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## A BILL FOR AN ACT

RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND.

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

1 SECTION 1. The purpose of this Act is to:

2 (1) Authorize the legislature to make a loan from the  
3 emergency and budget reserve fund to the general fund  
4 by separate act approved by a majority vote of each  
5 house; and

6 (2) Repeal the exemption of the fund from central services  
7 and departmental administrative expenses.

8 SECTION 2. Section 36-27, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§36-27 Transfers from special funds for central service**  
11 **expenses.** Except as provided in this section, and  
12 notwithstanding any other law to the contrary, from time to  
13 time, the director of finance, for the purpose of defraying the  
14 prorated estimate of central service expenses of government in  
15 relation to all special funds, except the:

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



- 1           (2) School cafeteria special funds of the department of
- 2           education;
- 3           (3) Special funds of the University of Hawaii;
- 4           (4) State educational facilities improvement special fund;
- 5           (5) Convention center enterprise special fund under
- 6           section 201B-8;
- 7           (6) Special funds established by section 206E-6;
- 8           (7) Housing loan program revenue bond special fund;
- 9           (8) Housing project bond special fund;
- 10          (9) Aloha Tower fund created by section 206J-17;
- 11          (10) Funds of the employees' retirement system created by
- 12          section 88-109;
- 13          (11) Unemployment compensation fund established under
- 14          section 383-121;
- 15          (12) Hawaii hurricane relief fund established under chapter
- 16          431P;
- 17          (13) Hawaii health systems corporation special funds and
- 18          the subaccounts of its regional system boards;
- 19          (14) Tourism special fund established under section 201B-
- 20          11;
- 21          (15) Universal service fund established under chapter 269;



1        [~~(16)~~] ~~Emergency and budget reserve fund under section 328L-~~  
2                                ~~3;~~  
3        ~~(17)~~] (16) Public schools special fees and charges fund  
4                                under section 302A-1130(f);  
5        [~~(18)~~] (17) Sport fish special fund under section 187A-9.5;  
6        [~~(19)~~] (18) Glass advance disposal fee special fund  
7                                established by section 342G-82;  
8        [~~(20)~~] (19) Center for nursing special fund under section  
9                                304A-2163;  
10       [~~(21)~~] (20) Passenger facility charge special fund  
11                                established by section 261-5.5;  
12       [~~(22)~~] (21) Court interpreting services revolving fund under  
13                                section 607-1.5;  
14       [~~(23)~~] (22) Hawaii cancer research special fund;  
15       [~~(24)~~] (23) Community health centers special fund;  
16       [~~(25)~~] (24) Emergency medical services special fund; and  
17       [~~(26)~~] (25) Rental motor vehicle customer facility charge  
18                                special fund established under section 261-5.6,  
19 shall deduct five per cent of all receipts of all special funds,  
20 which deduction shall be transferred to the general fund of the  
21 State and become general realizations of the State. All  
22 officers of the State and other persons having power to allocate



1 or disburse any special funds shall cooperate with the director  
2 in effecting these transfers. To determine the proper revenue  
3 base upon which the central service assessment is to be  
4 calculated, the director shall adopt rules pursuant to chapter  
5 91 for the purpose of suspending or limiting the application of  
6 the central service assessment of any fund. No later than  
7 twenty days prior to the convening of each regular session of  
8 the legislature, the director shall report all central service  
9 assessments made during the preceding fiscal year."

10 SECTION 3. Section 36-30, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

- 12 "(a) Each special fund, except the:
- 13 (1) Transportation use special fund established by section  
14 261D-1;
  - 15 (2) Special out-of-school time instructional program fund  
16 under section 302A-1310;
  - 17 (3) School cafeteria special funds of the department of  
18 education;
  - 19 (4) Special funds of the University of Hawaii;
  - 20 (5) State educational facilities improvement special fund;
  - 21 (6) Special funds established by section 206E-6;
  - 22 (7) Aloha Tower fund created by section 206J-17;



- 1           (8) Funds of the employees' retirement system created by
- 2           section 88-109;
- 3           (9) Unemployment compensation fund established under
- 4           section 383-121;
- 5           (10) Hawaii hurricane relief fund established under section
- 6           431P-2;
- 7           (11) Convention [+]center[+] enterprise special fund
- 8           established under section 201B-8;
- 9           (12) Hawaii health systems corporation special funds and
- 10          the subaccounts of its regional system boards;
- 11          (13) Tourism special fund established under section 201B-
- 12          11;
- 13          (14) Universal service fund established under chapter 269;
- 14          ~~[(15) Emergency and budget reserve fund under section 328L-~~
- 15          ~~3;~~
- 16          ~~+(16)]~~ (15) Public schools special fees and charges fund
- 17          under section 302A-1130(f);
- 18          ~~[(17)]~~ (16) Sport fish special fund under section 187A-9.5;
- 19          ~~[(18)]~~ (17) Center for nursing special fund under section
- 20          304A-2163;
- 21          ~~[(19)]~~ (18) Passenger facility charge special fund
- 22          established by section 261-5.5;



1        [~~20~~] (19) Court interpreting services revolving fund under  
2                        section 607-1.5;  
3        [~~21~~] (20) Hawaii cancer research special fund;  
4        [~~22~~] (21) Community health centers special fund;  
5        [~~23~~] (22) Emergency medical services special fund; and  
6        [~~24~~] (23) Rental motor vehicle customer facility charge  
7                        special fund established under section 261-5.6,  
8 shall be responsible for its pro rata share of the  
9 administrative expenses incurred by the department responsible  
10 for the operations supported by the special fund concerned."

11                SECTION 4. Section 328L-3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13                "**§328L-3 Emergency and budget reserve fund.** (a) There is  
14 established in the state treasury the emergency and budget  
15 reserve fund which shall be a special fund administered by the  
16 director of finance, into which shall be deposited:

17                (1) Moneys received from the tobacco settlement moneys  
18                        under section 328L-2;

19                (2) Repayments of principal of and interest on loans to  
20                        the general fund; and

21                [~~2~~] (3) Appropriations made by the legislature to the  
22                        fund.

1 (b) All interest earned from moneys in the emergency and  
2 budget reserve fund shall be credited to the general fund[-];  
3 except that interest earned on loans to the general fund made  
4 pursuant to subsection (e) shall be credited to the emergency  
5 and budget reserve fund.

6 (c) Expenditures or loans from the emergency and budget  
7 reserve fund shall be a temporary supplemental source of funding  
8 for the State during times of emergency, economic downturn, or  
9 unforeseen reduction in revenues. No expenditures or loans  
10 shall be made from the emergency and budget reserve fund except  
11 pursuant to appropriations. The general appropriations bill or  
12 the supplemental appropriations bill, as defined in section 9 of  
13 article VII of the Constitution of the State of Hawaii, shall  
14 not be used to appropriate or loan moneys from the emergency and  
15 budget reserve fund.

16 The governor, through [a] a separate appropriations bill,  
17 may recommend expenditures or loans from the emergency and  
18 budget reserve fund [~~by setting forth the purposes of the~~  
19 ~~expenditures consistent with subsection (d), the amounts, and~~  
20 ~~the reasons justifying the necessity for the appropriations.]~~  
21 for the current or ensuing fiscal year. The contents of a



1 separate appropriations bill submitted by the governor shall  
2 conform with subsection (d) or (e), as applicable.

3 The legislature, on its own initiative, may consider and  
4 pass an appropriation bill, separate from the general or  
5 supplemental appropriations bill, which proposes expenditures or  
6 loans from the emergency and budget reserve fund for the ensuing  
7 fiscal year.

8 (d) The legislature may make appropriations from the fund  
9 for expenditure on the following purposes[+] without necessity  
10 of repayment:

11 (1) To maintain levels of programs determined to be  
12 essential to public health, safety, welfare, and  
13 education;

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

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

18 (4) To meet other emergencies when declared by the  
19 governor or determined to be urgent by the  
20 legislature.

21 Any act making appropriations from the emergency and budget  
22 reserve fund under this subsection shall include a declaration





1 of findings and purposes setting forth the purposes, the  
2 amounts, and the reasons why the appropriations are necessary  
3 and shall require a two-thirds majority vote of each house of  
4 the legislature.

5 (e) The legislature may make loans from the emergency and  
6 budget reserve fund to the general fund for expenditure on  
7 programs and projects, a general fund appropriation for which  
8 was approved by the legislature in a previous act, but not  
9 allotted by the governor or expended by the expending agency  
10 because of insufficient actual or projected general revenues.  
11 Such a loan shall be made by legislative act passed by a  
12 majority vote of each house of the legislature.

13 A legislative act that makes a loan shall:

- 14 (1) Set forth the purpose and reason for, principal amount  
15 of, and, if any, interest charged on the loan;  
16 (2) Identify the program or project, the loan for which is  
17 made; and  
18 (3) Provide for the repayment of the entire principal of  
19 and, if any, interest on the loan by June 30 of the  
20 second fiscal year following the fiscal year in which  
21 the act takes effect or June 30, 2015, whichever is  
22 earlier. As the means of repayment, the legislative



1           act shall dedicate general revenues from an existing  
2           or new tax or fee. If the principal and interest are  
3           not fully repaid by the applicable deadline, the  
4           director of finance shall transfer the delinquent  
5           amount from the general fund to the emergency and  
6           budget reserve fund. No penalty shall be charged on  
7           any delinquent principal or interest. The director  
8           shall make the transfer without necessity of  
9           appropriation or any other legislation.

10           ~~(e)~~ (f) Appropriations or loans for the following  
11 purposes from the emergency and budget reserve fund are  
12 specifically prohibited:

- 13           (1) To meet expenses of the legislature;
- 14           (2) To provide for salary adjustments for officials  
15 appointed pursuant to article V, section 6 or article  
16 VI, section 3 of the Constitution of the State of  
17 Hawaii and for others whose salaries are directly  
18 related to salaries of these officials; and
- 19           (3) To fund cost items, as defined under section 89-2, in  
20 any collective bargaining contract. This paragraph  
21 shall not be deemed to prohibit the use of an  
22 appropriation or loan from the emergency and budget



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1           reserve fund to pay the portion of the wages of or  
2           fringe benefit contributions for employees that are  
3           not "cost items"."

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

6           SECTION 6. This Act shall take effect on July 1, 2010, and  
7 shall be repealed on June 30, 2015; provided that:

8           (1) Sections 36-37 and 36-30(a), Hawaii Revised Statutes,  
9 shall be reenacted in the form in which they read on  
10 June 30, 2009; and

11           (2) Section 328L-3, Hawaii Revised Statutes, shall be  
12 reenacted in the form in which it read on the day  
13 prior to the effective date of Act 119, Session Laws  
14 of Hawaii 2009.

15

INTRODUCED BY: *Calvin K. Gay*  
JAN 27 2010



**Report Title:**

Emergency And Budget Reserve Fund; Loans To General Fund

**Description:**

Authorizes the legislature to make a loan from the emergency and budget reserve fund to the general fund by legislative act approved by a majority of each house. Requires the legislative act to identify the source of the general funds to repay the loan.

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

