

ACT 10

S.B. NO. 582

A Bill for an Act Relating to State Budget.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

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

PART II

SECTION 2. In accordance with section 9 of article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2023-2024 has already been exceeded by \$1,033,839,854 or ten per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be further exceeded by \$362,000,000 or four per cent. This declaration takes into account the additional general fund appropriations authorized for fiscal year 2023-2024 in this Act only. The reasons for exceeding the general fund expenditure ceiling are that:

- (1) The appropriations made in this Act are necessary to serve the public interest; and
- (2) The appropriations made in this Act meet the needs addressed by this Act.

PART III

SECTION 3. The legislature finds that the devastating wildfires brought on by winds from Hurricane Dora on August 8, 2023, resulted in one of the worst natural disasters in the State's history. The wildfires caused loss of life and displacement of thousands on the island of Maui. The disaster also destroyed nearly all of Lahaina.

The legislature further finds that to support response and recovery efforts and address immediate 2023 wildfire funding needs, the governor, through the seventh emergency proclamation relating to wildfires, dated September 8, 2023, and executive memorandum no. 23-08, redirected \$164,100,000, after adjustments, from selected general fund operating appropriations from Act 164, Session Laws of Hawaii 2023, originally intended for specific purposes and capital improvement projects, to the department of budget and finance. The department of budget and finance subsequently transferred the \$164,100,000 amount to the major disaster fund along with another \$30,000,000 that the governor authorized pursuant to section 5 of Act 164, Session Laws of Hawaii 2023. With the existing \$5,000,000 major disaster fund appropriation, a total of \$199,100,000 has been allocated to the major disaster fund for initial wildfire response and recovery, including the State's expected share of noncongregate housing and debris clean-up costs initially being paid by the Federal Emergency Management Agency. These steps provided what was thought to be sufficient funding for the State to address the expected fiscal year 2023-2024 response and recovery expenses as of the beginning of January 2024. The legislature further finds that the Federal Emergency Management Agency executed the contract for debris clean-up costs, and the State executed the contracts for noncongregate housing and related expenses for room and board of Maui wildfire victims displaced from their homes.

The legislature further finds that the immediate expenses in fiscal year 2023-2024 that the State may be obligated to provide total \$1,018,967,788, including:

- (1) \$500,000,000 for noncongregate Federal Emergency Management Agency eligible and Federal Emergency Management Agency ineligible housing;
- (2) \$135,512,492 for the State's share of mission assignment and federal assistance expenses;
- (3) \$123,680,797 for Federal Emergency Management Agency ineligible transitional housing and rental assistance;
- (4) \$194,774,499 for potential Federal Emergency Management Agency ineligible state expenses made by various state agencies; and
- (5) \$65,000,000 for a victim relief fund.

The State's expenses for noncongregate housing and other expenses, including expenses for individuals impacted by the wildfires who have been classified as not eligible for Federal Emergency Management Agency assistance, are expected to exceed the amounts previously transferred to the major disaster fund. Because the State executed these contracts, the State is responsible for making payment and will seek reimbursement from the Federal Emergency Management Agency for eligible costs. Issues have recently arisen over what costs are eligible for reimbursement, and the timeline in which the State will be reimbursed for eligible costs is currently not clear. The State will thus require additional funds to cover these immediate expenses in fiscal year 2023-2024.

Accordingly, the purpose of this part is to make an emergency appropriation to cover the State's immediate expenses incurred in the Maui wildfires disaster response efforts.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii to the department of budget and finance, departmental administration and budget division (BUF101), the sum of \$297,000,000 or so much thereof as may be necessary for fiscal year 2023-2024 for expenses related to non-congregate housing and other costs relating to the provision of food, housing, or other assistance for individuals affected by the Maui wildfires disaster that began on August 8, 2023; provided that:

- (1) \$72,500,000 or so much thereof as may be necessary may be transferred to the department of human services to pay for housing that is ineligible for reimbursement by the Federal Emergency Management Agency and for other costs relating to the provision of food, housing, or other assistance for individuals affected by the Maui wildfires disaster that began on August 8, 2023; provided further that no funds transferred under this paragraph shall be expended unless matched with not less than \$40,000,000 of private funds; and
- (2) Any unexpended or unencumbered balance shall lapse to the general fund on June 30, 2024.

SECTION 5. The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

SECTION 6. Any law to the contrary notwithstanding, the department of budget and finance and department of human services shall submit the following information associated with the Hawaii wildfires disaster that began on August 8, 2023, to the legislature on the seventh day of each month:

- (1) The date of any expenditures;
- (2) The amounts of any expenditures made, separately, for Federal Emergency Management Agency eligible and Federal Emergency Management Agency ineligible expenses;
- (3) The purpose of the expenditures;
- (4) Any contracts executed for the expenditure of funds;
- (5) The liquidation date for all contracts or liabilities; and
- (6) A detailed explanation of the public purpose served by the expenditure of resources; provided that the governor shall submit to the legislature a summary report containing the aforementioned information for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the regular session of 2025.

PART IV

SECTION 7. The legislature finds that the State's contribution of public funds to the one ohana bank trust account is for the compromise and settlement of claims to compensate individuals or their personal representatives affected by serious physical injury or death caused by the Maui wildfires and serves a public purpose.

The purpose of this part is to make an emergency appropriation to fund the State's contribution to the one ohana bank trust account for the compromise and settlement of claims based on the Maui wildfires.

SECTION 8. The legislature finds and declares that the contribution of state moneys to the one ohana bank trust account under this part for the compromise and settlement of claims is in the public interest and for the public health, safety, and general welfare of the State for the following reasons:

- (1) The State recognizes the devastating impact of the Maui wildfires on its residents, resulting in physical injury and loss of life;
- (2) It is imperative for the State to respond with compassion and support for those affected by the Maui wildfires, ensuring that victims or their personal representatives are provided with fair and just compensation on a timely basis;
- (3) The State's contribution to the one ohana bank trust account is for the compromise and settlement of claims for those who have lost loved ones or suffered serious physical injuries in the Maui wildfires. Participation in seeking compensation from the one ohana bank trust account is purely voluntary;
- (4) The legislature recognizes that contributors to the one ohana bank trust account besides the State include, among others, the county of Maui, Hawaiian Electric Company, the Kamehameha Schools, Charter Communications/Spectrum, Hawaiian Telcom, and the West Maui Land Company;
- (5) The legislature recognizes the one ohana bank trust account as an efficient mechanism to address this urgent and exceptional situation, and understands the one ohana bank trust account's unique ability to provide assistance to those in need;
- (6) The legislature recognizes the complexity and challenges of tort litigation and finds it prudent to provide an alternative through the one ohana bank trust account of streamlining the compensation process for those impacted by the Maui wildfires;
- (7) The legislature finds that it is in the public interest to encourage swift and fair resolution to claims arising from the Maui wildfires, thus alleviating the burden on the judicial system, and fostering community support, unity, and recovery in the aftermath of the Maui wildfires; and
- (8) The legislature recognizes that individuals seeking compensation from the one ohana bank trust account will be required to release the contributing parties to the fund from further liability and are willingly waiving their rights to pursue damages through tort litigation for wrongful death or personal injury claims, contributing to a more efficient resolution process.

Consequently, the legislature finds and declares that the public purpose is served by authorizing the expenditure of public moneys as the State's contribution to the one ohana bank trust account for the compromise and settlement of claims to provide an alternative for compensation to any individual or personal representative of a deceased individual who suffered serious physical injury or died as a result of the Maui wildfires, thus offering a timely and compassionate resolution to those affected by the Maui wildfires while relieving the burden on the judicial system and contributing to the rebuilding of lives and community.

SECTION 9. Any individual who receives compensation from the one ohana fund under this Act shall waive the right to sue for damages related to physical injury or death resulting from the Maui wildfires, recognizing the one ohana fund as an alternative to tort litigation.

SECTION 10. The department of the attorney general shall submit a report to the legislature no later than twenty days prior to the convening of each regular session, which shall include lists of:

- (1) Claims and the amounts paid by the one ohana bank trust account for the calendar year;

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- (2) The administrative costs incurred for the one ohana bank trust account for the calendar year; and
- (3) Contributors and their contribution amounts to the one ohana bank trust account received during the calendar year.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$65,000,000, or so much thereof as may be necessary for fiscal year 2023-2024, to fund the State's contribution to the one ohana bank trust account for the compromise and settlement of claims to compensate individuals or personal representatives affected by serious physical injury or death caused by the 2023 Maui wildfires; provided that the moneys appropriated in this section shall not lapse at the end of the fiscal year for which the appropriation is made; and provided further that any moneys that remain unencumbered on June 30, 2025, shall lapse on that date; provided further that upon closure of the one ohana bank trust account, the remaining balance after the settlement of all administrative costs shall be returned to the contributors to the one ohana bank trust account in proportion to their contributions, with the State's proportionate contribution being returned to the general fund.

SECTION 12. The sum appropriated shall be expended by the department of the attorney general for the purposes of this part.

PART V

SECTION 13. Act 115, Session Laws of Hawaii 2022, section 4, as amended by Act 35, Session Laws of Hawaii 2023, section 5, is amended to read as follows:

“SECTION 4. In accordance with article VII, section 6, of the Hawaii State Constitution, there is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 for deposit into the pension accumulation fund established under section 88-114, Hawaii Revised Statutes; provided that any unexpended ~~[or]~~, unencumbered, unallotted, or unrequired balances from the appropriation shall lapse to the general fund on ~~[June 30, 2024;]~~ the effective date of Act __, Session Laws of Hawaii 2024; provided further that funds shall not be expended nor deposited into the pension accumulation fund before July 1, 2023.”

PART VI

SECTION 14. Section 37-41.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) In addition to the five per cent retainage under subsection (a), the department of education may retain any appropriation received pursuant to section 127A-16(a) or as reimbursement for disaster relief pursuant to section ~~[127A-16(d)]~~ 127A-16(e) at the close of the fiscal year in which the appropriation or reimbursement was received, and the funds retained shall not lapse until June 30 of the first fiscal year of the next fiscal biennium. ~~[Such]~~ The funds shall be considered as separate and distinct from the funds the department of education is authorized to retain pursuant to subsection (a).”

SECTION 15. Section 127A-16, Hawaii Revised Statutes, is amended to read as follows:

“**§127A-16 Major disaster fund.** (a) The administrator shall submit requests to the legislature to appropriate from the general revenues of the State

sufficient moneys as may be necessary for expenditure by or under the direction of the governor for immediate relief in response to an emergency or disaster in any part of the State; provided that:

- (1) The governor has issued a proclamation of a state of emergency;
- (2) The governor shall not expend in excess of \$10,000,000 for immediate relief as a result of any single emergency or disaster; and
- (3) In addition to the funds in paragraph (2), an additional \$5,000,000 may be made available solely for the purpose of matching federal disaster relief funds when these funds become available to the State following a presidential disaster declaration.

In expending the moneys, the governor may allot any portion thereof to any agency, office, or employee of the State or a county for the most efficient relief for the population. Notwithstanding this subsection, the only exception to paragraphs (1), (2), and (3) is that the administrator may use up to \$250,000 per year to support the emergency management reserve corps.

(b) No later than sixty days after any allotment by the governor or the expenditure of any fund moneys, the administrator shall report to the legislature on the purpose of the allotment or expenditure.

(c) Except as provided in ~~[subsection (d)]~~ subsections (d) and (e), federal reimbursement moneys for disaster relief shall be deemed to be trust moneys and shall be deposited into a trust account with and under the control of the Hawaii emergency management agency. Upon receipt by the Hawaii emergency management agency, these moneys shall be reimbursed to the originating fund of the expending agency; provided that if the original appropriation has lapsed, the funds shall be returned to the general fund.

(d) Federal reimbursement moneys for disaster relief for the Maui wildfires disaster that began on August 8, 2023, shall be deemed to be trust moneys and shall be deposited into a trust account with and under the control of the Hawaii emergency management agency. These moneys and any interest earned thereon shall be used for the recovery efforts from the Maui wildfires disaster that began on August 8, 2023, and shall not lapse to the general fund.

~~[(d)]~~ (e) In cases in which the department of education expends the funds appropriated to the department for purposes deemed to be reimbursable by federal reimbursement moneys for disaster relief, the federal reimbursement moneys shall not lapse to the general fund and shall be credited directly to the department of education without regard to whether the original appropriation has lapsed. ~~[Such]~~ The funds shall carry over in accordance with section 37-41.5(c).

~~[(e)]~~ (f) Any unspent funding under \$2,500,000 shall be rolled over to the next fiscal year to support current and future emergencies and disasters.

~~[(f)]~~ (g) Each state department and agency shall submit to the administrator, no later than August 1 of each year, a report of all funds expended, if any, for the prior fiscal year by the state department and agency for disaster response. The report shall include:

- (1) The source of funds, including the name and account number of the funding source;
- (2) The amount and purpose of each expenditure; and
- (3) Whether any programs, activities, or contracts were reduced as a result of disaster response spending by the state department and agency.

~~[(g)]~~ (h) The administrator shall submit an annual report to the legislature no later than September 1 of each year on:

- (1) The amount of federal reimbursement moneys for disaster response that the State could have applied for during the prior fiscal year. The

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- report shall indicate the amount of federal reimbursement moneys for disaster response broken down by department and agency;
- (2) The amount of federal reimbursement moneys for disaster response that the State applied for and the amount received during the prior fiscal year. The report shall indicate the amount of federal reimbursement moneys for disaster response broken down by department and agency;
 - (3) The justification for any difference in the amount of federal reimbursement moneys for disaster response that the State was eligible for and the amount the State applied for;
 - (4) The average amount of time between the submittal of an application for a Federal Emergency Management Agency reimbursement and receipt of the funds;
 - (5) The number of disaster accounts opened for the prior fiscal year; and
 - (6) The information relating to the expenditure of funds that is reported by each state department and agency pursuant to subsection ~~(f)~~ (g).”

PART VII

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

SECTION 17. This Act shall take effect upon its approval; provided that on July 1, 2026, sections 14 and 15 of this Act shall be repealed and sections 37-41.5 and 127A-16, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act; provided further that on June 30, 2026, any unencumbered trust account moneys retained, pursuant to section 15 of this Act, in the account to be used for the recovery efforts from the Maui wildfires disaster that began on August 8, 2023, shall lapse to the general fund.

(Approved May 2, 2024.)