
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



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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-184, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

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



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- 1 (1) To pay to the authority during the initial term of the
2 special facility lease, whether the special facility
3 is capable of being used or occupied or is being used
4 or occupied by the other person, a rental or rentals
5 at the time or times and in the amount or amounts that
6 will be sufficient:
- 7 (A) To pay the principal and interest on all special
8 facility revenue bonds issued for the special
9 facility;
- 10 (B) To establish or maintain any reserves for these
11 payments; and
- 12 (C) To pay all fees and expenses of the trustees,
13 paying agents, transfer agents, and other fiscal
14 agents for the special facility revenue bonds
15 issued for the special facility;
- 16 (2) To pay to the authority:
- 17 (A) A ground rental, as determined by the authority,
18 if the land on which the special facility is
19 located was not acquired from the proceeds of the
20 special facility revenue bonds; or



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1 (B) A properly allocable share of the administrative
2 costs of the authority in carrying out the
3 special facility lease and administering the
4 special facility revenue bonds issued for the
5 special facility, if the land was acquired from
6 the proceeds of the special facility revenue
7 bonds;

8 (3) To either operate, maintain, and repair the special
9 facility and pay the costs thereof or to pay to the
10 authority all costs of operation, maintenance, and
11 repair of the special facility;

12 (4) To:

13 (A) Insure, or cause to be insured, the special
14 facility under builder's risk insurance (or
15 similar insurance) in the amount of the cost of
16 construction of the special facility to be
17 financed from the proceeds of the special
18 facility revenue bonds;

19 (B) Procure and maintain, or cause to be procured or
20 maintained, to the extent commercially available,
21 a comprehensive insurance policy providing



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1 protection and insuring the authority and its
2 officers, agents, servants, and employees (and so
3 long as special facility revenue bonds are
4 outstanding, the trustee) against all direct or
5 contingent loss or liability for damages for
6 personal injury or death or damage to property,
7 including loss of use thereof, occurring on or in
8 any way related to the special facility or
9 occasioned by reason of occupancy by and the
10 operations of the other person upon, in, and
11 around the special facility;

12 (C) Provide all risk casualty insurance, including
13 insurance against loss or damage by fire,
14 lightning, flood, earthquake, typhoon, or
15 hurricane, with standard extended coverage and
16 standard vandalism and other malicious mischief
17 endorsements; and

18 (D) Provide insurance for workers' compensation and
19 employer's liability for personal injury or death
20 or damage to property (the other party may self-



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1 insure for workers' compensation if permitted by
2 law);
3 provided that all policies with respect to loss or
4 damage of property including fire or other casualty
5 and extended coverage and builder's risk shall provide
6 for payments of the losses to the authority, the other
7 person, or the trustee as their respective interests
8 may appear; and provided further that the insurance
9 may be procured and maintained as part of or in
10 conjunction with other policies carried by the other
11 person; and provided further that the insurance shall
12 name the authority, and so long as any special
13 facility revenue bonds are outstanding, the trustee,
14 as additional insured; and
15 (5) To indemnify, save, and hold the authority, the
16 trustee and their respective agents, officers,
17 members, and employees harmless from and against all
18 claims and actions and all costs and expenses
19 incidental to the investigation and defense thereof,
20 by or on behalf of any person, firm, or corporation,
21 based upon or arising out of the special facility or



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- 1 the other person's use and occupancy thereof,
2 including, without limitation, from and against all
3 claims and actions based upon and arising from any:
- 4 (A) Condition of the special facility;
 - 5 (B) Breach or default on the part of the other person
6 in the performance of any of the person's
7 obligations under the special facility lease;
 - 8 (C) Fault or act of negligence of the other person or
9 the person's agents, contractors, servants,
10 employees, or licensees; or
 - 11 (D) Accident to, or injury or death of, any person or
12 loss of, or damage to any property occurring in
13 or about the special facility, including any
14 claims or actions based upon or arising by reason
15 of the negligence or any act of the other person.

16 Any moneys received by the authority pursuant to paragraphs
17 (2) and (3) shall be paid into the Hawaii community development
18 [~~revelving~~] special fund and shall not be nor be deemed to be
19 revenues of the special facility."

20 SECTION 5. Section 206E-185, Hawaii Revised Statutes, is
21 amended to read as follows:



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1 "§206E-185 Special facility revenue bonds. All special
2 facility revenue bonds authorized to be issued in principal
3 amounts not to exceed the total amount of bonds authorized by
4 the legislature shall be issued pursuant to part III of chapter
5 39, except as follows:

6 (1) No revenue bonds shall be issued unless at the time of
7 issuance the authority shall have entered into a
8 special facility lease with respect to the special
9 facility for which the revenue bonds are to be issued;

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

12 (3) The revenue bonds shall be payable solely from and
13 secured solely by the revenues derived by the
14 authority from the special facility for which they are
15 issued;

16 (4) The final maturity date of the revenue bonds shall not
17 be later than either the estimated life of the special
18 facility for which they are issued or the initial term
19 of the special facility lease;

20 (5) If deemed necessary or advisable by the authority, or
21 to permit the obligations of the other person to the



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1 special facility lease to be registered under the U.S.
2 Securities Act of 1933, the authority, with the
3 approval of the director of finance, may appoint a
4 national or state bank within or without the State to
5 serve as trustee for the holders of the revenue bonds
6 and may enter into a trust indenture or trust
7 agreement with the trustee. The trustee may be
8 authorized by the authority to collect, hold, and
9 administer the revenues derived from the special
10 facility for which the revenue bonds are issued and to
11 apply the revenues to the payment of the principal and
12 interest on the revenue bonds. If any trustee shall
13 be appointed, any trust indenture or agreement entered
14 into by the authority with the trustee may contain the
15 covenants and provisions authorized by part III of
16 chapter 39 to be inserted in a resolution adopted or
17 certificate issued, as though the words "resolution"
18 or "certificate" as used in that part read "trust
19 indenture or agreement". The covenants and provisions
20 shall not be required to be included in the resolution
21 or certificate authorizing the issuance of the revenue



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1 bonds if included in the trust agreement or indenture.
2 Any resolution or certificate, trust indenture, or
3 trust agreement adopted, issued, or entered into by
4 the authority pursuant to this part may also contain
5 any provisions required for the qualification thereof
6 under the U.S. Trust Indenture Act of 1939. The
7 authority may pledge and assign to the trustee the
8 special facility lease and the rights of the authority
9 including the revenues thereunder;

10 (6) If the authority, with the approval of the director of
11 finance, shall have appointed or shall appoint a
12 trustee for the holders of the revenue bonds, then
13 notwithstanding the provisions of the second sentence
14 of section 39-68, the director of finance may elect
15 not to serve as fiscal agent for the payment of the
16 principal and interest, and for the purchase,
17 registration, transfer, exchange, and redemption, of
18 the revenue bonds, or may elect to limit the functions
19 the director of finance shall perform as the fiscal
20 agent. The authority, with the approval of the
21 director of finance, may appoint the trustee to serve



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1 as the fiscal agent, and may authorize and empower the
2 trustee to perform the functions with respect to
3 payment, purchase, registration, transfer, exchange,
4 and redemption, that the authority may deem necessary,
5 advisable, or expedient, including, without
6 limitation, the holding of the revenue bonds and
7 coupons which have been paid and the supervision and
8 conduction of the destruction thereof in accordance
9 with sections 40-10 and 40-11. Nothing in this
10 paragraph shall be a limitation upon or construed as a
11 limitation upon the powers granted in the preceding
12 paragraph to the authority, with the approval of the
13 director of finance, to appoint the trustee, or
14 granted in sections 36-3 and 39-13 and the third
15 sentence of section 39-68 to the director of finance
16 to appoint the trustee or others, as fiscal agents,
17 paying agents, and registrars for the revenue bonds or
18 to authorize and empower the fiscal agents, paying
19 agents, and registrars to perform the functions
20 referred to in that paragraph and sections, it being
21 the intent of this paragraph to confirm that the



1 director of finance as aforesaid may elect not to
2 serve as fiscal agent for the revenue bonds or may
3 elect to limit the functions the director of finance
4 shall perform as the fiscal agent, that the director
5 of finance may deem necessary, advisable, or
6 expedient;

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

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

18 (9) If the resolution, certificate, trust indenture, or
19 trust agreement shall provide that no revenue bonds
20 issued thereunder shall be valid or obligatory for any
21 purpose unless certified or authenticated by the



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1 trustee for the holders of the revenue bonds,
2 signatures of the officers of the State upon the bonds
3 required by section 39-56 may be facsimiles of their
4 signatures;

5 (10) Proceeds of the revenue bonds may be used and applied
6 by the authority to reimburse the other person to the
7 special facility lease for all preliminary costs and
8 expenses, including architectural and legal costs; and

9 (11) If the special facility lease shall require the other
10 person to operate, maintain, and repair the special
11 facility which is the subject of the lease, at the
12 other person's expense, the requirement shall
13 constitute compliance by the authority with section
14 39-61(a)(2), and none of the revenues derived by the
15 authority from the special facility shall be required
16 to be applied to the purposes of section 39-62(2).
17 Sections 39-62(4), 39-62(5), and 39-62(6) shall not
18 apply to the revenues derived from a special facility
19 lease."



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1 SECTION 6. Section 206E-195, Hawaii Revised Statutes, is
2 amended by amending its title and subsections (a) and (b) to
3 read as follows:

4 "[+]§206E-195[+] Kalaeloa community development
5 [~~revolving~~] special fund. (a) There is established in the
6 state treasury the Kalaeloa community development [~~revolving~~]
7 special fund, into which shall be deposited:

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

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

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



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

4 SECTION 7. Section 206E-201, Hawaii Revised Statutes, is
 5 amended by amending the definition of "fund" to read as follows:

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

8 SECTION 8. Section 206E-204, Hawaii Revised Statutes, is
 9 amended by amending its title and subsection (a) to read as
 10 follows:

11 "[~~+~~]§206E-204[~~+~~] Heeia community development [~~revolving~~]
 12 special fund. (a) There is established in the state treasury
 13 the Heeia community development [~~revolving~~] special fund, into
 14 which shall be deposited:

- 15 (1) All revenues, income, and receipts of the authority
 16 for the district, notwithstanding any other law to the
 17 contrary, including section 206E-16;
- 18 (2) Moneys directed, allocated, or disbursed to the
 19 district from government agencies or private
 20 individuals or organizations, including grants, gifts,



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1 awards, donations, and assessments of landowners for
2 costs to administer and operate the district; and
3 (3) Moneys appropriated to the fund by the legislature."

4 SECTION 9. Section 206M-15.2, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

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

- 8 (1) Apply [~~the research and development special fund~~]
9 funds to support product development, technology
10 transfer, and commercialization;
- 11 (2) Provide capital to support accelerated
12 commercialization activities for qualified Hawaii-
13 based small businesses;
- 14 (3) Provide capital to sustain high-potential
15 infrastructure development to assist qualified Hawaii-
16 based small businesses towards commercial success;
- 17 (4) Promote efforts that reverse the loss of qualified
18 workers to other states by providing jobs to retain
19 existing Hawaii technology employees and enable highly
20 qualified scientists and engineers to return to
21 living-wage jobs in Hawaii;



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- 1 (5) Promote efforts that keep technology companies in
- 2 Hawaii by limiting the need to seek out-of-state
- 3 venture capital, which dilutes local ownership and
- 4 increases the probability of high-potential technology
- 5 companies moving from Hawaii; and
- 6 (6) Provide grants of up to \$300,000 for critical product
- 7 development that enables a qualified Hawaii-based
- 8 small business to achieve significant product
- 9 development and technical milestones."

10 SECTION 10. Section 210D-4, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "§210D-4 Hawaii community-based economic development
 13 [~~revolving~~] special fund; established. There is established a
 14 [~~revolving~~] special fund to be known as the Hawaii community-
 15 based economic development [~~revolving~~] special fund from which
 16 moneys shall be loaned or granted by the department under this
 17 chapter. All moneys appropriated to the fund by the
 18 legislature, received as repayments of loans, payments of
 19 interest or fees, and all other moneys received by the fund from
 20 any other source shall be deposited into the [~~revolving~~] special
 21 fund and used for the purposes of this chapter. The department



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1 may deposit moneys it receives from the repayments of loans and
2 payments of interest or fees from the Hawaii capital loan
3 program established by chapter 210, the Hawaii large fishing
4 vessel purchase, construction, renovation, maintenance, and
5 repair loan program established by part II of chapter 189, and
6 the Hawaii small fishing vessel loan program established by part
7 IV of chapter 189, into the Hawaii community-based economic
8 development [~~revolving~~] special fund to be used for the purposes
9 of this chapter. The department may use all appropriations and
10 other moneys in the [~~revolving~~] special fund not appropriated
11 for a designated purpose to make grants or loans."

12 SECTION 11. Section 210D-8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§210D-8 Powers and duties. The department shall have the
15 necessary powers to carry out the purposes of this chapter,
16 including the following:

17 (1) With advice from the council, prescribe the
18 qualifications for eligibility of applicants for loans
19 and grants;



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- 1 (2) With advice from the council, establish preferences
2 and priorities in determining eligibility for
3 financial assistance;
- 4 (3) Establish the conditions, consistent with the purpose
5 of this chapter, for the awarding of financial
6 assistance;
- 7 (4) Provide for inspection at reasonable hours of
8 facilities, books, and records of a community-based
9 organization that has applied for or has been awarded
10 financial assistance and require the submission of
11 progress and final reports;
- 12 (5) Provide loans and grants for community-based economic
13 development activities and community-based enterprises
14 for purposes consistent with this chapter;
- 15 (6) Determine the necessity for and the extent of security
16 required in a loan;
- 17 (7) Prescribe and provide appropriate management
18 counseling and monitoring of business activities;
- 19 (8) Administer the Hawaii community-based economic
20 development [~~reveling~~] special fund;



- 1 (9) Include in its budget for subsequent fiscal periods
- 2 amounts necessary to effectuate the purposes of this
- 3 chapter;
- 4 (10) Participate in loans made to qualified persons by
- 5 private lenders;
- 6 (11) Establish interest rates chargeable by the State for
- 7 direct and participation loans; and
- 8 (12) Adopt rules pursuant to chapter 91 to implement this
- 9 chapter."

10 SECTION 12. Section 206M-15.3, Hawaii Revised Statutes, is
 11 repealed.

12 ~~["§206M-15.3] Research and development special fund,~~
 13 ~~established. There is established in the treasury of the State~~
 14 ~~of Hawaii the research and development special fund to be~~
 15 ~~administered by the development corporation pursuant to section~~
 16 ~~206M-15.2."]~~

17 SECTION 13. Section 206M-15.6, Hawaii Revised Statutes, is
 18 repealed.

19 ~~["§206M-15.6] Hawaii technology loan revolving fund.~~
 20 ~~There is established the Hawaii technology loan revolving fund~~
 21 ~~for the purpose of investing in technology development in~~



1 ~~Hawaii. The following shall be deposited into the Hawaii~~
2 ~~technology loan revolving fund:~~

- 3 ~~(1) Appropriations from the legislature;~~
- 4 ~~(2) Moneys received as repayments of loans;~~
- 5 ~~(3) Investment earnings;~~
- 6 ~~(4) Royalties;~~
- 7 ~~(5) Premiums, or fees or equity charged by the~~
8 ~~corporation, or otherwise received by the corporation;~~
9 ~~and~~
- 10 ~~(6) Loans that are convertible to equity;~~

11 ~~provided that the total amount of moneys in the fund shall not~~
12 ~~exceed \$2,000,000 at the end of any fiscal year."]~~

13 SECTION 14. All unencumbered balances in the research and
14 development special fund repealed by section 12 of this Act and
15 the Hawaii technology loan revolving fund repealed by section 13
16 of this Act shall lapse to the credit of the general fund.

17 SECTION 15. The Kalaeloa facilities trust account
18 administratively established in 2018 is reclassified as a
19 special fund.

20 SECTION 16. The energy audits - recipients' share of cost
21 trust account administratively established in 2012 is abolished



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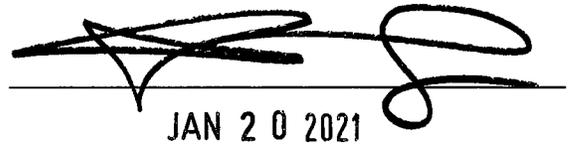
1 and any unencumbered balance shall lapse to the credit of the
2 general fund.

3 SECTION 17. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 18. This Act shall take effect on July 1, 2021.

6

INTRODUCED BY:



JAN 20 2021



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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.

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

