



GOV. MSG. NO. **1165**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 26, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

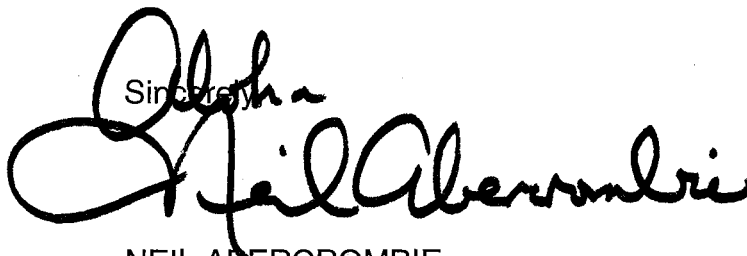
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on May 26, 2011, the following bill was signed into law:

SB1270 SD2 HD1 CD1

RELATING TO THE HAWAII HURRICANE RELIEF
FUND
Act 062 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 1270
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO THE HAWAII HURRICANE RELIEF FUND.

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

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PART I

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SECTION 1. This Act is recommended by the governor for

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immediate passage in accordance with section 9 of article VII of

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the Hawaii State Constitution.

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SECTION 2. Hawaii is facing one of the most challenging

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economic periods in its history. Current economic conditions

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have necessitated difficult decisions by the State to balance an

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already precarious budget. The reduction-in-force in state

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government has reduced services to the public and has also had

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an adverse effect on the efficiency and effectiveness of certain

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key operational areas. Funding reductions have also affected

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the State's ability to provide services to those who are most

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vulnerable to setbacks during this time of economic uncertainty,

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and have affected the State's ability to fuel and sustain an

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economic recovery.

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The recent 8.9 magnitude earthquake in Japan and ensuing

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tsunami have resulted in severe consequences for Hawaii's

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economy, including reductions in tourism bookings and downward



1 revisions of anticipated revenues. These economic injuries
2 continue to burden the community.

3 The council on revenues has substantially reduced its
4 estimate of general fund revenues for fiscal year 2010-2011.

5 The purpose of this Act is to appropriate Hawaii hurricane
6 relief fund moneys from the hurricane reserve trust fund into
7 the general fund to make funds available to balance the State's
8 budget for fiscal year 2010-2011 and to maintain programs at
9 levels determined to be essential for education, public health,
10 and public welfare.

11 If additional moneys are required to address the general
12 fund shortfall in fiscal year 2010-2011, this Act also
13 authorizes the governor to transfer all or a portion of the
14 remaining balance of the hurricane reserve trust fund into the
15 general fund.

16 The legislature intends that the appropriated or
17 transferred Hawaii hurricane relief fund moneys be expended
18 after the expenditure, encumbrance, or allotment of the
19 emergency and budget reserve funds and non-general funds
20 designated for use in fiscal year 2010-2011 under Senate Bill
21 No. 1293 and Senate Bill No. 120.



1 This Act also establishes a mechanism for the automatic
2 replenishment of the hurricane reserve trust fund in fiscal
3 years 2013-2014 and 2014-2015.

4 In the event that the hurricane reserve trust fund needs to
5 be recapitalized before then, this Act authorizes the issuance
6 of revenue bonds by the Hawaii hurricane relief fund for that
7 purpose.

8 **PART II**

9 SECTION 3. For the purpose of this part, "Senate Bill No.
10 120" and "Senate Bill No. 1293" refer to those bills in the form
11 enacted into law during the 2011 regular session.

12 SECTION 4. (a) Notwithstanding provisions of
13 chapter 431P, Hawaii Revised Statutes, or any other law to the
14 contrary, there is appropriated out of the hurricane reserve
15 trust fund established pursuant to section 431P-16, Hawaii
16 Revised Statutes, the sum of \$42,000,000 or so much thereof as
17 may be necessary for fiscal year 2010-2011 to be deposited into
18 the general fund to balance the State's budget in fiscal year
19 2010-2011 and maintain programs at levels determined to be
20 essential for education, public health, and public welfare;
21 provided that this appropriation may be deposited into the
22 general fund; provided further that:



- 1 (1) The entire sum appropriated out of the emergency and
2 budget reserve fund under Senate Bill No. 1293 is
3 expended, encumbered, or allotted;
- 4 (2) The director of finance has identified and transferred
5 non-general funds in accordance with Senate Bill No.
6 120; and
- 7 (3) The governor, before depositing any funds from the
8 hurricane reserve trust fund into the general fund
9 pursuant to this section, notifies the president of
10 the senate and speaker of the house of representatives
11 in writing that the deposit shall be made.
- 12 (b) The sum appropriated under this section shall be
13 deposited by the director of finance into the general fund.

14 SECTION 5. (a) Notwithstanding chapter 36, 37, or 431P,
15 Hawaii Revised Statutes, or any other law to the contrary, the
16 governor by June 30, 2011, may transfer all or a portion of the
17 remaining balance of the hurricane reserve trust fund for
18 deposit into the general fund if the governor finds that the
19 transfer is necessary to balance the State's budget in fiscal
20 year 2010-2011; provided that the funds may be transferred into
21 the general fund only after the occurrence of the following:



1 (1) The actions required under section 4(a)(1) and (2) are
2 completed;

3 (2) The entire sum appropriated out of the hurricane
4 reserve trust fund under section 4 is expended,
5 encumbered, or allotted; and

6 (3) The governor, before transferring any funds from the
7 hurricane reserve trust fund pursuant to this section,
8 notifies the president of the senate and speaker of
9 the house of representatives in writing that the
10 transfer shall be made and the amount of the transfer.

11 (b) Any funds of the hurricane reserve trust fund
12 transferred pursuant to this section shall be deposited by the
13 director of finance into the general fund.

14 (c) For the purpose of this section, the "remaining
15 balance of the hurricane reserve trust fund" means the moneys
16 remaining in the hurricane reserve trust fund after the deposit
17 of the \$42,000,000 out of the hurricane reserve trust fund into
18 the general fund pursuant to section 4.

19 SECTION 6. In order to determine whether funds
20 appropriated or transferred out of the hurricane reserve trust
21 fund under this part may be expended or encumbered, the director
22 of finance may deposit the following funds into separate



1 accounts within the general fund: funds from the emergency and
2 budget reserve fund appropriated under Senate Bill No. 1293;
3 non-general funds transferred or diverted into the general fund
4 under Senate Bill No. 120; funds from the hurricane reserve
5 trust fund appropriated for deposit into the general fund under
6 section 4; and funds from the hurricane reserve trust fund
7 transferred into the general fund under section 5.

8 SECTION 7. (a) By January 1, 2012, the governor shall
9 submit a report to the legislature identifying the programs and
10 projects for which expenditures were made from the funds that
11 were transferred out of the hurricane reserve trust fund.

12 (b) Nothing in this Act shall be construed as prohibiting
13 any funds that are transferred out of the hurricane reserve
14 trust fund during fiscal year 2010-2011 that remain unexpended
15 or unencumbered on June 30, 2011, from being carried over to
16 fiscal year 2011-2012 as part of an unencumbered general fund
17 surplus. If any funds are carried over, the governor shall
18 identify the amount of the funds that are carried over,
19 recommend whether the funds that are carried over should be
20 returned to the hurricane reserve trust fund in the fiscal
21 biennium 2011-2013, and, if the governor recommends that the
22 funds that are carried over should be returned to the hurricane



1 reserve trust fund, submit proposed legislation to effectuate
2 the return. The information required under this subsection
3 shall be submitted in the report required under subsection (a).

4 SECTION 8. Section 237-31, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§237-31 Remittances. All remittances of taxes imposed by
7 this chapter shall be made by money, bank draft, check,
8 cashier's check, money order, or certificate of deposit to the
9 office of the department of taxation to which the return was
10 transmitted. The department shall issue its receipts therefor
11 to the taxpayer and shall pay the moneys into the state treasury
12 as a state realization, to be kept and accounted for as provided
13 by law; provided that:

14 (1) The sum from all general excise tax revenues realized
15 by the State that represents the difference between
16 \$45,000,000 and the proceeds from the sale of any
17 general obligation bonds authorized for that fiscal
18 year for the purposes of the state educational
19 facilities improvement special fund shall be deposited
20 in the state treasury in each fiscal year to the
21 credit of the state educational facilities improvement
22 special fund; [and]



1 (2) A sum, not to exceed \$5,000,000, from all general
2 excise tax revenues realized by the State shall be
3 deposited in the state treasury in each fiscal year to
4 the credit of the compound interest bond reserve
5 fund[-]; and

6 (3) A sum from all general excise tax revenues realized by
7 the State that is equal to one-half of the total
8 amount of funds appropriated or transferred out of the
9 hurricane reserve trust fund under sections 4 and 5 of
10 Act _____, Session Laws of Hawaii 2011, shall be
11 deposited into the hurricane reserve trust fund in
12 fiscal year 2013-2014 and in fiscal year 2014-2015;
13 provided that the deposit required in each fiscal year
14 shall be made by October 1 of that fiscal year."

15 PART III

16 SECTION 9. The Hawaii hurricane relief fund, with the
17 approval of the director of finance and the governor, is
18 authorized to issue revenue bonds at such times and in such
19 amounts not exceeding \$75,000,000 in the aggregate to maintain a
20 balance of \$75,000,000 in the hurricane reserve trust fund
21 established pursuant to section 431P-16, Hawaii Revised
22 Statutes. The proceeds of any revenue bonds issued pursuant to



1 this section shall be deposited into the hurricane reserve trust
2 fund. The bonds shall be issued pursuant to part III of chapter
3 39, Hawaii Revised Statutes. General excise tax revenues
4 deposited into the hurricane reserve trust fund under section 8
5 of this Act may be used, together with or separately from other
6 revenues authorized under chapter 431P, Hawaii Revised Statutes,
7 to pay the debt service on or redeem any revenue bonds issued
8 under this section.

9 The authorization to issue revenue bonds under this section
10 shall terminate on June 30, 2015, and shall be deemed invalid
11 thereafter.

12 PART IV

13 SECTION 10. There shall be no liability on the part of,
14 and no cause of action of any nature shall arise against, the
15 State, or its officers and employees, for any action taken by
16 them in the performance of their powers and duties under this
17 Act; provided that notwithstanding any other law to the
18 contrary, this section shall not be construed to prohibit any
19 law or rule adopted pursuant to law or chapters 661 and 662,
20 Hawaii Revised Statutes. Nothing in this Act shall create an
21 obligation, debt, claim, cause of action, claim for relief,
22 charge, or any other liability of any kind whatsoever in favor



1 of any person or entity without regard to whether that person or
2 entity received any benefits under this Act, against the State,
3 or its officers and employees. Nothing in this Act shall be
4 construed as authorizing any claim against the State whatsoever.

5 SECTION 11. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 12. This Act shall take effect upon its approval.

APPROVED this 26 day of MAY, 2011


GOVERNOR OF THE STATE OF HAWAII