
A BILL FOR AN ACT

RELATING TO NON-GENERAL FUNDS.

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

1 SECTION 1. The purpose of this Act is to reclassify,
2 repeal, or abolish various non-general funds, including
3 accounts of the department of business, economic development,
4 and tourism pursuant to the recommendations made by the auditor
5 in auditor's report no. 20-01 and to transfer the unencumbered
6 balances to the general fund.

7 SECTION 2. Section 206E-6, Hawaii Revised Statutes, is
8 amended by amending subsection (g) to read as follows:

9 "(g) All sums collected under this section shall be
10 deposited in the Hawaii community development [~~revolving~~]
11 special fund established by section 206E-16; except that
12 notwithstanding section 206E-16, all moneys collected on account
13 of assessments and interest thereon for any specific public
14 facilities financed by the issuance of bonds shall be set apart
15 in a separate special fund and applied solely to the payment of
16 the principal and interest on these bonds, the cost of
17 administering, operating, and maintaining the program, the



1 establishment of reserves, and other purposes as may be
2 authorized in the proceedings providing for the issuance of the
3 bonds. If any surplus remains in any special fund after the
4 payment of the bonds chargeable against ~~[such]~~ that fund, it
5 shall be credited to and become a part of the Hawaii community
6 development ~~[revolving]~~ special fund. Moneys in the Hawaii
7 community development ~~[revolving]~~ special fund may be used to
8 make up any deficiencies in the special fund."

9 SECTION 3. Section 206E-16, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[§]~~**\$206E-16**~~[§]~~ **Hawaii community development ~~[revolving]~~**
12 **special fund.** There is created the Hawaii community development
13 ~~[revolving]~~ special fund into which all receipts and revenues of
14 the authority shall be deposited. Proceeds from the fund shall
15 be used for the purposes of this chapter."

16 SECTION 4. Section 206E-16.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[§]~~**\$206E-16.5**~~[§]~~ **Expenditures of ~~[revolving]~~ special**
19 **funds under the authority exempt from appropriation and**
20 **allotment.** Except as to administrative expenditures, and except
21 as otherwise provided by law, expenditures from any ~~[revolving]~~



1 special fund administered by the authority may be made by the
2 authority without appropriation or allotment of the legislature;
3 provided that no expenditure shall be made from and no
4 obligation shall be incurred against any [~~revolving~~] special
5 fund in excess of the amount standing to the credit of the fund
6 or for any purpose for which the fund may not lawfully be
7 expended. Nothing in sections 37-31 to 37-41 shall require the
8 proceeds of any [~~revolving~~] special fund administered by the
9 authority to be reappropriated annually."

10 SECTION 5. Section 206E-184, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) In addition to the conditions and terms set forth in
13 this part, any special facility lease entered into by the
14 authority shall at least contain provisions obligating the other
15 person to the special facility lease:

16 (1) To pay to the authority during the initial term of the
17 special facility lease, whether the special facility
18 is capable of being used or occupied or is being used
19 or occupied by the other person, a rental or rentals
20 at the time or times and in the amount or amounts that
21 will be sufficient:



1 (A) To pay the principal and interest on all special
2 facility revenue bonds issued for the special
3 facility;

4 (B) To establish or maintain any reserves for these
5 payments; and

6 (C) To pay all fees and expenses of the trustees,
7 paying agents, transfer agents, and other fiscal
8 agents for the special facility revenue bonds
9 issued for the special facility;

10 (2) To pay to the authority:

11 (A) A ground rental, as determined by the authority,
12 if the land on which the special facility is
13 located was not acquired from the proceeds of the
14 special facility revenue bonds; or

15 (B) A properly allocable share of the administrative
16 costs of the authority in carrying out the
17 special facility lease and administering the
18 special facility revenue bonds issued for the
19 special facility, if the land was acquired from
20 the proceeds of the special facility revenue
21 bonds;



1 (3) To either operate, maintain, and repair the special
2 facility and pay the costs thereof or to pay to the
3 authority all costs of operation, maintenance, and
4 repair of the special facility;

5 (4) To:

6 (A) Insure, or cause to be insured, the special
7 facility under builder's risk insurance (or
8 similar insurance) in the amount of the cost of
9 construction of the special facility to be
10 financed from the proceeds of the special
11 facility revenue bonds;

12 (B) Procure and maintain, or cause to be procured or
13 maintained, to the extent commercially available,
14 a comprehensive insurance policy providing
15 protection and insuring the authority and its
16 officers, agents, servants, and employees (and so
17 long as special facility revenue bonds are
18 outstanding, the trustee) against all direct or
19 contingent loss or liability for damages for
20 personal injury or death or damage to property,
21 including loss of use thereof, occurring on or in



1 any way related to the special facility or
2 occasioned by reason of occupancy by and the
3 operations of the other person upon, in, and
4 around the special facility;

5 (C) Provide all risk casualty insurance, including
6 insurance against loss or damage by fire,
7 lightning, flood, earthquake, typhoon, or
8 hurricane, with standard extended coverage and
9 standard vandalism and other malicious mischief
10 endorsements; and

11 (D) Provide insurance for workers' compensation and
12 employer's liability for personal injury or death
13 or damage to property (the other party may self-
14 insure for workers' compensation if permitted by
15 law);

16 provided that all policies with respect to loss or
17 damage of property including fire or other casualty
18 and extended coverage and builder's risk shall provide
19 for payments of the losses to the authority, the other
20 person, or the trustee as their respective interests
21 may appear; and provided further that the insurance



1 may be procured and maintained as part of or in
2 conjunction with other policies carried by the other
3 person; and provided further that the insurance shall
4 name the authority, and so long as any special
5 facility revenue bonds are outstanding, the trustee,
6 as additional insured; and

- 7 (5) To indemnify, save, and hold the authority, the
8 trustee and their respective agents, officers,
9 members, and employees harmless from and against all
10 claims and actions and all costs and expenses
11 incidental to the investigation and defense thereof,
12 by or on behalf of any person, firm, or corporation,
13 based upon or arising out of the special facility or
14 the other person's use and occupancy thereof,
15 including, without limitation, from and against all
16 claims and actions based upon and arising from any:
- 17 (A) Condition of the special facility;
 - 18 (B) Breach or default on the part of the other person
19 in the performance of any of the person's
20 obligations under the special facility lease;



1 (C) Fault or act of negligence of the other person or
2 the person's agents, contractors, servants,
3 employees, or licensees; or

4 (D) Accident to, or injury or death of, any person or
5 loss of, or damage to any property occurring in
6 or about the special facility, including any
7 claims or actions based upon or arising by reason
8 of the negligence or any act of the other person.

9 Any moneys received by the authority pursuant to paragraphs
10 (2) and (3) shall be paid into the Hawaii community development
11 ~~[revolving]~~ special fund and shall not be nor be deemed to be
12 revenues of the special facility."

13 SECTION 6. Section 206E-185, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§206E-185 Special facility revenue bonds.** All special
16 facility revenue bonds authorized to be issued in principal
17 amounts not to exceed the total amount of bonds authorized by
18 the legislature shall be issued pursuant to part III of
19 chapter 39, except as follows:

20 (1) No revenue bonds shall be issued unless at the time of
21 issuance the authority shall have entered into a



1 special facility lease with respect to the special
2 facility for which the revenue bonds are to be issued;

3 (2) The revenue bonds shall be issued in the name of the
4 authority, and not in the name of the State;

5 (3) The revenue bonds shall be payable solely from and
6 secured solely by the revenues derived by the
7 authority from the special facility for which they are
8 issued;

9 (4) The final maturity date of the revenue bonds shall not
10 be later than either the estimated life of the special
11 facility for which they are issued or the initial term
12 of the special facility lease;

13 (5) If deemed necessary or advisable by the authority, or
14 to permit the obligations of the other person to the
15 special facility lease to be registered under the U.S.
16 Securities Act of 1933, the authority, with the
17 approval of the director of finance, may appoint a
18 national or state bank within or without the State to
19 serve as trustee for the holders of the revenue bonds
20 and may enter into a trust indenture or trust
21 agreement with the trustee. The trustee may be



1 authorized by the authority to collect, hold, and
2 administer the revenues derived from the special
3 facility for which the revenue bonds are issued and to
4 apply the revenues to the payment of the principal and
5 interest on the revenue bonds. If any trustee shall
6 be appointed, any trust indenture or agreement entered
7 into by the authority with the trustee may contain the
8 covenants and provisions authorized by part III of
9 chapter 39 to be inserted in a resolution adopted or
10 certificate issued, as though the words "resolution"
11 or "certificate" as used in that part read "trust
12 indenture or agreement". The covenants and provisions
13 shall not be required to be included in the resolution
14 or certificate authorizing the issuance of the revenue
15 bonds if included in the trust agreement or indenture.
16 Any resolution or certificate, trust indenture, or
17 trust agreement adopted, issued, or entered into by
18 the authority pursuant to this part may also contain
19 any provisions required for the qualification thereof
20 under the U.S. Trust Indenture Act of 1939. The
21 authority may pledge and assign to the trustee the



1 special facility lease and the rights of the authority
2 including the revenues thereunder;

3 (6) If the authority, with the approval of the director of
4 finance, shall have appointed or shall appoint a
5 trustee for the holders of the revenue bonds, then
6 notwithstanding the provisions of the second sentence
7 of section 39-68, the director of finance may elect
8 not to serve as fiscal agent for the payment of the
9 principal and interest, and for the purchase,
10 registration, transfer, exchange, and redemption, of
11 the revenue bonds, or may elect to limit the functions
12 the director of finance shall perform as the fiscal
13 agent. The authority, with the approval of the
14 director of finance, may appoint the trustee to serve
15 as the fiscal agent, and may authorize and empower the
16 trustee to perform the functions with respect to
17 payment, purchase, registration, transfer, exchange,
18 and redemption, that the authority may deem necessary,
19 advisable, or expedient, including, without
20 limitation, the holding of the revenue bonds and
21 coupons which have been paid and the supervision and



1 conduction of the destruction thereof in accordance
2 with sections 40-10 and 40-11. Nothing in this
3 paragraph shall be a limitation upon or construed as a
4 limitation upon the powers granted in the preceding
5 paragraph to the authority, with the approval of the
6 director of finance, to appoint the trustee, or
7 granted in sections 36-3 and 39-13 and the third
8 sentence of section 39-68 to the director of finance
9 to appoint the trustee or others, as fiscal agents,
10 paying agents, and registrars for the revenue bonds or
11 to authorize and empower the fiscal agents, paying
12 agents, and registrars to perform the functions
13 referred to in that paragraph and sections, it being
14 the intent of this paragraph to confirm that the
15 director of finance as aforesaid may elect not to
16 serve as fiscal agent for the revenue bonds or may
17 elect to limit the functions the director of finance
18 shall perform as the fiscal agent, that the director
19 of finance may deem necessary, advisable, or
20 expedient;



1 (7) The authority may sell the revenue bonds either at
2 public or private sale;

3 (8) If no trustee shall be appointed to collect, hold, and
4 administer the revenues derived from the special
5 facility for which the revenue bonds are issued, the
6 revenues shall be held in a separate account in the
7 treasury of the State, separate and apart from the
8 Hawaii community development [~~revolving~~] special fund,
9 to be applied solely to the carrying out of the
10 resolution, certificate, trust indenture, or trust
11 agreement authorizing or securing the revenue bonds;

12 (9) If the resolution, certificate, trust indenture, or
13 trust agreement shall provide that no revenue bonds
14 issued thereunder shall be valid or obligatory for any
15 purpose unless certified or authenticated by the
16 trustee for the holders of the revenue bonds,
17 signatures of the officers of the State upon the bonds
18 required by section 39-56 may be facsimiles of their
19 signatures;

20 (10) Proceeds of the revenue bonds may be used and applied
21 by the authority to reimburse the other person to the



1 special facility lease for all preliminary costs and
2 expenses, including architectural and legal costs; and
3 (11) If the special facility lease shall require the other
4 person to operate, maintain, and repair the special
5 facility which is the subject of the lease, at the
6 other person's expense, the requirement shall
7 constitute compliance by the authority with
8 section 39-61(a)(2), and none of the revenues derived
9 by the authority from the special facility shall be
10 required to be applied to the purposes of
11 section 39-62(2). Sections 39-62(4), 39-62(5), and
12 39-62(6) shall not apply to the revenues derived from
13 a special facility lease."

14 SECTION 7. Section 206E-195, Hawaii Revised Statutes, is
15 amended by amending its title and subsections (a) and (b) to
16 read as follows:

17 "[~~+~~]S206E-195[~~+~~] **Kalaeloa community development**
18 **[~~revolving~~] special fund.** (a) There is established in the
19 state treasury the Kalaeloa community development [~~revolving~~]
20 special fund, into which shall be deposited:



(1) All revenues, income, and receipts of the authority for the Kalaeloa community development district, notwithstanding any other law to the contrary, including section 206E-16;

(2) Moneys directed, allocated, or disbursed to the Kalaeloa community development district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the Kalaeloa community development district; and

(3) Moneys appropriated to the fund by the legislature.

(b) Moneys in the Kalaeloa community development ~~[revolving]~~ special fund shall be used for the purposes of this part."

SECTION 8. Section 206E-201, Hawaii Revised Statutes, is amended by amending the definition of "fund" to read as follows:

"Fund" means the Heeia community development ~~[revolving]~~ special fund."



1 SECTION 9. Section 206E-204, Hawaii Revised Statutes, is
2 amended by amending its title and subsection (a) to read as
3 follows:

4 "[~~§~~206E-204~~§~~] **Heeia community development [~~revolving~~**
5 **special fund.** (a) There is established in the state treasury
6 the Heeia community development [~~revolving~~] special fund, into
7 which shall be deposited:

8 (1) All revenues, income, and receipts of the authority
9 for the district, notwithstanding any other law to the
10 contrary, including section 206E-16;

11 (2) Moneys directed, allocated, or disbursed to the
12 district from government agencies or private
13 individuals or organizations, including grants, gifts,
14 awards, donations, and assessments of landowners for
15 costs to administer and operate the district; and

16 (3) Moneys appropriated to the fund by the legislature."

17 SECTION 10. Section 206M-15.2, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Subject to available funds, the research and
20 development program shall:



- 1 (1) Apply [~~the research and development special fund~~]
2 funds to support product development, technology
3 transfer, and commercialization;
- 4 (2) Provide capital to support accelerated
5 commercialization activities for qualified Hawaii-
6 based small businesses;
- 7 (3) Provide capital to sustain high-potential
8 infrastructure development to assist qualified Hawaii-
9 based small businesses towards commercial success;
- 10 (4) Promote efforts that reverse the loss of qualified
11 workers to other states by providing jobs to retain
12 existing Hawaii technology employees and enable highly
13 qualified scientists and engineers to return to
14 living-wage jobs in Hawaii;
- 15 (5) Promote efforts that keep technology companies in
16 Hawaii by limiting the need to seek out-of-state
17 venture capital, which dilutes local ownership and
18 increases the probability of high-potential technology
19 companies moving from Hawaii; and
- 20 (6) Provide grants of up to \$300,000 for critical product
21 development that enables a qualified Hawaii-based



1 small business to achieve significant product
2 development and technical milestones."

3 SECTION 11. Section 210D-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§210D-4 Hawaii community-based economic development**

6 **[~~revolving~~] special fund; established.** There is established a
7 **[~~revolving~~] special** fund to be known as the Hawaii community-
8 based economic development **[~~revolving~~] special** fund from which
9 moneys shall be loaned or granted by the department under this
10 chapter. All moneys appropriated to the fund by the
11 legislature, received as repayments of loans, payments of
12 interest or fees, and all other moneys received by the fund from
13 any other source shall be deposited into the **[~~revolving~~] special**
14 fund and used for the purposes of this chapter. The department
15 may deposit moneys it receives from the repayments of loans and
16 payments of interest or fees from the Hawaii capital loan
17 program established by chapter 210, the Hawaii large fishing
18 vessel purchase, construction, renovation, maintenance, and
19 repair loan program established by part II of chapter 189, and
20 the Hawaii small fishing vessel loan program established by
21 part IV of chapter 189, into the Hawaii community-based economic



1 development [~~revolving~~] special fund to be used for the purposes
2 of this chapter. The department may use all appropriations and
3 other moneys in the [~~revolving~~] special fund not appropriated
4 for a designated purpose to make grants or loans."

5 SECTION 12. Section 210D-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§210D-8 Powers and duties.** The department shall have the
8 necessary powers to carry out the purposes of this chapter,
9 including the following:

10 (1) With advice from the council, prescribe the
11 qualifications for eligibility of applicants for loans
12 and grants;

13 (2) With advice from the council, establish preferences
14 and priorities in determining eligibility for
15 financial assistance;

16 (3) Establish the conditions, consistent with the purpose
17 of this chapter, for the awarding of financial
18 assistance;

19 (4) Provide for inspection at reasonable hours of
20 facilities, books, and records of a community-based
21 organization that has applied for or has been awarded



1 financial assistance and require the submission of
2 progress and final reports;

3 (5) Provide loans and grants for community-based economic
4 development activities and community-based enterprises
5 for purposes consistent with this chapter;

6 (6) Determine the necessity for and the extent of security
7 required in a loan;

8 (7) Prescribe and provide appropriate management
9 counseling and monitoring of business activities;

10 (8) Administer the Hawaii community-based economic
11 development [~~revolving~~] special fund;

12 (9) Include in its budget for subsequent fiscal periods
13 amounts necessary to effectuate the purposes of this
14 chapter;

15 (10) Participate in loans made to qualified persons by
16 private lenders;

17 (11) Establish interest rates chargeable by the State for
18 direct and participation loans; and

19 (12) Adopt rules pursuant to chapter 91 to implement this
20 chapter."



SECTION 13. Section 206M-15.3, Hawaii Revised Statutes, is repealed.

~~["§206M-15.3] Research and development special fund; established. There is established in the treasury of the State of Hawaii the research and development special fund to be administered by the development corporation pursuant to section 206M-15.2."]~~

SECTION 14. Section 206M-15.6, Hawaii Revised Statutes, is repealed.

~~["§206M-15.6] Hawaii technology loan revolving fund. There is established the Hawaii technology loan revolving fund for the purpose of investing in technology development in Hawaii. The following shall be deposited into the Hawaii technology loan revolving fund:~~

- ~~(1) Appropriations from the legislature;~~
 - ~~(2) Moneys received as repayments of loans;~~
 - ~~(3) Investment earnings;~~
 - ~~(4) Royalties;~~
 - ~~(5) Premiums, or fees or equity charged by the corporation, or otherwise received by the corporation;~~
- ~~and~~



1 ~~(6) Loans that are convertible to equity;~~
2 ~~provided that the total amount of moneys in the fund shall not~~
3 ~~exceed \$2,000,000 at the end of any fiscal year."]~~

4 SECTION 15. All unencumbered balances in the research and
5 development special fund repealed by section 13 of this Act and
6 the Hawaii technology loan revolving fund repealed by section 14
7 of this Act shall lapse to the credit of the general fund.

8 SECTION 16. The Kalaeloa facilities trust account
9 administratively established in 2018 is reclassified as a
10 special fund.

11 SECTION 17. The energy audits - recipients' share of cost
12 trust account administratively established in 2012 is abolished
13 and any unencumbered balance shall lapse to the credit of the
14 general fund.

15 SECTION 18. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 19. This Act shall take effect on July 1, 2050.



Report Title:

DBEDT; Auditor; Reclassification of Funds; Abolishment of Funds;
Transfer of Balances

Description:

Repeals, abolishes, or reclassifies various non-general funds of
the department of business, economic development, and tourism.
Effective 7/1/2050. (HD1)

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not legislation or evidence of legislative intent.*

