[All moneys in the fund shall be held in~~
12 ~~trust for the purposes of this part only and shall not be~~
13 ~~expended, released, or appropriated or otherwise disposed of for~~
14 ~~any other purpose.]~~ Moneys in the fund may be deposited in any
15 depository bank in which general funds of the State may be
16 deposited but such moneys shall not be commingled with other
17 state funds and shall be maintained in separate accounts on the
18 books of the depository bank. Such moneys shall be secured by
19 the depository bank to the same extent and in the same manner as
20 required by the general depository law of the State; and
21 collateral pledged for this purpose shall be kept separate and
22 distinct from any other collateral pledged to secure other funds



1 of the State. The director of finance shall be liable for the
2 performance of the director of finance's duties under this
3 section as provided in chapter 37."

4 SECTION 32. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 33. This Act shall take effect on July 1, 2010.



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 various amounts 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 and clarifies that these funds may be used to assist certain social services programs; amends the disposition of revenues collected pursuant to tobacco tax law. Effective 7/1/2010.

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

