

JAN 25 2023

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of article VII
3 of the Constitution of the State of Hawaii.

4 SECTION 2. The legislature finds that the federal funding
5 received under the American Rescue Plan Act (ARP) required
6 states receiving elementary and secondary school emergency
7 relief (ESSER) program III funds for maintenance of effort (MOE)
8 for elementary and secondary education in fiscal year 2022-2023
9 at least at the proportional level of the state's support for
10 elementary and secondary education relative to the state's
11 overall spending, averaged over fiscal years 2016-2017, 2017-
12 2018 and 2018-2019. If the State fails to meet ARP ESSER MOE
13 requirements, the United States Department of Education has the
14 authority to impose a range of enforcement options, including
15 seeking recovery of the approximately \$412,300,000 in ESSER
16 program III funds awarded to the department of education.

17 As the State of Hawaii's economy has improved and general
18 fund revenues have rebounded, the MOE obligation has become

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1 increasingly difficult to manage, in part due to certain large
2 general fund appropriations made in fiscal year 2021-2022 and
3 fiscal year 2022-2023 for non-educational purposes. These
4 appropriations were made for worthy purposes but have the impact
5 of increasing the denominator for ARP ESSER MOE calculations if
6 expended in fiscal year 2022-2023. However, these worthy
7 purposes would not be adversely affected by statutory
8 adjustments to modestly delay expenditures beyond fiscal year
9 2022-2023 so the expenditures no longer impact the ARP ESSER MOE
10 calculations.

11 The purpose of this Act is to reduce the potential for
12 federal ARP ESSER MOE enforcement actions against the State by
13 delaying the encumbrance and expenditure of various large
14 general fund appropriations made by in the 2022 legislative
15 session until or beyond July 1, 2024, so they are no longer part
16 of the fiscal year 2022-2023 ARP ESSER MOE calculation.

17 PART I

18 SECTION 3. The legislature finds that Act 220, Session
19 Laws of Hawaii 2022, transferred the stadium authority from the
20 department of accounting and general services to the department
21 of business, economic development, and tourism for
22 administrative purposes. Section 14 of Act 220 also transferred

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1 appropriations made for the stadium authority to the department
2 of business, economic development, and tourism.

3 The legislature further finds that a modest delay in
4 encumbrance and expenditure of the lump sum general fund
5 appropriation of \$49,500,000 in fiscal year 2023 for deposit
6 into the stadium development special fund made in Act 88,
7 Session Laws of Hawaii 2021, as amended by Act 248, Session Laws
8 of Hawaii 2022, would not have an adverse effect.

9 The purpose of this part is to delay the encumbrance and
10 expenditure of the fiscal year 2023 appropriation for deposit
11 into the stadium development special fund made in the 2022
12 legislative session until or beyond July 1, 2023, so that it is
13 no longer part of the fiscal year 2023 ARP ESSER MOE
14 calculation.

15 SECTION 4. Act 88, Session Laws of Hawaii 2021, as amended
16 by paragraph 20 of section 4 of Act 248, Session Laws of Hawaii
17 2022, is amended by amending section 17.3 to read as follows:

18 "SECTION 17.3. Provided that out of the general fund
19 appropriation for [~~spectator events and shows — Aloha Stadium~~
20 ~~(AGS889),~~] stadium authority (BED180), the sum of \$49,500,000 or
21 so much thereof as may be necessary for fiscal year 2022-2023
22 shall be deposited into the stadium development special fund, to

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1 be expended for stadium costs for operations, maintenance, and
2 contract costs to developers of the stadium[-]; provided that
3 any unexpended or unencumbered balances from the appropriation
4 shall lapse to the general fund on June 30, 2024; provided
5 further that funds shall not be expended nor deposited into the
6 stadium development special fund before July 1, 2023."

7 PART II

8 SECTION 5. Act 115, Session Laws of Hawaii 2022, is
9 amended by amending section 4 to read as follows:

10 "SECTION 4. In accordance with article VII, section 6, of
11 the Hawaii State Constitution, there is appropriated out of the
12 general revenues of the State of Hawaii the sum of \$300,000,000
13 or so much thereof as may be necessary for fiscal year [~~2022-~~
14 ~~2023]~~ 2023-2024 for deposit into the pension accumulation fund
15 established under section 88-114, Hawaii Revised Statutes."

16 PART III

17 SECTION 6. Act 236, Session Laws of Hawaii 2022, is
18 amended by amending section 3 to read as follows:

19 "SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$300,000,000 or so
21 much thereof as may be necessary for fiscal year 2022-2023 to be
22 deposited into the rental housing revolving fund established in

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1 section 201H-202, Hawaii Revised Statutes[-]; provided that any
2 unexpended or unencumbered balances from the appropriation shall
3 lapse to the general fund on June 30, 2024; provided further
4 that funds shall not be expended nor deposited into the rental
5 housing revolving fund before July 1, 2023."

6 PART IV

7 SECTION 7. Act 296, Session Laws of Hawaii 2022, is
8 amended by amending section 6 to read as follows:

9 "SECTION 6. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$25,000,000 or so
11 much thereof as may be necessary for fiscal year [~~2022-2023~~]
12 2023-2024 to be deposited into the Hawaii retirement savings
13 special fund.

14 There is appropriated out of the Hawaii retirement savings
15 special fund the sum of \$25,000,000 or so much thereof as may be
16 necessary for fiscal year [~~2022-2023~~] 2023-2024 for the State to
17 make matching contributions of up to \$500 to the accounts of the
18 first 50,000 covered employees who participate in the Hawaii
19 retirement savings program for twelve consecutive months after
20 initial enrollment."

21 PART V

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1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect upon its approval.

4 INTRODUCED BY: *Paul M. M.*

5 BY REQUEST

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Report Title:

State Funds; Appropriations

Description:

Amends various general fund appropriations to help the State meet its American Rescue Plan Act maintenance of effort obligations.

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

JUSTIFICATION SHEET

SB. NO. 1316

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO STATE FUNDS.

PURPOSE: To amend various general fund appropriations so that the State is able to meet the American Rescue Plan (ARP) Act Elementary and Secondary Schools Emergency Relief (ESSER) Act maintenance of effort (MOE) requirement.

MEANS: Amend section 17.3 of Act 88, Session Laws of Hawaii (SLH) 2021, as amended by paragraph 20 of section 4 of Act 248, SLH 2022, section 4 of Act 115, SLH 2022, section 3 of Act 236, SLH 2022, and section 6 of Act 296, SLH 2022.

JUSTIFICATION: As the State's economy has improved and general fund revenues have rebounded, compliance the MOE obligation that came with accepting ARP funds has become more difficult. The large non-education-related general fund appropriations made for fiscal year 2022-2023 during the 2022 legislative session make ARP ESSER MOE compliance especially difficult.

Because the requirement for the State to calculate MOE terminates after the end of fiscal year 2022-2023, this bill is intended to delay the bulk of these appropriations until fiscal year 2023-2024, and, where appropriate, deposit the appropriated funds into the expending agencies' special funds as of that date.

Impact on the public: Minimal.

Impact on the department and other agencies: Minimal.

GENERAL FUND: Fiscal year 2022-2023: -\$674,500,000
Fiscal year 2023-2024: +\$674,500,000

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OTHER FUNDS: Not applicable.

PPBS PROGRAM
DESIGNATION: BED180, BED160, BUF741, and LBR902.

OTHER AFFECTED
AGENCIES: BED, BED-HHFDC, and LBR.

EFFECTIVE DATE: Upon approval.