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STATE OF HAWAII OFFICE OF THE DIRECTOR DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310 P.O. BOX 541 HONOLULU, HAWAII 96809 Phone Number: 586-2850 Fax Number: 586-2856 cca.hawaii.gov CATHERINE P. AWAKUNI COLÓN DIRECTOR

JO ANN M. UCHIDA TAKEUCHI DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the House Committee on Finance Tuesday, March 2, 2021 1:00 p.m. Via Videoconference

On the following measure: H.B. 1298, RELATING TO STATE FUNDS

Chair Luke and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department opposes this bill.

The purpose of this bill is to trigger a full accounting of various non-general funded program objectives, performance, and results by transferring to the general fund all unencumbered balances of various non-general funds of a number of state departments and the Judiciary, including 19 DCCA special funds. On March 2021, the director of finance would be authorized to transfer unspecified amounts from special funds to general funds.

The Department opposes this bill because: (1) controlling caselaw establishes that DCCA special funds must be used for the benefit of the licensees, applicants, and consumers for which revenues in the funds are collected; and (2) even assuming the Department's funds could be transferred to the general fund, this bill fails to take into account the Department's unique funding situation and the steps taken to ensure the Testimony of DCCA H.B. 1298 Page 2 of 3

DCCA it has adequate reserve funds to continuously operate for the benefit of businesses and consumers.

Special funds must be used only for the purpose of providing services to the persons or entities paying the fees. In Hawaii Insurers Council v. Lingle, 120 Hawaii 51, 201 P.3d 564 (2008), the Hawaii Supreme Court reviewed the DCCA compliance resolution fund and determined that special fund moneys derived from certain types of regulatory fees cannot be transferred to the general fund. This ruling was also discussed as part of the Legislative Auditor's Supplement to Report No. 20-06, Report on Special and Revolving Fund Accounts with Inactive or Excess Balances, COVID-19 Report 20-08 (May 2020)¹, wherein the Department of the Attorney General reiterated the holding of the Supreme Court and provided guidance on a number of special funds, including several DCCA funds. As such, transferring DCCA fund balances to the general fund would violate clear Supreme Court precedent.

The Department must maintain sufficient cash reserves in addition to its budgeted ceiling amounts. As the Committee is aware, the DCCA is unique among executive branch departments by virtue of being one of two departments that receives no general fund appropriations. The Department's financial strategy requires that revenue-generating divisions secure revenues to cover division expenses and contribute equitably to overhead costs, while ensuring that anticipated future major projects and expenditures are covered, and that each division maintains a suitable reserve to provide financial continuity of operations, in the event of an unforeseen drop in revenues. In that regard, the Department is self-sufficient and operates in a manner similar to a private business that must align its revenues and expenses to meet both its anticipated and unexpected needs.

As currently drafted, H.B. 1298 severely erodes the DCCA's ability to maintain a fiscally responsible financial strategy by failing to consider the Department's need for reserves. Funds such as the Cable Television Division Special Fund (S-18-302), Professional and Vocational Licensing Fund (S-19-305), Post-Secondary Education Fund (S-19-307), Financial Services Regulation Fund (S-18-320), and Regulated

¹ This report is available at: <u>http://files.hawaii.gov/auditor/Reports/2020/20-08.pdf</u>.

Testimony of DCCA H.B. 1298 Page 3 of 3

Industries Complaints Office Fund (S-16-312) have biennial or delayed revenue cycles, making depiction of their reserves at any one point in time inaccurate. The Department relies upon its reserves to ensure that future significant expenses, such as the Department's IT budget requests, have the necessary funding for both one-time and recurring costs. See, Business Registration's (S-20-306) request for ceiling increase of \$3.5M non-recurring and \$500,000 recurring, and General Support's (S-18-310) \$475,000 request for firewall server hardware, integration platform software, VX Rail software, and security software. Administrative overhead costs related to the DCCA's central support functions, such as the Information Systems and Communications Office, Office of Administrative Hearings, Administrative Services Office, and Director's Office are funded through the divisions' cash reserves. Eliminating reserves will negatively impact the services the DCCA provides to Hawaii consumers and businesses; it will also make the Department rely upon future general funds to ensure services are maintained for consumers and businesses.

For the foregoing reasons, the Department opposes this measure. Thank you for the opportunity to testify on this bill. DAVID Y. IGE GOVERNOR



STATE OF HAWAI'I CRIME VICTIM COMPENSATION COMMISSION

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TESTIMONY ON HB 1298 RELATING TO STATE FUNDS by Pamela Ferguson-Brey, Executive Director

Crime Victim Compensation Commission

House Committee on Finance Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

Tuesday, March 2, 2021; 1:00 PM Via Videoconference

Good afternoon Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to testify in <u>strong opposition</u> to House Bill 1298. The bill proposes to transfer the unencumbered balance of \$214,493.05 as of December 31, 2020, in the Commission's special fund to the general fund. The transfer of the \$214,493.05 balance in the Commission's special fund would result in the Commission's closure.

The Hawai'i State Legislature established the Crime Victim Compensation Commission in 1967 (Hawai'i Revised Statutes, section 351) as a safety net for violent crime victims. The Commission assists victims of violent crimes (as per the statute) with medical costs, counseling costs, lost wages, and funeral and burial expenses not covered by other sources. Many victims would not be able to receive rehabilitation services, counseling services, or bury a loved one without compensation awarded by the Commission.

Act 206, SLH 1998, established the Commission's special fund and created a compensation fee to act as the primary source of funding for the Commission. No state general funds have been appropriated for victim compensation since FY 2003, and the Commission has been funded solely from non-tax revenue and matching federal Victims of Crime Act (VOCA) funds.

The transfer of the \$214,493.05 balance in the Commission's special fund would result in the Commission's closure. The Commission's special fund balance is currently about \$150,000.00 due to expenditures for payroll and compensation payments made to victims in January 2021.

MARTHA ROSS Chair

CLIFTON Y.S.CHOY Commissioner

SANDRA JOY EASTLACK Commissioner

PAMELA FERGUSON-BREY Executive Director The Commission's estimates of its expenditures for the rest of FY 2021 requires the retention of the current balance of funds in its special fund account in order to offset the shortfall in revenue and remain viable through the end of the fiscal year.

Although the Commission is still currently receiving compensation fee payments from the Judiciary, monthly collections are, on average, down 21% from FY 2020. Retaining the balance in the Commission's special fund is essential for the Commission to continue to provide assistance for violent crime victims.

Compensation fee collection by the Judiciary has been on an overall decline trend for the past ten years. Compensation fee collection shortfalls over these many years have effectively deprived the Commission of the funding reserve it needs to survive the pandemic. Additionally, the current pandemic-related court closures have severely further limited the Judiciary's compensation fee collections. Concerns about compensation fee revenue shortfalls brought about by judges failing to order the compensation fee in all eligible cases and the resulting negative impact on the financial stability of the Commission have been the subject of the Commission's budget testimony and annual report every year.

The Commission has submitted a budget request this session to supplement this special fund with general funds in the amount of \$676,222 to continue operations during the first year of fiscal biennium 2021-2023. Using general funds to run operations during fiscal year 2022 will allow the Commission to build up the special fund with non-tax revenue, especially compensation fees. The Commission has reached out to the Judiciary to request that the compensation fee be ordered in all eligible cases to ensure the Commission's future viability.

Transferring the balance of funds from the Commission's special fund will also jeopardize the Commission's ability to receive federal funds through the US Department of Justice, Office for Victims of Crime, Victims of Crime Act (VOCA) annual compensation grant. The Commission receives an annual VOCA compensation grant that matches 60% of every dollar spent for direct victim compensation. The Commission's federal funds accounted for 40% of victim compensation payments made during fiscal year 2020 while the payments from the Commission's special fund accounted for 60% of victim payments. If there are no funds available to pay victims from the Commission's special fund, there will be no matching federal grant award and, ultimately, no funds available to assist victims of violent crimes. The safety net that the Commission provides to victims of violent crime will vanish and Hawai'i will be the only state that does not have a compensation program to assist victims of violent crimes.

Thank you for providing the Commission with the opportunity to testify in strong opposition to House Bill 1298.



The Judiciary, State of Hawai'i

Testimony to the Thirty-First Legislature, 2021 Regular Session House Committee on Finance Representative Sylvia Luke, Chair

Representative Ty J.K. Cullen, Vice Chair

Tuesday, March 2, 2021, 1:00 PM (Agenda #3) State Capitol, Conference Room 308 VIA VIDEOCONFERENCE

by

Rodney A. Maile Administrative Director of the Courts

Bill No. and Title: House Bill No. 1298, Relating to State Funds.

Purpose: Transfers to the general fund the unencumbered balances of various non-general funds of the department of accounting and general services; department of agriculture; department of budget and finance; department of business, economic development, and tourism; department of commerce and consumer affairs; department of defense; department of education; department of Hawaiian home lands; department of health; department of human resources development; department of human services; judiciary; department of labor and industrial relations; department of land and natural resources; office of Hawaiian affairs; department of the attorney general; office of the governor; department of public safety; department of taxation; department of transportation; and university of Hawaii.

Judiciary's Position:

The Judiciary respectfully, but strongly opposes Section 2, numbers 175-181, of this measure pertaining to seven special funds managed by the Judiciary. This measure's impact on these funds will have a devastating impact in virtually every aspect of the justice system, for lawyers and non-lawyers alike, other governmental agencies, the media and public, and the Judiciary. This measure will also negatively impact children in homes of divorcing parents, safety in homes where domestic violence is occurring or may occur, safety of probation officers and those in the community as supervision of probationers is impacted, and the tens of thousands unable to



afford a lawyer to assist in tragic legal issues facing their families. It will also have a detrimental effect on almost every aspect of Judiciary court and administrative operations, and could lead to the loss of data and phone service and an inability to maintain key hardware, software, and other technological services. These seven special funds are:

- (175) Judiciary computer system special fund;
- (176) First judicial circuit;
- (177) Driver education and training fund;
- (178) Indigent legal assistance fund;
- (179) Parent education special fund;
- (180) Probation services special fund; and
- (181) Spouse and child abuse special account.

Currently, as shown below, four of these special funds have unencumbered balances that are less than the excess amounts determined by the Legislature, these being the Computer System Special Fund (CSSF), the Driver Education Special Fund, the Probation Services Special Fund, and the Spouse and Child Abuse Special Fund.

SPECIAL FUND BALANCES VS. HB1298	EXCESS TRANSER		
	HB1298		
	Min Amt Excess	Fund Balance	Difference
Fund	(Legislature)	As of 2/22/21	As of 2/22/21
Computer Systems Special Fund (CSSF)	1,450,298.98	636,323.34	(813,975.64)
Driver Education and Training Fund	687,606.57	128,477.90	(559,128.67)
Indigent Legal Assistance Fund (ILAF)	176,104.70	291,122.81	115,018.11
Parent Education Special Fund	242,670.23	251,614.13	8,943.90
Probation Services Special Fund	216,783.96	209,297.89	(7,486.07)
Spouse and Child Abuse Special Fund	189,621.23	179,191.62	(10,429.61)



These discrepancies reflect the fact that all monies in these special funds are needed to effectively meet the objectives of the funds as established in the Hawai'i Revised Statutes (HRS). Declining revenues and increasing operating costs have diminished the balances for most of these funds over the past several years. Therefore, maintaining and having access to the balances in these funds have become critical for their continued operation. The uncertain and often inconsistent revenue streams for the Judiciary's special funds require that a balance be maintained to carry the funds through downturns in collections – especially for those funds with payroll expenses. If the balances of these funds are transferred to the general fund, not only will there be debilitating consequences to the fund themselves, the Judiciary may not be able to fulfill the statutory requirements associated with the funds. As for the two special funds with balances more than the excess amounts identified by the Legislature (ILAF and the Parent Education Special Fund), if the transfers were made in March, contractual obligations related to civil legal services to the indigent population may not be met, and resumption of in-person Kids First therapeutic training sessions for families undergoing divorce proceedings may be deferred even longer. It should be noted that one other fund, the First Judicial Circuit Fund, had no balance identified in the bill and still has no balance.

The following provides background and specific reasons for the Judiciary's respectful and strong opposition to this measure's proposed impact for each fund.

I. (175) Judiciary Computer System Special Fund (Account Code S-18-315)

The CSSF provides critical resources for the Judiciary's technology infrastructure. With steadily declining revenues exacerbated by the COVID-19 pandemic, and increasing costs associated with the Judiciary Information Management System (JIMS), the balance of the fund was drastically reduced in FY 2020. Transferring the fund's balance in March may not only result in an abrupt halt to certain parts of JIMS operations, it would also leave no options to compensate nine JIMS employees and the Judiciary's sole Webmaster paid through the CSSF. Due to the inconsistent nature of the CSSF's collections, a substantive balance must be maintained to ensure that JIMS is supported. As described below, the effects of the CSSF are far-reaching, and depletion of the fund balance would have a devastating impact on the Judiciary as well as services provided to the public.

The Judiciary's—and the justice system's—daily operations rely on its information technology infrastructure. Transferring the CSSF's balance to the general fund would have a direct and immediate impact on the operations of the Judiciary, private litigators and staff, members of the public who have matters before the courts or have some interest in matters before the courts (e.g., media), and law enforcement and other government agencies. It would result in a system with dramatically reduced public access; significant inefficiencies including timing of delivery and review of time-sensitive matters (such as TRO filings); and reduced resiliency, flexibility, and continuity during crises such as the COVID-19 pandemic.



The CSSF funds several Judiciary initiatives and core services, including JIMS, which is a modernized case management system at the heart of statewide Judiciary operations. JIMS is the central repository of the Judiciary official case records for appellate cases, traffic cases, criminal cases and non-family court civil cases. JIMS has provided invaluable services to the general public, attorneys, government agencies and law enforcement, especially during the challenging times of COVID-19. The pandemic has highlighted the importance of online services such as eFiling, emailed notices of filings, and electronic documents and case records.

The CSSF is the primary source of funding to cover JIMS operating costs (55% of CSSF annual expenditure budget) and personnel (23%). Operating costs include the necessary license costs and hardware maintenance costs which are crucial to the Judiciary's case management system. Even if the Judiciary were to delay enhancements that are necessary to implement annual legislative updates, the Judiciary would be forced to turn off key systems without the baseline system funded by the CSSF. New project implementation, such as the Family Court Civil Project which is already underway, would also cease. Without the necessary funding to cover the bare minimum of the operating costs, the Judiciary would be unable to continue to operate JIMS and make any necessary changes arising from legislation.

Although the budget ceiling for this special fund is set at \$6.60M, the program has been managing for several years well under that ceiling due to declining special fund collections. FY 2020 expenditures were managed at \$4.5M to match collected revenues while continuing to support all the current systems as well as the ongoing development of the current Family Court Civil Project.

Transferring balances and thereby eliminating the already lean budget would result in dramatic changes to the Judiciary's efforts to completely move from antiquated mainframe technology to modern, sustainable systems, and require the continued payment for the mainframe. Without the ability to continue to operate JIMS, critical services to the general public and partner government agencies would be deeply affected.

For example, JIMS allows the general public to review their cases online via eCourt Kokua without physically entering courthouses or calling for assistance, and to purchase public documents online individually or by a subscription. JIMS currently has 3,452 document subscribers. In addition, in 2020, JIMS processed 47,770 eTraffic transactions totaling almost \$4.7M through eTraffic which allows traffic citations to be paid online. This large number of users illustrates the growing public demand for online services. Self-represented litigants (SRLs) can register to eFile documents on their case through the Judiciary Electronic Filing and Service System (JEFS), and also can sign up for eReminder to get electronic reminders of their upcoming case hearings. JIMS currently has 4,263 registered SRLs. Also, in response to the COVID-19 pandemic, JIMS developed Document Drop-Off to provide the public a safe and convenient alternative to submit documents to the court without personal interaction by making it possible to submit an electronic



copy of a document to the reviewing court. From April to December 2020, 4,482 documents were submitted via the Document Drop-Off.

JIMS allows private and government attorneys, as well as their staff, to electronically file documents in new and existing cases. Through JEFS (external portal to the JIMS case management system), they have access to case dockets, documents, schedules, case milestones, and electronic notice of filings via emails. JEFS also provides the capability to electronically file during non-office hours up until midnight, seven days per week including holidays. Currently, 4,263 attorneys and 2,230 firm staff are registered in JEFS. As of January 2021, JIMS has 609,488 active cases, with 43,906 new cases created in 2020. Electronic filing has been a significant step forward in modernizing the practice of law in the state of Hawai'i. Hawai'i Bar applications can also be completed and submitted online through JEFS. To date, 3,009 bar applicants have registered in JEFS.

JIMS supports the automated delivery of electronic traffic warrants from Judiciary to law enforcement within 24 hours in eBench Warrants, which provides 24/7 access to traffic warrants for law enforcement statewide. JIMS also provides electronic data exchanges with public safety to support custodies' court appearances. These electronic exchanges have improved the timeliness and accuracy of law enforcement duties. For example, JIMS provides electronic data exchanges of: (1) arrests, convictions, and commitments with the Hawai'i Criminal Justice Data Center that has a statutory requirement to provide a complete criminal history; (2) stoppers to revoke and reinstate driver licenses with the City and County of Honolulu driver's licensing system; and (3) traffic violations to meet the Commercial Driver's License requirements with the Department of Transportation.

Moreover, eliminating the current CSSF balance would result in the Judiciary not being able to use software which is licensed, stopping operations if equipment failed and there is no maintenance or avenue for timely replacement, and delays without the expert help needed to resolve IT problems that arise.

In addition, without sufficient funding in the CSSF:

- Data services for the 24 smaller Judiciary courts and offices would be eliminated, and the entire Judiciary would not have phone services.
- Failure of core network devices could disable individual segments from multiple segments of the network and stop computer services at up to 35 court locations statewide.
- There would be no maintenance of key hardware, software and services for JIMS which would cause JIMS to fail.
- CSSF also funds nine JIMS staff, who are responsible for day-to-day operations, management, maintenance, and enhancement of JIMS. Without maintenance and



these staff, neither JIMS nor the courts could operate since there are virtually no operations that do not involve the use of JIMS.

• CSSF also funds the Judiciary's Webmaster, who is responsible for managing content of our website and maintaining it by monitoring its performance and functionality. This position is vital to the community, which seeks an increasing amount of information and services online. In fact, government is expected to serve its stakeholders in this way, and to limit that capability would be detrimental to accessing justice. A suboptimal Judiciary website will affect government agencies, attorneys, self- represented litigants, and those involved in resolving disputes requiring court involvement, as well as the general public who may want to do such things as pay traffic fines, obtain court forms, or find out how to file documents such as TROs.

The following are examples of these and other initiatives supported by the CSSF and that would be affected by the transfer or loss of funding for CSSF:

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Judiciary Wide Area Network services for 24 smaller offices	Judiciary
Maintenance for core network devices	Judiciary
Telephone system VOIP and voice mail	Judiciary
Core Switch Maintenance	Judiciary
Security Scan software	Judiciary
NeoGov for Human Resources recruitment	HR
Oracle Database Software for JIMS	JIMS
F5 Load balancers that regulates access to JEFS and eCourtKokua	JIMS
Oracle GL support	JIMS
IBM FileNet	JIMS
Kofax Software	JIMS
Production Support software TOAD 7 licenses	JIMS
Documentation library CONFLUENCE 500-Users	JIMS
Infrastructure Services	JIMS
Oracle Database server maintenance (4)	JIMS
Jury system	JIMS
Document Management support Kofax/Itext	JIMS
JIMS Backup System	JIMS
FY21 SW Maintenance UFTE 3 Licenses	JIMS
Requirements Software	JIMS



II. (176) First Judicial Circuit (Account Code S-20-317)

The First Judicial Circuit Fund, account code S-20-317-J, referenced in Section 2, number 176 of House Bill 1298, is an account established and managed by the Department of Accounting and General Services (DAGS). DAGS uses this account to allocate all of First Circuit special funds to the Judiciary through its appropriation warrants. After DAGS issues the appropriation warrants, the First Circuit then transfers the funds from account code S-317-J to the other special fund appropriation codes, in order to establish the appropriation ceiling for the special funds that include the Driver Education Special Fund, Probation Services Special Fund, Spouse and Child Abuse Special Account, and Parent Education Special Fund. The account balance in account code S-20-317-J is depleted after the allocation to each of the First Circuit special funds, and only serves as a temporary "holding" account and is not intended to sustain an ongoing balance. Therefore, repealing this fund will impact DAGS' process for the distribution of special fund appropriations to the Judiciary.

III. (177) Driver Education and Training Fund (Account Code S-18-320)

The Driver Education and Training Fund is intended to fund the Judiciary's Driver Education Training Program in its entirety. As with the CSSF, steadily declining revenues, exacerbated by the COVID-19 pandemic, along with increasing program costs, most notably payroll increases associated with collective bargaining, led to a significantly reduced Driver Education and Training Fund balance in FY 2020. Transferring the fund balance in March would severely jeopardize the ability to cover payroll costs for the 28 permanent civil service employees currently staffing the Driver Education Program. Maintaining an adequate balance for this special fund is especially critical as up to half of the fund's total revenues for each year are derived from motor vehicle insurance underwriter fees which are deposited only once annually in the last quarter of the fiscal year. Of further concern is that the Department of Commerce and Consumer Affairs' (DCCA) special fund which collects and administers these underwriter fees is also referenced in House Bill No. 1298 and House Bill No.1299, and therefore could be precluded from transferring "any" funds to the Driver Education and Training Fund.

Transferring the Driver Education and Training Fund balance to the general fund could lead to the elimination of the statewide Division of Driver Education, and have the following significant impacts:

• Individuals convicted of serious traffic crimes—such as Operating a Vehicle Under the Influence of an Intoxicant (OVUII), excessive speeding, and failing to properly restrain a child—would be unable to complete their required education classes to fulfill their legal obligations.



- Community safety statewide would be jeopardized as there would be no driver education program consisting of nationally certified instructors to teach prevention and skills to offenders.
- The possible loss of \$4 million in Federal funding for the Hawai'i Highway Safety Program (HHSP); without it, the HHSP itself may be dissolved.

Those convicted of violating the following laws are required to complete courses as part of their sentencing obligations:

- HRS 291E-61 Operating A Vehicle Under the Influence of an Intoxicant (OVUII) First time offenders must complete a 14-hour rehabilitation, education, and counseling program taught by Driver Education staff who are certified annually. Between January 2018 and September 2020, 5,833 offenders completed this course to satisfy legal requirements.
- HRS 291-11.5 Child Passenger Restraint Law A four hour class taught by specifically certified Driver Education staff personnel is required for persons found guilty of transporting a child without first properly restraining the child in a safety or booster seat. Between January 2018 and September 2020, 1,895 individuals have completed this course to satisfy their legal requirements.
- HRS 291-11.6 Mandatory Use of Seat Belts, HRS 291C-102 Speeding, and HRS 291C-105 Excessive Speeding – Certified Driver Education staff teach a six-hour Defensive Driving Program and a Car Fit program to educate senior drivers.

Transfer of cash balances and the possible elimination of this fund would also have potential serious consequences for the State by jeopardizing \$4,000,000 in federal funding for HHSP. The Division of Driver Education's classes and employee salaries (35 authorized positions) paid out of this fund provide the in-kind match required for \$4,000,000 of federal funding for the HHSP for FY 2021. The transfer of fund balances could lead to elimination of the Driver Education and Training Fund and result in the dissolution of the HHSP as the program is dependent on this federal funding. The HHSP funds the following programs:

- Highway Safety Council that the Legislature setup to create Vision Zero which focuses on developing an action plan to reduce traffic fatalities to zero
- Driving While Intoxicated (DWI) Court
- Judicial Education, Judges training
- Community Coalition groups that receive funding from the HHSP



In recent months, the division has made efforts to reduce expenditures -- 7 of the 35 authorized positions have remained vacant to save on payroll, and the Honolulu and the Maui offices relocated to state-owned buildings to decrease rental costs.

Due to declining revenues that have been significantly impacted by the COVID-19 pandemic, and continually increasing payroll requirements per collective bargaining agreements, this special fund is not carrying any excess monies. A certain level of cash balance must be maintained because a substantive portion of the special fund's revenues are not available until the last quarter of the fiscal year. DCCA deposits the motor vehicle insurance underwriter fees into the special fund only once annually in April or May of each fiscal year. Therefore, transferring the Driver Education and Training Fund balance to the general fund may lead to the termination of the fund and thereby jeopardize the operation of the Driver Education program and impact the safety of the people in Hawai'i.

IV. (178) Indigent Legal Assistance Fund (Account Code S-18-322)

ILAF was created by the Legislature by Act 305, SLH1996 for the purpose of providing essential funding for civil legal service organizations who serve limited-income/indigent persons in Hawai'i. ILAF addresses a real need for a reliable source of funding for civil legal service organizations which provide these services to low-income persons. For most providers, the amount of ILAF funds received is insufficient to fully fund these organizations and other funds must be secured. However, this has become somewhat difficult now since other governmental funding sources and private donations have been severely reduced due to COVID-10, which makes it even more critical that ILAF retain funding and be continued. The loss of ILAF civil services funding would just further exacerbate and be another blow to indigent people and their access to civil legal services, which are higher than ever, due to these economic conditions.

As with the other Judiciary special funds, an ongoing balance must be maintained for ILAF to fulfill its objectives and meet its contractual obligations. The previously mentioned inconsistent revenue streams for special funds due to COVID require that a sufficient fund balance be available to ensure that quarterly payments to civil legal service providers be made on a timely basis. While the current unencumbered ILAF balance is greater than the excess fund requirement determined by the Legislature, the fourth quarter payments due to providers in March will drastically reduce that amount. Demand for civil legal services from the indigent population has always exceeded available resources, and even more so than during the current COVID-19 pandemic. Therefore, transferring the special fund balance to the general fund will not only threaten the continued operation of the fund, but could severely impact the Judiciary's long-standing efforts to increase access to justice for those who do not have the means to seek it themselves.



The legal needs of indigent persons are varied and include addressing critical legal issues such as landlord/tenant, housing, financial situations, family law, and elder law. Act 305, codified as HRS § 607-5.7, assesses a filing fee surcharge on select civil cases (no governmental filings are collected). These surcharges are deposited into ILAF and are administered by the Administrative Director of the Courts (AD) through a contract with the Hawai'i Justice Foundation. The Hawai'i Justice Foundation assists the Judiciary with an annual application process which solicits, receives, and screens applications; determines eligible civil legal service organizations; calculates pro rata amounts to be distributed; and ensures accountability by civil legal service providers awarded ILAF monies.

Funds are expended promptly under the statutory guidelines. Currently, for FY 2021, the Judiciary has determined the distribution amount as \$1,000,000 (not including central service and fund administrator fees) to be distributed to the ten civil legal service providers deemed qualified to receive ILAF monies. This distribution is based on the amount of surcharges collected for civil filings and the need to maintain a fund balance which ensures sufficient funds to cover contractual amounts due to the civil legal service providers. If funds are transferred to the general fund, ILAF will have no funds to meet its obligations.

It should be noted that the Hawai'i Justice Foundation, which manages this fund for the Judiciary and qualifies organizations to receive distributions from this fund, will be providing additional testimony with further pertinent information on this special fund.

V. (179) Parent Education Special Fund (Account Code S-18-325)

The Parent Education Special Fund is utilized to contract and pay for professional services and supplies for the Kids First Program in each Circuit. The purpose of this mandatory program, which seeks to mitigate the impacts of divorce and separation on children, is to promote peaceful co-parenting and effective family relationships and communication through education and other services to families involved in the Family Court system.

The Parent Education Special Fund is the primary source of funding for the Kids First Program which provides education and assistance for families undergoing divorce proceedings. Until the COVID-19 pandemic occurred, the costs associated with the mandatory Kids First Program slightly exceeded the revenues collected over a number of fiscal years causing a steady decline in the fund balance. However, with the onset of the pandemic, "in-person" group sessions were replaced with an online program, and collections have begun accumulating in the fund. Although the online program was the only viable option to continue the Kids First Program during the pandemic, it is neither a long-term or permanent replacement for the in-person sessions. The therapeutic benefits of the Kids First Program can only be fully realized through the redeployment of the in-person sessions. Therefore, transferring the special fund balance to the general fund may



leave the fund without the resources to promptly begin in-person sessions when the gatherings are deemed safe, and are again authorized by the Governor. The following paragraphs provide a more detailed description of the program, and further discuss the potential consequences of transferring the fund balance to the general fund and possible termination of the fund altogether.

The program works with parents to educate them on the impact of divorce, separation, paternity, and other issues that the family unit is facing. The program contracts experienced therapists who explain the impact of these issues on parents, their children, and their family. The program also educates and provides resources that parents can utilize to help them.

Additionally, the program works with the children who are being impacted. The purpose of engaging with these children is to help them understand that they are not at fault for the issues that their parents are experiencing and to provide healthy ways to cope with their feelings. This is accomplished through extensive training of facilitators and volunteers who then utilize strategies that include; (1) ice breaker activities that enable children to feel comfortable and express their feelings, (2) identification of signs of risk and safety, and (3) providing an environment in which children participate in group activities and experience peers in similar situations. Relative to divorce, the program's goal is to teach and ensure that children understand that divorce is not their fault; that parents divorce each other, not their children; that other families go through divorce and separation; and that healthy ways are available to cope and identify feelings associated with divorce.

The program has remained committed to families experiencing these situations even during the COVID–19 pandemic. The Kids First Program developed an online course so that the program could continue to servicing and being a resource for those referred. Although the online course has allowed families to move forward, it is not a substitute for the therapeutic value of the inperson program where both parents and children benefit from the in-person teaching, group activities, and interaction that is one of the strength of this program.

In the last three years, the Kids First Program has provided services to 18,871 parents and children statewide. If the Parent Education Special Fund balance is transferred to the general fund, the continuation of this vital program will be in question, and could have the following adverse impacts:

- Severe reduction of resources to train staff and Judges on trends and subject matter relating to divorce. The result will be less trained and knowledgeable individuals working with these families.
- Loss of resources to teach and educate parents and children.



- Loss of experienced licensed psychologists who have developed the program's education curriculum.
- The loss of a program that provides emotional support and early education to children who have families going through divorce and separation which causes them fear, guilt, and blame, and damages their development.

VI. (181) Probation Services Special Fund (Account Code S-18-327)

The Probation Services Special Fund provides the means for statewide evidence-based training and certification for Probation Officers (POs), which enables them to work with offenders to target criminogenic factors and effectuate prosocial thinking and change. The training covers motivational interviewing, cognitive behavior techniques, and collaborative casework, as well as national trends and best practices. It also funds required training for all POs to become certified in using the risk assessment tool. This training and certification are absolutely vital to POs' effectiveness and to the safety of the POs, office staff, and clients—during field visits, home visits, and in-office visits. This Fund also funds maintenance costs for the statewide Adult Probation case management system and the statewide risk assessment and case planning system. The assessments captured in this database include sex offenders, domestic violence offenders, and high-risk drug offenders, and provide management of risk classification and case planning for offenders.

The Probation Services Special Fund has experienced a declining fund balance over the years primarily due to collective bargaining requirements. While special fund ceiling adjustments have been authorized by the Legislature to accommodate the salary adjustments, there have been no corresponding increases in revenues to address these additional payroll obligations. Therefore, the Judiciary has taken measures to not only decrease payroll costs through staffing attrition, but through the temporary assignment of certain operating costs to operating funds as well. Transferring the special fund balance to the general fund would leave the fund with no means to compensate the two employees whose salaries are currently covered by the Probation Services Special Fund. It would also eliminate much needed training and certification opportunities for the Judiciary's POs, and could lead to the Judiciary's noncompliance with Federal Interstate Compact Rules and subsequent fines and sanctions. Further details regarding the devastating impact of the proposed special fund balance transfer are provided below:

- Reduced resources for supervision and activities of POs of over 18,000 offenders statewide.
- Loss of six positions that assist with the supervision of offenders which will impact the workload of the remaining staff, and likely result in overworked staff that could affect public safety.



- Jeopardized training and certification of POs statewide on risk assessments and evidence-based components, which could result in less skilled and trained POs and a negative impact on public safety.
- Jeopardized safety of POs due to the lack of training and certification.
- Possible non-compliance with Federal Interstate Compact rules.

Six positions are typically funded by the Probation Services Special Fund—two PO positions, three Social Service Assistant positions, and one clerical position. All of these positions support offender supervision statewide. Notably, four of the six positions have been left vacant to save costs to the fund. Additional efforts to reduce costs to the fund include using general funds to cover the costs of the systems maintenance noted above. However, these cost-saving measures are not sustainable long-term.

Additionally, removing the Interstate Compact Application Fee as a revenue source for the Probation Services Special Fund will cause serious repercussions for the State of Hawai'i. The Interstate Compact for Adult Offender Supervision is a compact agreement between all 50 states, including District of Columbia, Puerto Rico, and the US Virgin Islands. The compact was established to control the movement of offenders on probation and parole leaving and entering the State of Hawai'i. The compact is subject to federal rules that are supported by HRS§ 353B-1 through 353B-6. Compact states face sanctioning for non-compliance with Federal Interstate Compact rules. Sanctioning includes remedial training, large monetary fines, legal action in Federal Court, and suspension of the compact. States are subject to annual National audits. The interstate coordinator monitors the tracking system to ensure that the state stays in compliance.

Payments of the Interstate Compact Application Fee are placed in the Probation Services Special Fund to support the Interstate Compact Offender Tracking System (ICOTS) coordinator position. This position is vital to the compliance of the federal rules. The position manages and maintains the statewide ICOTS, and is responsible to respond to state inquiries, track offenders leaving the state and entering the State of Hawai'i, and monitoring the interstate activities of probation and parole officers. This position was recently vacated as the incumbent retired. Due to the declining revenue in the fund, a decision was made to temporarily suspend hiring until the fund can be replenished. Due to COVID-19 and travel restrictions from Compact states, there has been a reduction in the number of interstate compact transfer cases. This reduction, however, is only temporary because as travel becomes more accessible, there will be an increase in the number of interstate ransfer cases. This increase will compel the need to fill the coordinator position. Currently, the State of Hawai'i has 404 probation and parole offenders that fall under the federal rules of the compact.



In short, this special fund is already having difficulty fully supporting activities that protect and advance public safety. Transferring this special fund balance to the general fund will have significant, long-lasting effects on public safety.

VII. (182) Spouse and Child Abuse Special Account (Account Code S-18-340)

Spouse and Child Abuse Special Account (SCASA) funds are used to address spouse and child abuse statewide, with special attention directed towards domestic violence (DV) issues.

The Spouse and Child Abuse Special Fund has been an integral funding source for services related to spouse and child abuse throughout the state. The special fund has played an even more important role during the COVID-19 pandemic as general funds for DV related expenses have been significantly reduced while demand for DV services continues to rise. Due to the importance of this special fund, expenditures are closely monitored to ensure the maximum use of available monies without jeopardizing the sustainability of the fund. As explained below, transferring the special fund balance to the general fund will not only prevent the fund from fulfilling its current contractual obligations for vital DV related services, but it may also greatly diminish training/education on DV issues as well as add to community safety concerns associated with spouse and child abuse issues. Specifically, defunding SCASA could lead to:

- Increased threat to community safety with significantly reduced domestic violence intervention (DVI) training to keep DV offenders accountable and compliant with legal obligations.
- Lack of DV training for Judges, POs, Court Officers, and community partners, which will result in less skilled supervision of DV offenders and cases.
- Jeopardizing over \$150K in federal funds that directly service survivors, victims, families, adolescents, and offenders.

The number of referrals for DVI has risen in recent years and during COVID-19, and is expected to rise further; currently, 800 trials are pending in the First Circuit for abuse of household or family member. Additionally, Act 19 (2020) broadened the offenses in HRS 709-906 to increase offender accountability, which increases the need for DVI. Without the SCASA, the contracted agencies will not be able to provide services to the number of defendants that are court ordered to complete DVI—putting children, families, and the community at risk for further harm.



Number of Clients Served by the SCASA:

	FY 2018	FY 2019	FY 2020
DV Offenders referred	482	640	663
DV Survivors including children exposed to DV	4,602	4,501	4,133
Parents and Children receiving supervised visitation or	520	473	577
safe exchanges			

DV Offender services: The average length to complete a DVI program for an offender is about 8 to 9 months. Behavior change is a process and it takes time to address the underlying distorted beliefs about power and control, relationships, and gender that lead to the coercive and abusive behavior. Two agencies are contracted by the Judiciary to provide DVI services to offenders.

DV Survivor services: The average length of services for a DV survivor depends on the specific type of service. A call to a hotline (average of 43% of DV survivors counted above) may take minutes while group counseling and/or advocacy can be ongoing. Three agencies were contracted by the Judiciary to provide services to DV survivors during the fiscal years noted. However, due to budget cuts, two agencies are now providing these services to DV survivors in FY 2021.

Supervised Visitation and Safe Exchange: The numbers include parents and children who are in need of supervised visitation and/or safe exchange because DV is/has been a concern. One agency is contracted by the Judiciary to provide this specific service.

About 80% of the SCASA supports funding to agencies for direct services to survivors of DV as well as children exposed to DV. These contracts are funded by general funds and SCASA. In FY 2020, the general fund portion of the contracts was reduced by 25 to 30%. Reductions impacted the Purchase of Service contracts for DV services statewide— and services to address DV will be further impacted if SCASA is eliminated.

Transferring the SCASA balance to the general fund also jeopardizes over \$150K in federal funds as SCASA provides 25% and 10% matches for the annual STOP VAWA5 and the Access and Visitation federal grants, respectively. These grants provide opportunities to stay up-to-date on best practices in addressing DV through the civil and criminal courts as well as probation by supporting ongoing training in various DV related issues such as custody and visitation, the misuse of technology, and evidence-based practices. It also supports private/public collaborations to improve Hawai'i's response to DV such as the annual DV 101 trainings and improving the standards for DVI programs. Furthermore, these grants support the specialized supervised visitation and safe exchange for families where DV is a concern, and child welfare is not involved.

Thank you for the opportunity to provide testimony for this Bill.

DAVID Y. IGE GOVERNOR

GWEN S. YAMAMOTO LAU EXECUTIVE DIRECTOR



HAWAII GREEN INFRASTRUCTURE AUTHORITY

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813 Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804 Website: gemshawaii.gov

Telephone: (808) 587-3868 Fax: (808) 587-3896

Testimony of Gwen Yamamoto Lau Executive Director before the HOUSE COMMITTEE ON FINANCE

Tuesday, March 2, 2021 1:00 P.M. State Capitol, Conference Room No. 306 & Videoconference

In consideration of HOUSE BILL NO. 1298 RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and Members of the Finance Committee:

Thank you for the opportunity to testify and provide comments on House Bill 1298, relating to State Funds. This bill proposes to transfer non-general funds into the general fund. The Hawaii Green Infrastructure Authority ("HGIA") respectfully **opposes** this bill.

With the state's current fiscal crisis, as per this measure, it is the state's fiscal responsibility to identify sources of capital that may be tapped to augment the budget shortfall and minimize, to the extent possible, disruption in services and programs for our taxpayers and communities. I applaud the legislature's leadership and fiscal stewardship, and would like to highlight the unique circumstances of HGIA's funds, to provide the Legislature pertinent and important information, including possible risks, to include in its evaluation and decision-making.

In 2014, on behalf of the ratepayers of the Hawaiian Electric Companies ("HECO"), the state issued a Green Energy Market Securitization ("GEMS") Bond. This bond is neither an obligation of the State of Hawaii nor is it being repaid by taxpayer funds. It is the sole obligation of HECO ratepayers and is being repaid by the Green Infrastructure Fee ("GIF") assessed and collected monthly by HECO. On a monthly basis, HECO wires the GIF collected to the GEMS Bond Trustee's account (368). Per the Bond Indenture Documents, the Bond Trustee utilizes the funds deposited to make the required semi-annual principal and interest payments to the bondholders.

The GEMS bond was issued to capitalize the GEMS financing program administered by HGIA (367, 370 and 395). The GEMS bond was designated as a "Green Bond" with State

representations and warranties that the proceeds shall be used specifically to fund a green infrastructure loan program (the "Hawaii Green Infrastructure Loan Program") for the financing of environmentally beneficial projects. Additionally, the State further pledged, as follows:

..."the State will not take or permit any action that impairs the value of the Green Infrastructure Property under the Financing Order, or reduce, alter, or impair the Green Infrastructure Fee that is imposed, charged, collected, or remitted for the benefit of the Bondholders and any Financing Parties, until all principal, interest, and redemption premium, if any, in respect of the Bonds, all Financing Costs, and all amounts to be paid to a Financing Party under an Ancillary Agreement are paid or performed in full or unless adequate provision has been made by law for the protection of Bondholders and other Financing Parties."

Bondholders have a number of remedies in the event of default, including acceleration of maturity and prepayment of the bond in full, which has a current principal balance of \$92.4 million.

For those reasons stated above, HGIA's bond funds should not be swept into the general fund as it must be maintained by the bond Trustee, U.S. Bank. Similarly, HGIA's program funds should be maintained in a special fund, restricted per bond covenants, for the Hawaii Green Infrastructure Loan Program.

Thank you for this opportunity to testify and provide comments on HB 1298.



No. 1 Capitol District Building 250 South Hotel Street Second Floor Honolulu, HI 96813

Governor David Y. Ige

Comptroller Curt T. Otaguro

Chairperson Llovd I. Unebasami

Commissioners Susan Browne Nalani Brun Jane Clement Ronald Michioka Karen Tiller Polivka Clyde Sakamoto Sherman Warner Allison Wong

Executive Director Jonathan Johnson

Telephone 808.586.0300

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Website sfca.hawaii.gov

TESTIMONY OF THE STATE FOUNDATION ON CULTURE AND THE ARTS TO THE HOUSE COMMITTEE ON FINANCE Tuesday, March 2, 2021, 1:00 p.m. CR 308 H.B. 1298 RELATING TO STATE FUNDS

Chair Sylvia Luke and members of the Committee, I am Jonathan Johnson, Executive Director of the State Foundation on Culture and the Arts (SFCA), and grateful for the opportunity to testify **OPPOSING** H.B. 1298.

The Works of Art Special Fund, outlined in section 103-8.5 HRS, comprises one percent of all State fund appropriations for capital improvements (CIP) for construction cost element.

Transferring funds from Works of Art Special Funds (S-319, S-359, S-366, S-400) would have a negative impact on the State's finances. Generally, the State's CIP projects are funded using tax-exempt GO bonds. The Internal Revenue Service does not allow such bonds to be used for operating expenses, therefore transferring the unencumbered balances to the General Fund would not qualify. Based on our discussions with the Office of the Attorney General and Department of Budget and Finance, violations of this provision may subject the State to adverse tax consequences, such as the loss of the Federal tax exemption on the bonds. Additionally, if the State lost the tax-exempt status on bonds that were already issued, it could subject the State to lawsuits from investors whose interest income from the bonds has become taxable. An additional negative impact would be the likelihood of the State's bond rating being adversely affected and higher interest rates (resulting in higher interest expense) on taxable bonds.

Purpose of Account: The Works of Art Special Fund is necessary for program operations and payroll for 18 FTE staff. Expenditures for S-319 Works of Art Special Fund are restricted for use according to Chapter 103-8.5 Hawaii Revised Statutes which states, The works of art special fund shall be used solely for the following purposes: (1) Costs related to the acquisition of works of art, including any consultant or staff services required to carry out the art in public places and relocatable works of art programs; (2) Site modifications, display, and interpretive work necessary for the exhibition of works of art; (3) Upkeep services, including maintenance, repair, and restoration of works of art; (4) Storing and transporting works of art. This fund supports the Art in Public Places (APP) Program state-wide, that includes: Hawaii State Art Museum, Relocatable Works of Art, Commissioned Works of Art, Conservation, Exhibition Services, Registration of Works of Art, Special Fund Assessment and Operating expenditures, including salaries for 17 FTE (Permanent) and 1 FTE (Temporary) that are dependent on that fund.

While we recognize the financial challenges faced by the State due to the pandemic, we are aware that transferring the balances of the Works of Art Special Fund to the State's General Fund would ultimately jeopardize the State's finances. Additionally, diversion of funds contributed by the Department of Transportation would compromise the funding by the Federal Aviation Administration.

Works of Art Special Funds identified in H.B. 1298

Fund	Fund Name	Amount
S-13-319	Works of Art Special Fund	\$8,953,391.65
S-14-359	State Foundation on Culture and the Arts	\$363.00
S-17-359	State Foundation on Culture and the Arts	\$363.00
S-15-366	Works of Art Special Fund	\$250,000.00
S-19-400	No.1 Capitol Dist Bldg Access Impr, Oahu-l	\$0.00

Fund: S-319 Fund Name: Works of Art Special Fund Amount: \$8,953,391.65

Purpose of Account: The unencumbered cash balance of S-319 Works of Art Special Fund is a necessary reserve to continue program operations and payroll for 18 FTE staff. This account is active.

Source of Revenue: Per 103-8.5 HRS, There is created a works of art special fund, into which shall be transferred one per cent of all state fund appropriations for capital improvements designated for the construction cost element; provided that this transfer shall apply only to capital improvement appropriations that are designated for the construction or renovation of state buildings. The three-year average annual revenue to the fund of \$4,783,253 does not reflect the current status of the fund. Revenue to the fund fluctuates year to year due to a variety of factors. Income revenue for S-319 for FY 21 July 1-December 2020 was only \$15,520.

Fund: S-359 Fund Name: State Foundation on Culture and the Arts Amount: \$363.00

Purpose of Account: State Capitol Monument Master Plan. The Hawaii Capital Special District Master Plan provides the Department of Accounting and General Services (DAGS) Planning Branch and State Foundation of Culture and Arts (SFCA) with a policy tool to manage the art assets in the capital district and which includes a management plan that defines a vision for the organization of the monuments, works of art, and memorial markers and provides for pre-planning of future monument sites. The management plan will enable DAGS and SFCA to be better stewards of the art assets and maximize their significance while enhancing their viewing experience. The project balance remains in this account. **Source of Revenue:** Works of Art Special Fund transfer from S-319 to S-359.

Fund: S-366 Fund Name: State Foundation on Culture and the Arts Amount: \$250,000.00

Purpose of Account: Per Act 281 2013, appropriated special funds to install Permanent Works of Art to honor United States Senator Daniel K. Inouye. On March 25, 2020 the SFCA board approved the commissioning of artist Sean K.L. Browne to create a monument to Daniel K. Inouye. Funds are necessary to initiate the project contract. **Source of Revenue:** Works of Art Special Fund transfer from S-319 to S-366.

Fund: S-400 Fund Name: No.1 Capitol Dist Bldg Access Impr, Oahu-I Amount: \$0.00

Purpose of Account: Account was created in anticipation of incorporating accessibility improvements at the No. 1 Capitol District Building.

Source of Revenue: Not active.

The percent-for-art law is, in a way, self-limiting. If State construction and renovation is cut by 40%, for example, then funding for the Works of Art Special Fund is also cut by 40% and SFCA will have made a significant and proportional sacrifice to help stabilize the State's finances.

Thank you for the opportunity to submit written testimony on this matter.



Hawai'i Convention Center 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815 **kelepona** tel 808 973 2255 **kelepa'i** fax 808 973 2253 **kahua pa'a** web hawaiitourismauthority.org David Y. Ige Governor

John De Fries President and Chief Executive Officer

Statement of JOHN DE FRIES

Hawai'i Tourism Authority before the HOUSE COMMITTEE ON FINANCE

Tuesday, March 2, 2021 1:00 PM State Capitol, Conference Room #306 via videoconference

In consideration of HOUSE BILL NO. 1298 RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance: the Hawai'i Tourism Authority (HTA) **opposes** House Bill 1298, which transfers to the general fund the unencumbered balances of various non-general funds of many state departments.

HTA has substantial work ahead in supporting the economic recovery from the COVID-19 pandemic through the revitalization of the tourism industry. Since April 26, 2020, HTA has not received any funding from the Transient Accommodations Tax (TAT) after the governor suspended disbursements in his Sixth Supplementary Emergency Proclamation for COVID-19. We don't anticipate receiving any funds through the end of fiscal year 2021.

As a result, HTA reduced its FY20 budget from \$86.7 million to \$40.9 million in FY21, and that amounts to a 53% reduction or \$45.8 million year over year. In addition, HTA implemented a hiring freeze, ahead of the governor's official directive, and we now have six vacant positions, which amounts to a 19% vacancy rate.

HTA's annual allocation of \$79 million to the Tourism Special Fund (TSF) and \$16.5 million to the Convention Center Enterprise Special Fund (CCESF) are essential. These two special funds support HTA in its mission to strategically manage Hawai'i tourism in a sustainable manner consistent with economic goals, cultural values, preservation of natural resources, community desires and visitor industry needs.

March 2, 2021 Page 2

Four strategic pillars guide our work and represent a comprehensive approach toward our goal of a balanced visitor industry – one in which our brand marketing strengthens tourism's contributions to our economy, diverse communities, indigenous culture, and unparalleled natural beauty. Our focus is to *Mālama Hawai'i* or to care for our island home. In the immediate term, that means tourism recovery, and in the long term, that means innovation and transformation toward regenerative tourism.

This work across our four pillars means that for every dollar the state invests in HTA through the TSF and CCESF the state receives back \$21.68 to support the myriad of needs the Legislature responds to each year. To assist with the economic recovery of Hawai'i, HTA will need every dollar of the \$81.6 million that this bill proposes to move to the general fund.

Visitor arrivals to the state are critical to reducing Hawai'i's unemployment rate of 9.3%, the highest in the country according to the January State Employment and Unemployment Summary report issued by the U.S. Bureau of Labor Statistics. Every 48 visitors to the state represents one job supported by the tourism sector. Competition for visitors post-COVID-19 will be even more fierce than ever before. Every tourism destination will be competing for the same high-value avid travelers that Hawai'i is targeting. The Department of Business, Economic Development and Tourism is forecasting 5.5 million visitors in 2021 and 8.3 million in 2022. According to the Council on Revenue's projections presented on January 7, 2021, the TAT generated is estimated to be \$198 million in FY21, \$378 million in FY22, and \$458 million in FY23.

Additionally, HTA would like to point out that the \$81.6 million that this bill proposes to move to the general fund exceeds the approximately \$41.2 million in unencumbered funds the HTA has across all of its special funds.

It is for these reasons that HTA **opposes** HB 1298 and requests that the funds allocated to HTA be removed from the bill. We appreciate this opportunity to testify and are happy to provide anything the committee may need to consider our request.

DAVID Y. IGE GOVERNOR STATE OF HAWAII

JOSH GREEN LT. GOVERNOR STATE OF HAWAII



WILLIAM J. AILA, JR CHAIRMAN HAWAIIAN HOMES COMMISSION

TYLER I. GOMES DEPUTY TO THE CHAIRMAN

STATE OF HAWAII DEPARTMENT OF HAWAIIAN HOME LANDS P. O. BOX 1879

HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN HAWAIIAN HOMES COMMISSION BEFORE THE HOUSE COMMITTEE ON FINANCE HEARING ON MARCH 2, 2021 AT 1:00PM VIA VIDEOCONFERENCE

HB 1298, RELATING TO STATE FUNDS

March 2, 2021

Aloha Chair Luke, Vice Chair Cullen, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits testimony in opposition to this bill that transfers to the general fund the unencumbered balances of various non-general funds of DHHL, specifically over \$23 million from the Hawaiian Home Administration Account and over \$18 million from the DHHL Revenue Bond Special Fund.

The proposed transfer of funds from the Hawaiian Home Administration Account and the DHHL Revenue Bond Special Fund would violate §4 and §5(f) of the Hawaii Admissions Act and Article XII of the State Constitution as revenues from available lands may only be used in carrying out the provisions of the Hawaiian Homes Commission Act. Attached is testimony from the State Attorney General Office and a letter from the U.S. Attorney General Office that affirms this premise.

Thank you for your consideration of our testimony.



ON THE FOLLOWING MEASURE: S.B. NO. 120, S.D. 1, RELATING TO STATE FUNDS.

BEFORE THE: HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, April 5, 2011 TIME: 4:30 p.m. LOCATION: State Capitol, Room 308 TESTIFIER(S): David M. Louie, Attorney General, or Diane K. Taira, Deputy Attorney General

Chair Oshiro and Members of the Committee:

We supplement our earlier submitted testimony to address the legal concerns presented by section 38 of this measure.

Section 38 provides for the "transfer from the Hawaiian home administration account fund to the general fund the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2010-2011."

If passed, this provision would violate article XII, section 1, Constitution of the State of Hawaii ("State Constitution"), which provides that "[t]he proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of [the Hawaiian Homes Commission Act]." Inasmuch as the Hawaiian home administration account is comprised of proceeds and income from Hawaiian home lands, the proposed transfer of funds would be a constitutional violation.

Section 38 would also violate article XII, section 3, of the State Constitution, for two reasons. First, it provides that the Hawaiian home-loan fund "shall not be reduced or impaired by any ... amendment, whether made in the constitution or in the manner required for state legislation." Section 213(f)(3), Hawaiian Homes Commission Act, provides that any Testimony of the Department of the Attorney General Twenty-Sixth Legislature, 2011 Page 2 of 2

amount in the Hawaiian home administration account (the account from which this measure would seek to transfer funds) "which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home operating fund." This measure, if passed, would impair the Hawaiian Home-loan fund, violating article XIII, section 3.

Further, this measure would violate the provision of article XII, section 3, which states that "all proceeds and income from the 'available lands,' as defined by [the Hawaiian Homes Commission Act], shall be used only in carrying out the provisions of such Act." The moneys in the Hawaiian home administration account are proceeds from available lands. The proposed transfer of moneys from this fund would therefore violate our State Constitution for this additional reason.

For the foregoing reasons, we recommend that section 38 of this measure be deleted.

413621_1.DOC

Congress of the United States House of Representatives Washington, D. C.

September 30, 1968

Dear Friend:

Thank you for bringing to my attention your concern regarding H.R. 11133, introduced by Congressman Walter Baring of Nevada, a copy of which I attach for your information. As you can readily see, I did not introduce this bill.

Furthermore, this bill has been killed at my request, and is not a matter pending before this Congress.

Gross distortion and misrepresentation by certain opponents of progress in Hawaii continue despite all efforts to explain what the bill proposed.

H.R. 11133 did not in any way alter, amend, or change the provisions of the Hawaii Statehood Act with regard to the Hawaiian Homes lands or the Hawaiian Homestead Act. I defy anyone to show otherwise!

I attach a copy of the bill, and hope that you will read it and check out my statement. Nothing in this bill refers to the Hawaiian Homestead Act which is Section 4 of the Hawaii Statehood Act. All H.R. 11133 sought to amend was Section 5(f) of the Hawaii Statehood Act and similar clauses in the Statehood Acts for Arizona and New Mexico so that the people of these States would have the same sovereign rights as the rest of the 47 States of the Union with respect to the lands given to them by the Federal Government.

The Hawaiian Homestead Act was part of the Organic Act, and was totally incorporated in the Hawaii Statehood Act, without change. Only a direct and specific Act of Congress, amending Section 4 of the Statehood Act, could change the law with respect to the Hawaiian homes lands. H.R. 11133 did not refer, affect, or in any way change Section 4!

Even if H.R. 11133 had become law, (and it will not), any misuse of these special Hawaiian homeslands would have constituted a breach of Trust and the Attorney General of the United States would have the power to bring suit against the State for violation of the Act. I attach a copy of a letter from the Attorney General categorically stating this to be true.

Some people in Hawaii have engaged in a "scare" campaign designed to discredit our State elected officials. These persons have said that H.R. 11133 would have removed the power of the Attorney General to act in case the State violated the law with respect to lands of the Hawaiian Homes Commission. You can judge for yourself who is telling you the truth, by reading the letter of the Attorney General as well as the Bill itself.

You may rest assured that as your elected representative here in the Congress of the United States that I would do nothing ever to jeopardize or threaten in any way the lands and income reserved to the Hawaiian homesteaders.

I appreciate your concern and hope that you will feel free to write to me at all times should there continue to be any further questions about this matter or any other matter in which you are interested.

Aloha,

PATSY T. MINK Member of Congress

OFFICE OF THE DEPUTY ATTORNEY GENERAL

WASHINGTON, D. C. 20530

March 14, 1968

Honorable Patsy T. Mink House of Representatives Washington, D. C. 20515

Dear Mrs. Mink:

O P V

Thank you for the opportunity to respond to the two questions which are of concern to some of your constituents as reflected in their communications to you concerning H.R. 11133, legislation to amend the Enabling Acts of New Mexico, Arizona, and Hawaii. You ask whether the bill amends the Hawaiian Homes Commission Act and whether, after enactment, the Attorney General would still have authority to institute suit for a breach of trust.

As for the first, let me assure you that this legislation does not amend the Hawaiian Homes Commission Act.

With respect to your second question, many states were, in their Enabling Acts, vested with title to lands previously owned by the United States. These lands were given to the states in trust for certain purposes. In the cases of only New Mexico, Arizona and Hawaii do the Enabling Acts contain express provisions concerning suits to be brought by the United States for the breach of any of these trusts imposed upon the use or disposition of the lands or proceeds and rents derived from them. H.R. 11133 was introduced at the request of the Attorney General to eliminate the specific provisions in these three Enabling Acts.

As suggested in the Attorney General's letter to the Speaker, it is his view that no present national interest requires or justifies the continued supervision by a federal officer of the actions of state officers with respect to the trust property. However, you may assure your constituents that in our judgment after enactment of this legislation the Attorney General will be in the same position with respect to his ability to enforce the trust conditions in these three states as he is in all other states. By this I mean that the Attorney General has, and may exercise, inherent authority to enforce the trust provisions and needs no specific legislative authority to do so.

I sincerely hope this information will clear up any questions you or your constituents may have, and welcome your continued support.

If I can be of any further assistance, please let me know.

Sincerely,

/s/ Warren Christopher

WARREN CHRISTOPHER Deputy Attorney General JOSH GREEN M.D. LT. GOVERNOR





STATE OF HAWAII **DEPARTMENT OF TAXATION** P.O. BOX 259 HONOLULU, HAWAII 96809 PHONE NO: (808) 587-1540 FAX NO: (808) 587-1560

To: The Honorable Sylvia Luke, Chair; The Honorable Ty J.K. Cullen, Vice Chair; and Members of the House Committee on Finance

From: Isaac W. Choy, Director Department of Taxation

Date:March 2, 2021Time:1:00 P.M.Place:Via Video Conference, State Capitol

Re: H.B. 1298, Relating to State Funds

The Department of Taxation (Department) offers the following <u>comments</u> on H.B. 1298 for your consideration.

As it relates to the Department's special funds, H.B. 1298 transfers to the general fund the unencumbered balances of the Tax Administration Special Fund (TASF) established under Hawaii Revised Statutes section 235-20.5 and the Cigarette Tax Stamp Administrative Special Fund (CTSASF) established under HRS section 245-41.5. This measure is effective upon approval.

Tax Administration Special Fund

There are three types of revenue that go into the TASF: (1) fees collected for comfort rulings and research credit certifications; (2) revenue collected by the Special Enforcement Section (SES); and (3) fines collected for transient accommodations tax advertising violations. The bulk of the revenue deposited into the TASF comes from the revenue collected by SES. Under HRS section 235-20.5(2), any amount in excess of \$2 million collected by SES is deposited into the general fund. Funds deposited into the TASF may be expended on: (1) issuing various types of ruling to taxpayers; (2) issuing research credit certifications; (3) SES operational costs; (4) SES support staff positions; and (5) various taxpayer education costs.

As stated above, the TASF is unique in that, on an annual basis, any amount in excess of \$2 million is already deposited into the general fund. The TASF balance reflects the difference between amount expended from the TASF and the maximum amount of revenue that may be retained under the statute.

The main function of the TASF, in terms of the Department's operations, is that funds all

Department of Taxation Testimony FIN HB 1298 March 1, 2021 Page 2 of 2

SES operations, including support staff. This funding has been critical as SES is responsible for enforcing general excise and transient accommodations tax in the vacation rental industry.

The Department's main concern, regarding the TASF, is to provide sufficient funding for SES operations, including payroll and other related expenses. As currently written, the Department believes that H.B. 1298 provides sufficient funding for SES. By funding SES operations, it can continue its work in the areas of vacation rental and cash economy enforcement.

Cigarette Tax Stamp Administration Special Fund

The only source of revenue that goes into the CTSASF is a portion of the stamp fee collected under HRS section 245-26. The total stamp fee is 1.7 percent of the denominated value of each stamp sold; of which 0.2 percent goes into the CTSASF. Funds deposited into the CTSASF may be expended on: (1) the cost of providing the stamps and administering stamp tax provisions; and (2) other costs deemed necessary effectuate the purposes of HRS chapter 245.

Funds deposited into the CTSASF are used to pay for cost of: (1) printing the cigarette tax stamps; (2) services provided by a financial institution in administering the cigarette tax stamp program authorized under HRS section 245-24 (including collection of payments and delivery); the State Central Services Fee required under HRS section 36-27; and the Special Fund Reimbursement for Departmental Administrative expenses required under HRS section 36-30.

The Department's main concern, regarding the CTSASF, is to have sufficient funds to pay for the costs associated with the administration of the cigarette stamp tax listed above. As currently written, the Department believes that H.B. 1298 provides sufficient funding for the administration of the cigarette stamp tax. Without this funding, the Department will not be able to administer the tax.

Thank you for the opportunity to provide testimony on this measure.

DAVID Y. IGE GOVERNOR



DENISE ISERI-MATSUBARA EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION 677 QUEEN STREET, SUITE 300 Honolulu, Hawaii 96813 FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of DENISE ISERI-MATSUBARA Hawaii Housing Finance and Development Corporation Before the

HOUSE COMMITTEE ON FINANCE

March 2, 2021 at 1:00 p.m. State Capitol, Room 308

In consideration of H.B. 1298 RELATING TO STATE FUNDS.

The HHFDC <u>offers the following comments and requested amendments</u> to H.B. 1298. The Housing Relief and Resiliency Program funds, S-21-383 and S-21-385, identified in this bill received funds from the State's Emergency and Budget Reserve Fund for which the source of funding was the State of Hawaii allotment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020, as Public Law 116-136. These federal monies are restricted to provisions of the CARES Act and therefore cannot be transferred to the General Fund.

The balance in the funds will need to fund disbursements for salaries, legal fees, and compliance audit in connection to this program. The compliance audit of the funds will be performed by external auditors by June 30, 2021 and payment for audit services is expected to be disbursed by July 31, 2021. Therefore, we respectfully request that the Housing Relief and Resiliency Program funds, S-21-383 and S-21-385, be deleted from this bill.

Thank you for the opportunity to testify.

TESTIMONY OF JAMES P. GRIFFIN, Ph.D. CHAIR, PUBLIC UTILITIES COMMISSION STATE OF HAWAII

TO THE HOUSE COMMITTEE ON FINANCE

March 2, 2021 1:00 p.m.

Chair Luke and Members of the Committee:

MEASURE:H.B. No. 1298TITLE:RELATING TO STATE FUNDS.

DESCRIPTION: Transfers to the general fund the unencumbered balances of various non-general funds of the department of accounting and general services; department of agriculture; department of budget and finance; department of business, economic development, and tourism; department of commerce and consumer affairs; department of defense; department of education; department of Hawaiian home lands; department of health; department of human resources development; department of human services; judiciary; department of labor and industrial relations; department of land and natural resources; office of Hawaiian affairs; department of the attorney general; office of the governor; department of public safety; department of taxation; department of transportation; and university of Hawaii.

POSITION:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

COMMENTS:

The Commission notes that the Public Utilities Commission Special Fund ("PUC Special Fund") is included in the current version of this measure. The PUC Special Fund is the primary source of funding for the Division of Commerce and Consumer Affairs' Public Utilities Commission and Division of Consumer Advocacy programs.
H.B. No. 1298 Page 2

Currently, the PUC Special Fund is subject to a maximum carryover balance of \$1,000,000. All unencumbered funds above this total are transferred to the general fund at the end of each fiscal year. This limited carryover balance is the Commission's only means to fulfil its financial obligations until the first major public utility fee is collected in late July, with funds available in early to mid-August.

Seeing as excess funds are already transferred from the PUC Special Fund to the general fund at the end of each fiscal year, the Commission respectfully requests that the Committee remove the PUC Special Fund from this measure. This will help to ensure that the Commission and the Division of Consumer Advocacy are able to effectively carry out their statutory duties.

Thank you for the opportunity to testify on this measure.

JOSH GREEN Lt. Governor



PHYLLIS SHIMABUKURO-GEISER Chairperson, Board of Agriculture

> **MORRIS M. ATTA** Deputy to the Chairperson

State of Hawaii **DEPARTMENT OF AGRICULTURE** 1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

MARCH 2, 2021 1:00 P.M. VIA VIDEOCONFERENCE

HOUSE BILL NO. 1298 RELATING TO STATE FUNDS

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to present testimony on House Bill 1298. This bill transfers unencumbered balances of various non-general funds to the general fund. The Department respectfully opposes the measure and offers the following comments.

It appears that amounts identified in the bill as excess does not consider operating expenditures for the remainder of the current fiscal year and operating funds for the upcoming biennium. Insufficient balances in the funds may necessitate a reduction-in-force and prevent the programs from maintaining core operations.

The large balance in the Pest Inspection Quarantine and Eradication fund is necessary since the added personnel costs resulting from the transfer of positions from general to special funds that are proposed in the FB 21-23 budget result in the expenditure ceiling exceeding current revenues. While the program will be watchful of expenditure levels, access to these funds must be maintained for the program to respond to pest incursions such as coffee leaf rust and two-line spittle bug in a timely



manner. Also, the revenues into this fund are largely regulatory and the legality of transferring these funds to the general fund may be questioned.

The large balance in the Agricultural Development and Food Security special fund is necessary since the programs with appropriations from the fund will be increasingly dependent on these funds since large portions of the department's general fund appropriation (approximately \$ 900K) are proposed to be deleted. The department has requested expenditure ceiling increases and will continue to do so in future to meet core essential functions. Funds for food safety, marketing, ag innovation, repairs and maintenance, the queen bee program, and the emergency farmer relief due to the pandemic and climate change will need to be funded by these special funds. In consideration to the sustainability initiatives for the reduction of the use of fossil fuels, the department anticipates that the revenues to the Agricultural Development and Food Security special fund will decrease over time.

Thank you again for the opportunity to testify on this measure.

JOSH GREEN LIEUTENANT GOVERNOR



JOANN A. VIDINHAR DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS 830 PUNCHBOWL STREET, ROOM 321 HONOLULU, HAWAII 96813 www.labor.hawaii.gov

March 2, 2021

- To: The Honorable Sylvia Luke, Chair, The Honorable Ty J.K. Cullen, Vice Chair, and Members of the House Committee on Finance
- Date: Tuesday, March 2, 2021

Time: 1:00 p.m.

- Place: Conference Room 308, State Capitol
- From: Anne Perreira-Eustaquio, Director Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1298 RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and Members of the Committee,

Thank you for the opportunity to comment on this measure that provides a full accounting of non-general funds including those under the DLIR. The department offers the following comments:

S-19-311: the department prefers that \$200,000 remain in the fund for the purposes of 371-12.5, HRS.

S-18-313: the department prefers that the amount remain for the purposes of 383-127, Hawaii Revised Statutes (HRS).

S-19-316: the department notes that the current balance in the fund is \$4,550,860 for the purposes of 383-128, HRS. However, the RUDDER program will provide up to \$3,000,000 to employers for training and retention incentives. Further, this account is used to pay for the agreement with the U.S.DOL regarding its collection and could raise a conformity issue if it is abolished.

S-19-351: the department prefers that \$200,000 remain in the fund for the purposes of 371-12.5, HRS.

Thank you for the opportunity to testify on this important matter.

DAVID Y. IGE GOVERNOR



STATE OF HAWAII BOARD OF EDUCATION P.O. BOX 2360 HONOLULU, HAWAI'I 96804

House Committee on Finance

Tuesday, March 2, 2021 1:00 p.m. Via Videoconference Hawaii State Capitol, Room 306

House Bill 1298, Relating to State Funds

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Board of Education ("Board") opposes HB1298, which would transfer to the general fund unencumbered balances of various non-general funds, including funds from several Department of Education accounts.

The Board supports proposed legislation that preserves funding and resources for student learning at the classroom level, and the Board is concerned that this measure would result in the opposite effect.

Many of the funds that this measure would transfer out of the Department of Education support schools and the classroom level and are important to fulfilling the Department's mission.

Thank you for this opportunity to testify on behalf of the Board.

athernet

Very truly yours,

Catherine Payne Chairperson, Board of Education Chairperson, 2021 Legislative Ad Hoc Committee



ON THE FOLLOWING MEASURE: H.B. NO. 1298, RELATING TO STATE FUNDS.

BEFORE THE: HOUSE COMMITTEE ON FINANCE

DATE:	Tuesday, March 2, 2021	TIME: 1:00 p.m.
LOCATION:	State Capitol, Room 308, Via Videoo	onference
TESTIFIER(S): Clare E. Connors, Attorney Gene Randall S. Nishiyama, Deputy Attorney Gene		

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill would transfer the unencumbered balances of various non-general funds and accounts as of December 31, 2020 to the general fund. In addition, this bill calls for the Director of Finance to transfer the amounts authorized to the general fund on an unspecified date in March 2021.

We note the following deficiencies regarding this bill:

1. While this bill calls for the Director of Finance to transfer excess amounts from various non-general funds and accounts to the general fund in March 2021, such transfers are appropriations. In order to be in compliance with the order of passage requirement for appropriations as specified in section 9 of article VII, of the Constitution of the State of Hawaii, this bill must be designated as an emergency appropriations bill by the Governor or be passed after the enactment of the General Appropriations Act of 2021. We note that this bill has not been designated as an emergency appropriations bill by the Governor.

2. Items (3) and (15) Works of Art Special Fund: This fund is funded by general obligation bonds. Transfers of tax-exempt bond proceeds to the general fund may result in adverse tax consequences to the State.

Testimony of the Department of the Attorney General Thirty-First Legislature, 2021 Page 2 of 7

3. Items (8) Wireless Enhanced 911 Special Fund and (9) Enhanced 911 Special Fund: The New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283 (federal 911 Act), provides that fees and charges imposed and collected by a state for commercial mobile services (such as the fees in the Wireless Enhanced 911 Special Fund and in the Enhanced 911 Special Fund), can only be used in support of 911 or enhanced 911 services or enhancements of such services as specified in the provision of state or local law adopting the fee or charge. Consequently, moneys in the Wireless Enhanced 911 Special Fund cannot be transferred to the general fund without violating the federal 911 Act.

We note that the penalty for a first-time violation of the federal 911 Act is a fine of not more than \$10,000 or imprisonment for a term not exceeding one year, or both. Further, the Federal Communications Commission has become more aggressive in its attempt to discourage the diversion of 911 funds.

4. Item (59) Hawaii Green Infrastructure Bond Fund: Pursuant to section 196-67(b), Hawaii Revised Statutes (HRS), moneys in the Hawaii Green Infrastructure Bond Fund are impressed with a lien created by and used solely for the benefit of the green infrastructure bondholders. Also, the Contracts Clause found in Article I of the United States Constitution ("No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . .") may prohibit any actions that impair the use of moneys pledged for the repayment of bonds for non-bond purposes.

5. Item (60) HGIA ("Hawaii Green Infrastructure Account") Sub-Account: Pursuant to section 196-67(b), HRS, moneys in the Hawaii Green Infrastructure Bond Fund are impressed with a lien created by and used solely for the benefit of the green infrastructure bondholders. Also, the Contracts Clause found in Article I of the United States Constitution ("No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . . ") may prohibit any actions that impair the use of moneys pledged for the repayment of bonds for non-bond purposes.

Items (67) – (81) Non-general fund accounts of the Department of
 Commerce and Consumer Affairs: In *Hawai'i Insurers Council v. Lingle*, 120 Hawai'i 51,
 201 P.3d 564 (2008), the Hawaii Supreme Court opined that transferring "legitimate

regulatory fees" from an insurance special fund into the State's general fund violated the separation of powers doctrine. The Court adopted of three-pronged test to determine whether any assessment was a regulatory fee and therefore was probably not transferable to the general fund. The test asks (1) whether a regulatory agency assesses the fee, (2) whether the agency places the money in a special fund, and (3) whether the assessment "is expended for general public purposes or [instead] used for the regulation or benefit of the parties on whom the assessment is imposed." *Id.* at 66, 201 P.3d at 579. Moneys in these accounts, assessed by the regulatory agencies, are placed in special funds and expended "for the regulation or benefit of the parties on whom the assessment is imposed." *Id.* at 66, 101 P.3d at 579. Moneys in these accounts, assessed by the regulatory agencies, are placed in special funds and expended "for the regulation or benefit of the parties on the regulation or benefit of the parties on whom the assessment is imposed." *Id.* at 66, 101 P.3d at 579. Moneys in these accounts, assessed by the regulatory agencies, are placed in special funds and expended "for the regulation or benefit of the parties on whom the assessment is imposed" and, therefore, cannot be transferred to the general fund.

7. Item (82) Public Utilities Commission Special Fund: This special fund already transfers moneys deemed to be in excess of its needs to the general fund on June 30 of each fiscal year. Pursuant to section 269-33(d), HRS, all moneys in excess of \$1,000,000 remaining on balance in the Public Utilities Commission Special Fund on June 30 of each year lapses to the general fund.

8. Items (102) – (105) Accounts and funds of the Department of Hawaiian Home Lands: These moneys are trust moneys pursuant to the Hawaiian Homes Commission Act, 1920 ("HHCA"), which invokes a fiduciary responsibility on the part of the State to care for and to use such moneys for the purposes of the HHCA. The diversion of these funds to the general fund would violate the State's fiduciary responsibility. Consequently, these moneys cannot be transferred to the general fund.

9. Item (131) Hawaii Tobacco Settlement Special Fund: This special fund already transfers moneys to the general fund. Pursuant to section 328L-2, HRS, this fund is used for the purpose of receiving and allocating the tobacco settlement moneys for various uses, including the general fund.

10. Items (227) – (228) Office of Hawaiian Affairs: Pursuant to section 5 of article XII the Constitution of the State of Hawaii, moneys of the Office of Hawaiian Affairs are trust moneys, and invokes a fiduciary responsibility on the part of the State to care for and to use such moneys for the designated beneficiaries. Consequently, these

Testimony of the Department of the Attorney General Thirty-First Legislature, 2021 Page 4 of 7

moneys cannot be transferred to the general fund without violating the Constitution of the State of Hawaii.

11. Item (229) Legal services: We agree that that this account may be repealed provided that services provided by this account are funded by a general fund appropriation.

12. Item (230) DNA Registry Special Fund: We agree that \$50,000 may be taken from the balance of this special fund.

13. Item (231) Tobacco Enforcement Special Fund: This special fund already transfers moneys deemed to be in excess of its needs to the general fund on June 30 of each fiscal year. Pursuant to section 28-15, HRS, all moneys in excess of \$500,000 remaining on balance in the Tobacco Enforcement Special Fund on June 30 of each year lapses to the general fund.

14. Item (232) Sex Assault Response, Train & Kit Test: We believe that this account may be repealed.

15. Item (233) Solicitation of Funds for Charitable Purposes Special Fund: The purpose of the fund is to provide a source of funding for the regulatory oversight over charities and professional fundraisers operating within the State and for the dissemination of public information. The fund is also used to maintain and operate Hawaii's Internet based registration system for charities that must register under section 467B-2.1, HRS. It is funded by regulatory fees paid by all charitable organizations soliciting contributions and professional fundraisers operating within the State, with certain exceptions. The transfer of the Solicitation of Funds for Charitable Purposes Special Fund to the general fund may be subject to challenge under *Hawaii Insurers* Council v. Lingle, 120 Hawai'i 51, 201 P.3d 564 (2008). In that case, the Hawaii Supreme Court opined that transferring "legitimate regulatory fees" from an insurance special fund into the State's general fund violated the separation of powers doctrine because administrative fees and assessments imposed by an administrative agency can only be used for the purposes of providing services to the persons or entities paying such fees. Any other use of the fees would constitute a tax, which can only be imposed by the Legislature. The Court adopted a three-pronged test to determine whether any

Testimony of the Department of the Attorney General Thirty-First Legislature, 2021 Page 5 of 7

assessment was a regulatory fee and therefore was probably not transferable to the general fund. The test asks (1) whether a regulatory agency assesses the fee, (2) whether the agency places the money in a special fund, and (3) whether the assessment "is expended for general public purposes or [instead] used for the regulation or benefit of the parties on whom the assessment is imposed." *Id.* at 66, 201 P. 3d at 579. In this instance, the fees charged by the Department for the Solicitation of Funds for Charitable Purposes Special Fund are regulatory fees under the three-pronged test. Consequently, money in the Solicitation of Funds for Charitable Purposes a regulatory purpose and cannot be transferred to the general fund.

16. Item (234) S-21-328: This account, S-21-328, is not needed and can be repealed.

17. Item (235) Internet Crimes Against Children Special Fund: We agree that \$120,000 may be taken from the balance of this special fund.

18. Item (236) Legislative Relief for Claims – DOT: We believe that this account can be repealed.

19. Items (267) – (284) Non-general fund accounts of the Airports Division, Department of Transportation: Airport moneys can only be used for airport purposes. The federal grant assurances accepted by the State Department of Transportation provide that all revenues generated by the airports will be expended for airport purposes. Also, the Federal Aviation Administration's administrative regulations provide that the use of airport revenues for non-airport purposes is unlawful. Consequently, airport moneys cannot be transferred to the general fund without violating the federal laws and losing the grants.

20. Item (289) State Highway Fund: The State Highway Fund contains moneys that have been pledged for the repayment of highway revenue bonds. Pursuant to section 39-62, HRS, moneys in the State Highway Fund are impressed with a lien created by and used solely for the benefit of highway revenue bondholders. Also, the Contracts Clause found in Article I of the United States Constitution ("No State shall ... pass any ... Law impairing the Obligation of Contracts ...") may prohibit any

actions that impair the use of moneys pledged for the repayment of bonds for non-bond purposes.

21. Item (294) Harbor Special Fund: The Harbor Special Fund contains moneys that have been pledged for the repayment of harbor revenue bonds. Pursuant to section 39-62, HRS, moneys in the Harbor Special Fund are impressed with a lien created by and used solely for the benefit of harbor revenue bondholders. Also, the Contracts Clause found in Article I of the United States Constitution ("No State shall ... pass any ... Law impairing the Obligation of Contracts ... ") may prohibit any actions that impair the use of moneys pledged for the repayment of bonds for non-bond purposes.

22. Item (296) Airport Revenue Fund: The Airport Revenue Fund contains moneys that have been pledged for the repayment of airport revenue bonds. Pursuant to section 39-62, HRS, moneys in the Airport Revenue Fund are impressed with a lien created by and used solely for the benefit of airport revenue bondholders. Also, the Contracts Clause found in Article I of the United States Constitution ("No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . . ") may prohibit any actions that impair the use of moneys pledged for the repayment of bonds for non-bond purposes. In addition, airport moneys can only be used for airport purposes. The federal grant assurances accepted by the State Department of Transportation provide that all revenues generated by the airports will be expended for airport purposes. Also, the Federal Aviation Administration's administrative regulations provide that the use of airport purposes is unlawful. Consequently, airport moneys cannot be transferred to the general fund.

23. Item (297) Passenger Facility Charge Special Fund: The Passenger Facility Charge ("PFC") is a fee that is allowed to be collected on eligible passengers at commercial airports controlled by public agencies. Airports use these fees to fund Federal Aviation Administration approved projects that enhance safety, security, or capacity; reduce noise, or increase air carrier competition. Airport moneys can only be used for airport purposes. The transfer of PFC fees to the general fund is a diversion of Testimony of the Department of the Attorney General Thirty-First Legislature, 2021 Page 7 of 7

federal funds and is unlawful. Consequently, Passenger Facility Charge moneys cannot be transferred to the general fund.

To avoid adverse consequences to the State, we believe that these non-general accounts and funds should not be swept to the general fund.

Thank you for the opportunity to present this testimony.

DAVID Y. IGE GOVERNOR

CURT T. OTAGURO COMPTROLLER



An Agency of the State of Hawaii

TESTIMONY OF SCOTT L. CHAN, MANAGER ALOHA STADIUM STADIUM AUTHORITY TO THE HOUSE COMMITTEE ON FINANCE

MARCH 2, 2021, 1:00 P.M. CONFERENCE ROOM 306

H.B. 1298

RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and members of the Committee, thank you for the opportunity to submit this testimony <u>opposing</u> HB 1298, specifically as it relates to the transferring of unencumbered cash balance from the stadium special fund and the Stadium Manager's Discretionary fund to the general fund.

We believe it is important to share several critical and integral points regarding the Stadium Authority's current financial condition, its operational limitations, and the resultant need to request an emergency appropriation to complete the current fiscal year 2021, as well as provide working capital to begin the following fiscal year.

Impact of HB 1298 on the Stadium Special Fund:

Given that the operation of the Aloha Stadium is 100% special funded, the impact of transferring all unencumbered balances as of December 31, 2020 to the general fund would be financially devasting and immediately shut down the Aloha Stadium from continuing its operations.

<u>The Stadium Special Fund is THE sole funding source for the Stadium Authority and is **NOT** a <u>supplementary fund</u> of the Stadium Authority. It is the primary and only source of funds that financially supports the entire Aloha Stadium operation (36.50 FTE personnel and related other current expenses).</u>

Operating over the past 12 months in a COVID-19 environment has imposed severe constraints, restrictions, and limitations on stadium operations that have significantly limited both the quantity and

Ross I. Yamasaki Chairman, Stadium Authority

> SCOTT L. CHAN MANAGER

RYAN G. ANDREWS DEPUTY MANAGER HB 1298 (FIN) March 2, 2021 Page 2

size of events and, as a result, severely and negatively impacted the Authority's ability to generate revenue to sustain its operations. <u>These restrictive adjustments have devasted the Stadium's financial cashflow and have forced the Stadium Authority to seek a \$1,500,000 emergency appropriation (SB1033, SD1) to continue to fund its already scaled down operation. In addition to the emergency appropriation (E/A), a biennium budget request of \$2.587M for year one of the biennium (FY 2022) has also been requested to ensure the continued operations of the Aloha Stadium staff through fiscal year end 2022. To transfer out any unencumbered balance would be counter-productive, exacerbate an already dire situation, and result in the need to increase in the amount being asked by the Authority of the Legislature to fund continued operations.</u>

Other areas that would be negatively impacted include stadium staff's involvement in the planning and development process to build a new stadium and its development of a sports and entertainment district. Without participation by stadium staff, there is a critical information and resource component that would be missing from the entire process. There would not be stadium staff to consult and guide the stadium development. HB 1298 would cease all stadium staff involvement in the ongoing planning and development process.

We truly understand the state's financial predicament and respect the Legislature's requirement to address balancing the state budget; however, we believe it is important and imperative to share how HB 1298 will have a significant negative impact and repercussions on all that has been developed to date and all that is necessary to move forward.

Thank you for the opportunity to share with the legislature, the impact of HB 1298. We your ongoing support and guidance over the years and for the opportunity to provide this testimony in opposition of HB 1298.



NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY



An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism

Written Statement of Gregory P. Barbour Executive Director Natural Energy Laboratory of Hawaii Authority before the

HOUSE COMMITTEE ON FINANCE

Tuesday, March 2, 2021 1:00 pm State Capitol, Conference Room 308

in consideration of HB 1298 RELATING TO STATE FUNDS.

The Natural Energy Laboratory of Hawaii Authority (NELHA) is opposed to

H.B. 1298 which transfers \$911,273.11 from the NELHA special fund. Less than \$300,000 of our special fund balance is currently either not encumbered or not obligated.

NELHA is a self-sufficient agency that receives no general funds for our operations. Revenue is obtained from the rental of land and the sale of seawater to the various businesses in the 900-acre Hawaii Ocean Science and Technology Park in Kailua-Kona which administered by NELHA. Approximately 50% of our revenue could be considered "pass-through or reimbursables" for the sale of seawater, electricity, or freshwater to businesses in HOST Park. As such, it would be very problematic for NELHA to operate without a balance in our special fund account from a "cash flow" standpoint. The Office of the Auditor issued a report titled "Review of the Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Business, Economic Development and Tourism" in January 2020 (No. 20-01). Their review of the NELHA Special Fund states on page 32 "This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established."

Thank you for the opportunity to offer these comments.



HB1298 RELATING TO STATE FUNDS Ke Kōmike Hale o ka 'Oihana 'Imi Kālā House Committee on Finance

The Office of Hawaiian Affairs (OHA) <u>OPPOSES</u> HB1298, which would, among other things, transfer the entire amounts in two OHA funds to the state's general fund. As these two funds contain monies set aside or derived from Native Hawaiian trust funds, OHA opposes this measure as an infringement on the constitutional and statutory authority of the OHA Board of Trustees to exclusively manage Native Hawaiian trust funds for the betterment of conditions of Native Hawaiians.

As background, the Hawai'i Admission Act and the Hawai'i State Constitution established the Public Land Trust for the betterment of the conditions of native Hawaiians and for the general public. The Public Land Trust comprises over one million acres of former government and crown lands of the Kingdom of Hawai'i, seized as part of the Kingdom's unlawful overthrow without compensation to, or consent by, the Hawaiian people.

Article XII, section 6 of the Hawai'i State Constitution entrusts the OHA Board of Trustees with the responsibility to manage and administer Public Land Trust funds set aside for Native Hawaiians. In furtherance of this responsibility, state law grants the OHA Board of Trustees the power to "manage, invest, and administer the proceeds from the sale or other disposition of lands, natural resources, minerals, and income derived from whatever sources" for Native Hawaiians and to "collect, receive, deposit, withdraw, and invest money and property" for OHA. Hawai'i Revised Statutes §10-5(1), (3). Although OHA reports on its nongeneral funds to the state Legislature, this reporting does not alter the status of these monies as Native Hawaiian trust funds or diminish the exclusive authority of the OHA Board of Trustees over these monies. These monies are Native Hawaiian trust funds and should not lapse to the credit of the general fund.

Given the underlying character of the OHA non-general funds identified in this measure and the exclusive authority of the OHA Board of Trustees over the monies in these funds, **OHA respectfully requests that the table of funds associated with OHA on page 10 of the measure be deleted in its entirety**:

Office of Hawaiian affairs				
(227)	S-19-320	Hawaiian projects fund (not		
		in s/t)	\$53,251.00	ş

(228) S-19-33	Native Hawaiian rights fund		
	(not in s/t)	\$325,754.33	Ş

Mahalo nui for the opportunity to testify on this measure.

DAVID Y. IGE



STACEY A. ALDRICH STATE LIBRARIAN

STATE OF HAWAII HAWAII STATE PUBLIC LIBRARY SYSTEM OFFICE OF THE STATE LIBRARIAN 44 MERCHANT STREET HONOLULU, HAWAII 96813

HOUSE COMMITTEE ON FINANCE Tuesday, March 2, 2021 1:00 pm Via Video Conference, State Capitol Room 306

By Stacey A. Aldrich State Librarian

H.B. 1298 RELATING TO THE STATE BUDGET

To: Chair Sylvia Luke Vice Chair Ty Cullen Members of the House Committee on Finance

The Hawaii State Public Library System (HSPLS) **strongly opposes** House Bill 1298, relating to the State Budget, which authorizes the transfer of excess unencumbered non-general fund balances as of December 31, 2020 to the general fund by the Director of Finance in March 2021.

The Libraries Special Fund and the Library Fee for Enhanced Services Program Special Fund, authorized pursuant to Sections 312-3.6 and 312-21 of the Hawaii Revised Statutes, are the **primary** sources of revenue for the purchase of library books and materials and funding for other enhanced services the public library system offers to the community, respectively. In the past, the general fund has only provided limited financial support for these functions which are at the core of HSPLS' mission; in other words, these special funds have been subsidizing key components of HSPLS operations. Loss of both special funds will severely impact HSPLS' ability to meet its mission in serving our communities, particularly at a time when our residents need access to our free or low-cost resources more than ever.

Library Special Fund

For a library system with 51 public libraries serving a statewide population of approximately 1.4 million people, HSPLS has spent approximately \$3 million annually for books and materials. Prior to the pandemic, books and library materials had been funded each fiscal year from a combination of a general fund base budget of \$750,000, Library Special Fund revenues, and some special fund savings from the prior fiscal year. The carryover in the special fund primarily served to ensure that HSPLS would have sufficient funding to purchase books and library materials at the start of a fiscal year, rather than wait for revenues to be collected during the fiscal year.

HOUSE COMMITTEE ON FINANCE H.B. 1298 March 2, 2021 Page 2

Below are revenues collected by the Library Special Fund for the last two fiscal years and the first half of FY2021:

FY2019FY2020FY2021 (7/1/20 - 12/31/20)\$872,459.29\$672,523.05\$79,767.36

Library Fee for Enhanced Services Program Special Fund

The State Legislature allowed HSPLS to charge fees for additional services provided at public libraries. The types of fees include DVD rentals, community meeting room rentals, passport processing, test proctoring, and photocopying. Expenses related to providing additional services cannot not be absorbed by HSPLS' general fund appropriation as our proposed budget has been substantially reduced. Revenue from this special fund has helped to supplement statewide purchases of books and library materials, as the Library Special Fund does not generate enough funds to support all 51 public library branches.

Without the special fund revenue to support additional services, there will be a reduction in additional services communities have relied on HSPLS to provide. Neighbor Island and rural communities will be impacted the most as public libraries are the only locations with free or low-cost services for the general public.

Below are revenues collected by the Library Fee for Enhanced Services Program Special Fund for the last two fiscal years and the first half of FY2021:

<u>FY2019</u>	<u>FY2020</u>	<u>FY2021 (7/1/20 – 12/31/20)</u>
\$913,274.90	\$737,460.53	\$59,279.88

Additionally, each year, we strive to start off a fiscal year with approximately \$1 - \$1.5 million in the special fund to ensure that there is no gap in funding at the start of the next fiscal year, as well as to help offset any impacts that might affect revenue collection during the fiscal year. The carryover also ensured that there would always be a minimum level for collection expenses.

Despite all of the revenue generating fees and services assessed by HSPLS, special fund revenues have not been able to independently support the collection and service needs of our 51 branch libraries statewide. Furthermore, the cost of purchasing materials has substantially increased due to the number of different formats now being purchased and much higher pricing for leased digital content. To provide some context on the budget that we have for collections, the Sacramento Public Library which serves approximately the same population as HSPLS, has a budget of \$6 million for the purchase of books and library materials, and they have only 28 library branches.

At the start of the pandemic, HSPLS recognized the significant economic loss of revenue to the State, and the impact on our community and public libraries. HSPLS knew that we would not be able to generate significant amounts of revenue in the next few years, and therefore, the amount in our special funds would be our *only* source of funding to purchase new books and library materials and support library services. The special funds would need to be spent

HOUSE COMMITTEE ON FINANCE H.B. 1298 March 2, 2021 Page 3

judiciously and last for a few years until pandemic restrictions are lifted and the economy has recovered.

With the recent elimination of funding for vacancies and other budget restrictions, there are little to no alternatives to ensure adequate funding for the purchase of books and library materials except for our special fund savings. Sweeping HSPLS special fund balances would critically hamper our ability to serve our communities at a time when they depend on our resources and services the most.

If H.B. 1298 were to be adopted as is, HSPLS would have no funding for the purchase of new books and materials, aside from any contract amounts previously encumbered. Over time, all digital content which is leased, would disappear and could not be renewed, nor could new materials be purchased. Digital content enables HSPLS to create more access for everyone across six islands. With less digital content, our neighbor islands will lose access to even more resources. Without access to new books and digital content, our communities will not have equitable access to resources that support their literacy, learning, staying informed and connected to their community and the world.

Thank you for the opportunity to provide comments on this measure and the Committee's continued support of the Hawaii State Public Library System.

DAVID Y. IGE GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

OFFICE OF THE PUBLIC DEFENDER



CRAIG K. HIRAI DIRECTOR

ROBERT YU DEPUTY DIRECTOR

STATE OF HAWAI'I DEPARTMENT OF BUDGET AND FINANCE P.O. BOX 150 HONOLULU, HAWAI'I 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION FINANCIAL ADMINISTRATION DIVISION OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY CRAIG K. HIRAI DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE TO THE HOUSE COMMITTEE ON FINANCE ON HOUSE BILL NO. 1298

March 2, 2021 1:00 p.m. Via Videoconference

RELATING TO STATE FUNDS

The Department of Budget and Finance (B&F) supports the intent but also has concerns with House Bill (H.B.) No. 1298, Relating to State Funds.

H.B. No. 1298 proposes to transfer undetermined amounts from various non-general funds and accounts to the general fund. This bill is intended to trigger a full accounting of various non-general funded program objectives, performance, and results by transferring all unencumbered balances as of December 21, 2020 to the general fund.

B&F supports the intent to transfer unrequired/unencumbered non-general fund balances to the general fund especially during economic downturns such as that resulting from the COVID-19 pandemic. However, B&F cautions that blanket sweeping of balances from a significant number of non-general funds and accounts could result in unintended consequences. We believe a thorough review is needed before such actions are taken to ensure that critical programs are appropriately funded. B&F defers to the respective departments for comment on the impact of these actions to their specific funds and programs. It should be noted that B&F has coordinated with the Departments of Health and Land and Natural Resources to identify excess balances totaling about \$49.1 million from the Emergency Medical Services Special Fund and the Land Conservation Fund for transfer to the general fund.

With respect to funds identified in this bill administered by B&F, the Departmental Administration and Budget Division fund (DABD) functions as the Mass Transit Special Fund and is used to disperse transient accommodations tax and surcharge on State tax revenues to the Honolulu Authority for Rapid Transit (HART) to cover mass transit costs. The fund's cash balance as of January 31, 2021 was \$4.05 which is down from the \$37,502,426.09 identified in Section 2 of H.B. No. 1298. It is important to note that DABD operates as a pass-through account. As such, all revenues eventually get disbursed to HART and there is no remaining unrequired balance. Accordingly, we oppose any transfer from DABD to the general fund.

Thank you for your consideration of our comments.



CURT T. OTAGURO COMPTROLLER

AUDREY HIDANO DEPUTY COMPTROLLER

STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY OF CURT T. OTAGURO, STATE COMPTROLLER DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO THE COMMITTEE ON FINANCE

TUESDAY, MARCH 2, 2021, 1:00 P.M. CONFERENCE ROOM 306 VIA VIDEOCONFERENCE, STATE CAPITOL

H.B. 1298

RELATING TO STATE FUNDS.

Chair Luke, Vice Chair Cullen, and members of the Committee, thank you for the opportunity to testify on H.B. 1298.

The Department of Accounting and General Services (DAGS) supports this measure and will appreciate working with the Legislature to collaborate and eliminate excess funding that will not severely impact primary missions. The DAGS ability to respond quickly to rush requests may be impacted depending on the volume of work being done by reduced staffing levels and defunded vacancies.

During these fiscally challenging times, the DAGS endorses all efforts to streamline government and become a more efficient and lean organization. To achieve success, it will require everyone to work together collaboratively. Our team will continue to find more efficient methods to satisfy program missions while eliminating outdated procedures and tasks.

Thank you for the opportunity to submit testimony on this matter.

DAVID Y. IGE GOVERNOR DAVID Y. IGE GOVERNOR



DOUGLAS MURDOCK CHIEF INFORMATION OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

P.O. BOX 119, HONOLULU, HI 96810-0119 Ph: (808) 586-6000 | Fax: (808) 586-1922 ETS.HAWAII.GOV

Written Testimony of DOUGLAS MURDOCK Chief Information Officer Enterprise Technology Services

Before the

HOUSE COMMITTEE ON FINANCE TUESDAY, MARCH 2, 2021

HOUSE BILL 1298 RELATING TO STATE FUNDS

Dear Chair Luke, Vice Chair Cullen, and members of the committee:

The Office of Enterprise Technology Services (ETS) **opposes** this bill, which transfers the unencumbered balances of the information management and technology services fund (S-18-333) and the Access Hawaii Committee fund (S-19-338) to the general fund.

ETS respectfully requests that the information management and technology services and the Access Hawaii Committee funds be preserved for the purposes pursuant to HRS Section 27-43(C) and HRS Section 27G-6, respectively.

Moneys in the information management and technology services fund is used to cover salaries and benefits for seven executive level staff members: Chief Information Officer, Cyber Security Manager, Enterprise Program Manager, Business Architect, Senior Communications Manager, Cyber Security Engineer, Web Architect. All positions are currently filled. Revenue is generated from 3% of the receipts collected from special funds. A cash balance reserve should be maintained to cover any shortfall of receipts. Currently, expenditures outweigh the revenue.

A cash balance is necessary to cover recurring salary and benefit payments. Transferring the cash balance to the general fund would make the ability to cover the recurring salary and benefit expenses unpredictable and possibly create a shortfall which could ultimately result in funding the positions from general funds.

Moneys for the Access Hawaii Committee fund is used exclusively to pay the salary of the AHC Portal Program Manager position in ETS. This position is instrumental in enabling the AHC to carry out myriad duties for its mandated oversight of the State of Hawaii Portal program and

Page 1 of 2

portal vendor, including the provision of over 160 e-government services to the public, such as DLIR's inspections and permitting system, DOH's Medical Cannabis Registry, County permitting, licensing, applications, and payments, DoTAX's eFile, and the Department of the Attorney General's eCrim, to name just a few. The fund is maintained 100% by contractually-mandated fees from the portal contract vendor, which draws on revenues for e-government services by paid directly by constituents, organizations, and government entities.

A cash balance is necessary to cover recurring salary and benefit payments. If the balance in the fund is transferred to the general fund, it would not leave a sufficient amount to cover those regularly recurring expenses. This would ultimately result in elimination of the services.

Thank you for the opportunity to provide testimony on this measure.



THOMAS WILLIAMS EXECUTIVE DIRECTOR

KANOE MARGOL DEPUTY EXECUTIVE DIRECTOR

STATE OF HAWAII EMPLOYEES' RETIREMENT SYSTEM

TESTIMONY BY THOMAS WILLIAMS EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM STATE OF HAWAII

TO THE HOUSE COMMITTEE FINANCE

ON

HOUSE BILL NO. 1298

March 2, 2021 1:00 P.M. Conference Room 308

RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen and Members of the Committee,

H.B. 1298 proposes to transfer all unencumbered balances as of December 31, 2020 from various non-general funds to the state general fund. It specifies that a minimum amount in excess of the fund of the administrative and budget division of the Department of Budget and Finance, as determined by the legislature, shall be transferred to the general fund by director of finance.

The Employees' Retirement System (ERS) is compelled to clarify that the ERS is a taxqualified governmental plan under Section 401(a) of the Internal Revenue Code (IRC) which requires that, as a trust fund, all contributions must be used for the exclusive benefit of its members and beneficiaries, and therefore, the ERS should not be included as a non-general fund for the purposes of this bill.

If H.B. 1298 were to include ERS's trust funds in the definition of non-general funds under the Department of Budget and Finance, it could violate the IRC's exclusivity rule and could cause the ERS to lose its status as a tax-qualified plan and could result in severe negative tax consequences for all its members.



Employees' Retirement System of the State of Hawaii

City Financial Tower • 201 Merchant Street, Suite 1400 • Honolulu, Hawaii 96813-2980 Telephone (808) 586-1735 • Fax (808) 586-1677 • http://ers.ehawaii.gov

DAVID Y. IGE GOVERNOR As a qualified governmental plan, and to maintain its tax-qualified status, the ERS must meet the requirements of section 401(a) of the IRC. The ERS would not meet the requirements of section 401(a) of the IRC if it allowed its trust funds to be used for any other purpose than for the exclusive use of its members and beneficiaries.

We respectfully request that the funds of the ERS be exempted from inclusion in H.B. 1298.

Thank you for this opportunity to testify.



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D. DIRECTOR OF HEALTH

SERAFIN COLMENARES, JR., Ph.D., M.P.H. ADMINISTRATOR

1177 Alakea St., #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

House Committee on Finance

HB 1298, Relating to State Funds

Testimony of Serafin Colmenares, Jr. SHPDA Administrator

> Tuesday, March 2, 2021 1:00 p.m., Videoconference

Agency's Position: The State Health Planning and Development Agency (SHPDA) is

2 providing comments to House Bill 1298.

House Bill 1298 transfers to the general fund the unencumbered balances of various
non-general funds in the department of health, including the State Health Planning and
Development Special Fund's \$680,353.46. This unencumbered balance is currently being
used to back up the annual ceiling of \$114,000 to make it sustainable.

SHPDA's special fund comes from Certificate of Need (CON) application fees and is 7 being used to assist in offsetting program expenses of the agency. The annual special fund 8 ceiling supports not only current operating expenditures of the agency but also special projects 9 such as conducting studies and investigations on emerging health issues in line with the 10 agency's health planning activities and in support of the CON process. It is also being 11 proposed to be used to partially support personnel expenditures due to reductions in the 12 agency's general funds. The removal of SHPDA's unencumbered balance will have an 13 adverse effect on the operations of the agency and the performance of its statutory functions. 14 However, we are open to further discussion on the possibility of transferring a portion of the 15 unemcumbered balance to the general funds for the next fiscal year only. 16

17 Thank you for this opportunity to testify.

TESTIMONY ON HB 1298 RELATING TO STATE FUNDS by Randi U. Barretto, SAVIN Governance Committee Chairperson Crime Victim Compensation Commission

House Committee on Finance Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

Tuesday, March 2, 2021; 1:00 PM Via Teleconference

Good morning/afternoon Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance. House Bill (HB) 1298, proposes to authorize the director of finance to transfer the following amounts or so much thereof as may be necessary for fiscal year 2020-2021 from the Department of Public Safety (PSD) Special Funds to the general funds, including the Automated Victim Information and Notification System Special Fund. Thank you for the opportunity to provide testimony **opposing** this measure.

The SAVIN Governance Committee (SGC) was created to establish guidelines and standards for planning, managing, and operating a successful SAVIN Program. As the SGC Chairperson, I work closely with the Committee and the Department of Public Safety to increase public safety by ensuring that victims are given timely and accurate information that both enhances their ability to protect themselves and ensures they are able to fully participate in the criminal justice process if they so choose.

HRS §353-136(d) requires that the Statewide Automated Victim Information and Notification (SAVIN) Special Fund be used only for the SAVIN program, including operating expenses and salary of the SAVIN Coordinator. At the current level of annual revenue, the SAVIN program is sustainable and the fund can support the new contract and the SAVIN Coordinator position. The fund needs to be sustainable in the succeeding years to allow for a dedicated coordinator to monitor the system 24/7, ensuring that victims of crime are promptly notified of any changes in their perpetrator's custody. Without continuous funding, a disruption in the notifications, communication and connection to community service providers, system queries, follow-up on victim's inquiries and other related services will likely result in additional victimization of victims.

Thank you for providing me, on behalf of the SAVIN Governance Committee, the opportunity to testify in opposition to House Bill 1298.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813 Ph. (808) 586-8121 (V) • Fax (808) 586-8129

March 2, 2021

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

House Bill 1298 - Relating to State Funds

The Disability and Communication Access Board (DCAB) supports the intent of House Bill 1298 Relating to State Funds except as it pertains to DCAB's special fund. The bill identifies all of the money therein as the minimum amount in excess of the requirements of the fund. On the contrary, DCAB's special fund covers the operating costs of administering the entire DCAB program, which includes the staff positions that conduct fee based plan reviews of all plans and specifications for new construction and alteration of State and county buildings, facilities and sites per §103-50, Hawaii Revised Statutes.

DCAB's special fund offsets the impact of the reduction in general funds allocated to DCAB for its overall FB21-23 operations. The reduction in general funds most severely impacts the functions of the Disabled Persons Parking Program. Because of the pandemic shutdown, the related slowdown in construction projects is resulting in decreased revenue from plan review fees being deposited into DCAB's special fund. Thus, it is necessary to retain the minimum amount in excess of \$3,300,000 to support DCAB's FB21-23 operations, plan review staff and the Disabled Persons Parking Program.

Without the \$3,300,000, DCAB's reduced general fund biennium allocation cannot support the Disabled Persons Parking Program and there is no alternative source of funding.

Construction projects are expected to increase as the economy recovers from the pandemic. The increase in revenue from construction plan review fees will then balance DCAB's special fund that covers the cost of the plan review staff and that provides necessary funding support for the Disabled Persons Parking Program.

DCAB will cooperate with the Legislature as it navigates the State through the current fiscal crisis.

Thank you for the opportunity to provide testimony on this important matter.

Respectfully submitted,

KIRBY SHAW Executive Director

DAVID Y. IGE GOVERNOR



STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY 919 Ala Moana Boulevard, 4th Floor Honolulu, Hawaii 96814 MAX N. OTANI DIRECTOR

Maria C. Cook Deputy Director Administration

Tommy Johnson Deputy Director Corrections

Jordan Lowe Deputy Director Law Enforcement

No.

TESTIMONY ON HOUSE BILL 1298 RELATING TO STATE FUNDS. by Max N. Otani, Director

House Committee on Finance Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

Tuesday, March 2, 2021; 1:00 p.m. State Capitol, Conference Room 308 Via Videoconference

Chair Luke, Vice Chair Cullen, and Members of the Committee:

House Bill (HB) 1298 proposes to authorize the Director of Finance to transfer the following amounts or so much thereof as may be necessary for fiscal year 2020-2021 from the following Department of Public Safety (PSD) Special Funds to the General Fund:

(Account Code F-FY-ACCT	Fund Name	Minimum amount in excess of the requirements of the fund as determined by the legislature
(238)	S-18-323	Criminal injuries compensation spl fund	\$ 214,493.05
(239)	S-18-345	Federal reimb maximization special fund	\$ 220,504.55

The Department of Public Safety (PSD) respectfully opposes this measure for the following reasons:

Crime Victim Compensation Special Fund

This special fund account was established pursuant to Act 206, Session Laws of Hawaii (SLH) 1998, as the primary source of funding for the Crime Victim Compensation Commission. HB1298 would transfer the cash balance from this Special Fund for fiscal year 2021-2021 to the General Fund. Testimony on HB 1298 House Committee on Finance March 2, 2021 Page 2

The Crime Victim Compensation Special Fund provides important services to victims of violent crime and their survivors, including, assisting crime victims with medical and counseling costs, lost wages, and funeral and burial expenses. The Special Fund is used for the salaries of Legislatively authorized staff positions, compensation payments, operating expenses, and collection of fees. It also receives funds granted by the federal Victim of Crimes Act (VOCA), which provides the State a 60% reimbursement of compensation payments to victims.

The closure of the Judiciary during the COVID-19 pandemic has severely reduced the amount of fees collected, negatively impacting the Commission in its ability to fulfill its mandate of providing services to victims. The CVCC has substantially reduced its expenses and for the first time, has initiated a budget request for General Funds to supplement the Special Fund this session in order to continue operations in the first year of the 2021-2023 fiscal biennium. Transferring the cash balance identified in this bill will mean fewer resources in fiscal year 2020-2021, resulting in the abolishment of the CVCC.

Federal Reimbursement Maximization Special Fund (FRMSF)

The State Criminal Alien Assistance Program (SCAAP), which is the source of revenue for the FRMSF can only be used for Corrections program purposes. HRS §353C-7(b) details the allowable uses of this Special Fund. PSD uses this special fund primarily to continue funding the State Match for federal grants and pursue federal grants in the future. We have also used this fund to purchase much needed replacement corrections transport vehicles. Because there is no guarantee that Congress will continue funding the SCAAP, the Department must retain the existing cash balance to continue our commitment for State Matches for our federal grants and to augment resources for corrections.

Automated Victim Information and Notification System Special Fund HRS §353-136(d) requires that the Statewide Automated Victim Information and Notification (SAVIN) Special Fund be used only for the SAVIN Testimony on HB 1298 House Committee on Finance March 2, 2021 Page 3

program, including operating expenses and the salary of the SAVIN Coordinator. We currently have a budget request to make the SAVIN Coordinator position permanent to oversee the program.

The current cash balance reflects funds accumulated since the creation of the SAVIN Special Funs. We have informed the Department of Budget and Finance that \$500,000 from this Special Fund will not be needed and may be transferred out.

	Account		Minimum amount in excess of the
	Code		requirements of the fund as
	F-FY-ACCT	Fund Name	determined by the legislature
(240)	S-19-350	Auto victim info & notification sys sf	\$ 1,450,090.82

The fund needs to be sustainable in the succeeding years to allow for a dedicated coordinator to monitor the automated 24/7 SAVIN system, interface with other victim service providers and community partners, and staff the SAVIN Governance Committee, all of which function to ensure victims of crime are promptly notified of changes in their perpetrator's custody. Without continuous funding, the program will be severely disrupted, leading to breakdowns in the information flow and the increased unease of crime victims.

Thank you for the opportunity to present this testimony.

DAVID Y. IGE GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D. DIRECTOR OF HEALTH

STATE OF HAWAII DEPARTMENT OF HEALTH P. O. Box 3378 Honolulu, HI 96801-3378 doh.testimony@doh.hawaii.gov

Testimony COMMENTING on HB1298 RELATING TO STATE FUNDS.

REP. SYLVIA LUKE, CHAIR HOUSE COMMITTEE ON FINANCE

Hearing Date: March 2, 2021

Room Number: N/A

1 Department Testimony: The Department of Health (DOH) provides recommendations on

2 select special funds that balance a collective response to the current fiscal crisis and continuity of

3 critical public health programs.

4 <u>S-14-301 Emergency Medical Services Special Fund:</u> Strike from this measure and discuss as

5 part of comprehensive EMS reform under separate cover.

6 <u>S-18-302 Newborn Metabolic Screening Special Fund:</u> Strike from this measure due to the

7 nature of deposits, expenditures, and operational continuity. In the future, a revolving fund may

8 be considered.

<u>S-18-304 Hawaii Birth Defects Special Fund:</u> Strike from this measure due to negative cash
balance.

<u>S-17-305 Community Health Center Special Fund:</u> Transfer no more than \$10M of current
 balance to general fund for next fiscal year only.

1	S-17-306 Child & Adolescent Mental Health: Strike from this measure due to the nature of
2	deposits, expenditures, and operational continuity. Consider an additional minimum \$2.2M
3	deposit to this special fund due to its underfunding.
4	S-18_307 Drug Demand Reduction Assessments Sp Fd: Transfer no more than \$242,000 to the
5	general fund for next fiscal year only.
6	S-18-309 State Health Planning and Development Special Fund: Recommend striking from this
7	measures since the unemcumbered balance needed to back up annual special fund ceiling used to
8	offset operating expenditures, special projects and personnel costs. Further discussion on
9	possibility of transferring a portion to general fund for next fiscal year only.
10	S-18-310 Office of Health Care Assurance Spl Fnd: Strike from this measure due to the nature of
11	deposits, expenditures, and operational continuity.
12	S-14-311 Trauma System Special Fund: Strike from this measure and discuss as part of
13	comprehensive EMS reform under separate cover.
14	S-14-313 Deposit Beverage Container Deposit Sp Fd: Review offline and under separate cover.
15	DOH expresses serious concerns due to need for cash flow to reimburse redemption centers
16	when collections are expected to increase due to poor economic conditions.
17	S-18-314 Neurotrauma Special Fund: Transfer no more than \$400,000 to the general fund for
18	next fiscal year only.
<u>S-19-315 Environmental Health Administration</u>: Convert position dollar-for-dollar from special
 fund to general fund.

3 <u>S-20-318 Communicable Disease & Pub Health Nursing:</u> Repeal.

<u>S-18-319 Electronic Device Recycling Fund:</u> Discuss offline to further review the involvement
of state agencies in this function.

6 <u>S-18-321 Domestic Violence & Sexual Assault Sp Fd:</u> Strike from this measure and consider
7 transfer of funding for the Sex Abuse Treatment Center.

<u>S-18-322 Noise, Radiation, & Indoor Air Quality SF:</u> Convert cash balance dollar-for-dollar
from special fund to general fund and consider repeal. Insufficient funding will decrease the
department's ability to protect human health and the environment from hazardous sources of
radiation and excessive noise in the community, and ensure indoor health through proper design,
installation, and maintenance of air conditioning and ventilation systems statewide.

S-18-323 Asbestos & Lead Abatement Special Fund: Convert positions dollar-for-dollar from
special fund to general fund and consider repeal. Insufficient funding will negatively impact
operations including the ability to ensure hazard management of asbestos and lead-based paint in
school, commercial, industrial, and public buildings as well as accredit training providers and
certify all individuals involved in hazard abatement, inspection, and design statewide.
S-18-369 Early Intervention Special Fund: Strike from this measure due to the nature of deposits,

19 expenditures, and operational continuity.

<u>S-18-332 Health Resources Administration:</u> Follow up necessary for more comprehensive
 review.

3 <u>S-20-333 Exec Ofc on Aging Adm Claim Special Fd:</u> Strike from this measure due to federal
4 funds drawdown.

S-18-334 Disability & Comm Access Board: The Disability and Communication Access Board 5 (DCAB) requests a minimum starting cash balance of \$3,300,000 to assure continuity of State 6 7 and county building, facility, and site construction plan reviews to comply with the Americans with Disabilities Act Accessibility Guidelines and Federal Fair Housing Amendments Act. The 8 9 minimum cash balance offsets the reduction in general funds allocated to DCAB that impacts the overall DCAB program, and most heavily the Disabled Persons Parking Program for more than 10 100,000 Hawaii residents with disabilities to obtain a disabled parking permit. 11 S-15-335 Hawaii Tobacco Settlement Special Fund: Review debt service expenditure and other 12 components offline. 13 S-18-336 Wastewater Treatment Certi Board Spl Fnd: Propose dollar-for-dollar conversion from 14 special funds to general funds in the program base budget. Further review involvement of state 15 agencies in this function offline. 16

<u>S-18-337 Hawaii Organ & Tissue Education Spcl Fund:</u> Follow up research required due to the
 voluntary donation source of funding.

<u>S-19-338 Vital Statistics Improvement Spcl Fd:</u> Strike from this measure due to the nature of
 deposits, expenditures, and operational continuity.

1	S-16-340 Environmental Hth Pgm Enhance/Educate Fd: Follow up discussion required. Funding
2	is critical to prevent, mitigate, or stop potential and actual disease outbreaks including the current
3	pandemic. Program staff confront violators of COVID-19 proclamations, HRS, and HAR to
4	reduce the risk to the public of being infected with communicable diseases such as COVID-19,
5	provide enforcement with and assists the Disease Outbreak Control Division in enforcing HAR
6	to obtain contact tracing and other pertinent information needed to halt or mitigate disease
7	outbreaks, protect the public from foodborne and waterborne diseases at restaurants and public
8	swimming pools and even tattooing.
9	S-20-345 Medical Cannabis Registry Special Fund: Strike from this measure due to the nature of
10	deposits, expenditures, and operational continuity.
11	S-17-346 Mental Health & Substance Abuse Spcl Fd: Extend current ceiling of \$23M for fiscal
12	biennium.
13	S-20-347 Dev Disability Medicaid Waiver Adm Claim Fd: Strike from this measure due to
14	federal funds draw down.
15	S-18-348 Environmental Management Special Fund: Propose dollar-for-dollar conversation of
16	positions from special fund to general fund and to sustain certain functions at the state level.
17	Further review involvement of state agencies in certain function offline. Insufficient resources
18	will impact the State's update and implementation of the Integrated Solid Waste Management
19	Plan and promotion of recycling and source reduction. The department will continue to work
±.)	i fun ana promotion of recycling and bource reduction. The department will continue to work

1	with the Legislature on the amount of the special fund cash balance that would need to be
2	converted to general funds.
3	S-17-349 Clean Air Special Fund: Strike from this measure to comply with federal law.
4	S-17-364 Medical Marijuana Registry Special Fund: Strike from this measure due to the nature
5	of deposits, expenditures, and operational continuity. Review all medical cannabis funds more
6	comprehensively.
7	S-16-369 Home Visitation Program: Repeal due to zero cash balance and lack of use for
8	approximately ten years.
9	S-18-374 Civil Monetary Penalty Special Fund: Strike from this measure to comply with federal
10	law.
11	S-18-388 Dietitian Licensure Special Fund: Repeal and transfer cash balance to the general fund.
12	S-17-397 Medical Marijuana Registry & Reg Spec Fd: Strike from this measure due to the nature
13	of deposits, expenditures, and operational continuity. Review all medical cannabis funds more
14	comprehensively.
15	Thank you for the opportunity to testify.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813 Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804 Telephone: Fax: Web: (808) 587-3807 (808) 586-2536 energy.hawaii.gov

Testimony of SCOTT J. GLENN, Chief Energy Officer

before the HOUSE COMMITTEE ON FINANCE

Tuesday, March 2, 2021 1:00 PM State Capitol, Conference Room 308 via videoconference

In consideration of HB 1298 RELATING TO STATE FUNDS.

Chair Luke, Vice Chair Cullen and Members of the Committee, the Hawaii State Energy Office (HSEO) **offers comments** on HB 1298, which authorizes the Director of Finance to transfer unencumbered balances of various non-general funds as of December 31, 2020 to the general fund, including HSEO's Energy Security Special Fund (ESSF).

The ESSF was established in 2008 to provide additional resources for the energy initiatives to carry out Hawaii's long-term energy strategy in order to secure a sustainable energy future for Hawaii. The ESSF cash balance as of January 31, 2021, is \$3,546,686. Currently, the ESSF, pursuant to Section 201-12.8(b), Hawaii Revised Statutes, may only be expended by HSEO for the following purposes through legislative appropriation:

"(1) To support the Hawaii clean energy initiative program and projects that promote and advance dependable and affordable energy, renewable energy, energy efficiency, energy self-sufficiency, and greater energy security and resiliency for the State and public facilities;

(2) To fund, to the extent possible, the climate change mitigation and adaptation commission and the greenhouse gas sequestration task force;

DAVID Y. IGE GOVERNOR

SCOTT J. GLENN

CHIEF ENERGY OFFICER

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(3) To support achieving the zero emissions clean economy target set forth in section 225P-5;

(4) To fund the building energy efficiency revolving loan fund established in section 201-20;

(5) To fund projects and incentives to promote the adoption of clean transportation technologies, develop clean vehicle charging infrastructure, and upgrade infrastructure to support the development of clean vehicle charging infrastructure; and

(6) To fund, to the extent possible, the duties of the state building code council in section 107-24, as they relate to the development of energy conservation codes."

While all of these uses are necessary for achieving the state's energy and climate goals, the energy security and resiliency uses are unique in nature and not as easily substituted for with general fund appropriations.

The Executive Biennium Budget proposes an expenditure ceiling for the ESSF to address priority areas of HSEO's mission which cannot be supported by HSEO's existing General Fund appropriation: to provide funds to leverage federal grant funding for energy security, resiliency, and other critical energy activities; to continue the electric vehicle (EV) charging system rebate program created by Act 142, Session Laws of Hawaii 2019; to continue paying Special Fund Assessments; and to convert some of the General-funded positions to Special Funds.

HSEO's pursuit of federal funding to supplement its state-funded activities requires an ESSF expenditure ceiling because most federal funding opportunities require non-federal cost match of up to 30 percent and/or working capital. HSEO has been recently awarded an Advanced Assistance subgrant from the Federal Emergency Management Agency (FEMA) through the Hawaii Emergency Management Agency (HiEMA) in which HSEO will be required to expend \$800,000 then request reimbursement for up to 75% of eligible project costs. HSEO plans to contribute up to \$200,000 of project personnel costs as cost match; however, the recent and proposed Hawaii State Energy Office Testimony HB1298 – Relating to State Funds – Comments March 2, 2021

reductions in staff positions further limit HSEO's ability to contribute cost-match for competitive federal grants. An ESSF expenditure ceiling of \$600,000 is needed in Fiscal Year 2022 to provide working capital to contract for the development of prioritized energy mitigation strategies for critical Oahu facilities to help Oahu communities become more energy resilient to hazards. Expenditures from the ESSF would then be reimbursable with federal funds from HiEMA. Without the upfront expenditure of ESSF monies, HSEO risks not receiving the federal contribution of \$600,000 and consequently makes Hawaii less competitive for future rounds of federal funding for disaster preparedness regarding energy security and resiliency, such as with FEMA's approximately \$1 billion Building Resilient Infrastructure and Communities (BRIC) competitive grants, for which Advanced Assistance grants are heavily factored in its evaluation criteria.

The EV charging system rebate program supports one of the Legislature's directed purposes for HSEO, to promote clean transportation alternatives, by incentivizing the installation or upgrade of EV charging systems needed to facilitate the State's transition of its ground transportation to clean transportation alternatives. ESSF monies were transferred to the Public Utilities Commission in Fiscal Years 2020 and 2021, in the amounts of \$150,000 and \$250,000 respectively, to administer the program. As of December 31, 2020, \$140,500 in rebates have been given, with an additional \$178,500 in rebates committed and an additional \$80,000 in rebates in the pipeline.

The conversion of ten staff positions from General Funds to the ESSF is also included in the Executive Biennium Budget. These conversions are intended to reduce the burden on the General Fund by shifting personnel costs to Special Funds at a level that can be sustained by the anticipated annual revenue into the ESSF from the Barrel Tax.

Transferring more than \$2,363,487 from the ESSF to the General Fund would adversely impact priorities in the Executive Biennium Budget and constrain HSEO in

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conducting programs and activities to guide Hawaii's transition to a resilient, clean energy economy. HSEO could potentially forfeit \$600,000 of federal funds if a sufficient ESSF cash balance is not retained and a corresponding appropriation ceiling is not authorized.

Thank you for the opportunity to testify.

DAVID Y. IGE GOVERNOR



RYKER WADA DIRECTOR

ANDREW T. GARRETT DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT 235 S. BERETANIA STREET HONOLULU, HAWAII 96813-2437

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

For Hearing on Tuesday, March 2, 2021 1:00 p.m., Conference Room 306

ΒY

RYKER WADA DIRECTOR

House Bill No. 1298 Relating to State Funds

CHAIR LUKE, VICE CHAIR CULLEN AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE:

The purpose of House Bill No. 1298 is to trigger a full accounting of various non-general funded program objectives, performance, and results by transferring all unencumbered balances as of December 31, 2020 to the general fund.

The Department of Human Resources Development (DHRD) stands in strong **OPPOSITION** to this bill as it relates to the Human Resources Development Special Fund. The purpose of this fund is to support the department's entrepreneurial initiatives, training activities, and programs. Revenues come from fees assessed for services provided under entrepreneurial initiatives, participant fees for in-service training programs, and moneys directed to the department from other sources such as gifts, grants, and awards.

Most of the fund's revenues come from fees assessed for services under entrepreneurial initiatives. This includes claims management fees to administer workers' compensation claims for the Charter Schools (pursuant to Section 302D-27, Hawaii Revised Statute) and the Hawaii Public Housing Authority (HPHA); and administrative fees for the administration of the Premium Conversion Plan and Island Flex Flexible Spending Accounts Plan for employees of the Hawaii Health Systems Corporation (HHSC), the Judiciary, and Office of Hawaiian Affairs (OHA). Fees assessed for services are based on annual memorandum of agreements with the HPHA,

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HHSC, Judiciary, and OHA that can be terminated by either party at any time. Only the fee assessed to administer workers' compensation claims for the Charter Schools is set by statute. Because special funds must demonstrate the capacity to be financially self-sustaining, the fund's cash balance must be sufficient to cover current operational costs, anticipated future needs, and delays and/or loss in revenue stream when State agencies encounter budget restrictions/shortfalls. This occurred in the past and resulted in one to three-year delays in revenue collection.

DHRD's Employee Claims Division, which administers the State's centralized, selfinsured worker's compensation program, is dependent upon the special fund for its operating expenses (office supplies, equipment leases, repair/maintenance costs, subscriptions for reference material, training, etc.). The division has been working to build sufficient reserves to purchase a new workers' compensation claims management system that includes digital and paperless claims management features. Cost for the system is estimated at \$700,000, with annual maintenance starting at about \$40,000. Reserves are also required for IT consultant services if ETS is not able to provide the technical support to implement the new system. If the cash balance from the special fund is transferred to the general fund, then a general fund appropriation will be required.

DHRD's Employee Assistance Office (EAO) is responsible for the development and administration of statewide employee benefit programs, which include pre-tax benefit programs (e.g., flexible spending accounts plan, premium conversion plan), REACH (Resource for Employee Assistance and Counseling Help) program, and Incentive and Service Awards program. The special fund is used for open enrollment activities and administrative rule changes, subscriptions to assist staff in administering cafeteria plans, REACH contract, and the Governor's awards. To address the challenges of ensuring the State's pre-tax benefit programs are compliant with applicable rules, regulations, and tax codes, the EAO planned to use the special fund to procure the services of a benefits/tax consultant.

Transferring the special fund balance will adversely impact the department's ability to ensure our benefit plans are compliant and expose the State to the risk of penalties and/or disqualification of the benefit plan. If employees are not able to participate in pre-tax benefit programs, then they will not be able to reduce their gross taxable wages. As a result, both the employees and State (as the employer) will have to pay more in social security taxes. In FY 2020, the increase to the State would have been \$9.8 million. Transfer of special funds will also result in the suspension of the REACH program, which provides confidential, short-term

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counseling services to employees of the Executive branch who may be experiencing personal problems that are affecting their job performance. This would be a huge loss, as the program has proved to be extremely valuable for the State, especially in dealing with crisis situations.

DHRD's Training Office is responsible for administering the State human resources development and training program. The special fund is used to provide leadership and team building training for employees in the Executive branch, procure services to add closed-captioning to training material we create, and training for staff to keep on top of system updates and trends. If special funds are transferred, the Training Office will not have the ability to address unforeseen situations that arise in support of the training program, provide curriculum in areas where it lacks specific expertise, and purchase assessments that are necessary for classes it facilitates.

We are aware of the challenges ahead and remain committed to work with the Legislature to seek solutions that effectively balance short and long-term priorities.

Thank you for the opportunity to provide testimony in opposition to this measure.

DAVID Y. IGE GOVERNOR





STATE OF HAWAI'I DEPARTMENT OF EDUCATION McKINLEY COMMUNITY SCHOOL FOR ADULTS

634 PENSACOLA STREET, ROOM 216 HONOLULU, HAWAII 96814

Telephone: (808) 594-0540 FAX: (808) 594-0544

February 28, 2021

Testimony in Opposition of HB 1298

Measure Title: Relating to State Funds Report Title: DAGS; DOA; BUF; DBEDT; DCCA; DOD; DOE; DHHL; DOH; DHRD; DHS; JUD; DLIR; DLNR; OHA; AF; Governor; PSD; DoTax; DOT; UH; Special Funds; Non-general Funds; Excess Balances

McKinley Community School for Adults **OPPOSES** the Bill to transfer to the general funds the unencumbered balances of various non-general funds of the Department of Education.

- According to the Hawaii Revised Statutes (302A-435) Financing Adult and Community Education program, the financial support of this program shall be in part from fees collected from students enrolled, and in part from public funds appropriated for this purpose. Fees shall be set in accordance with the recommendations of the Advisory Council, and may be collected from students regularly enrolled;
- 2. An enrollment fee of \$20 is collected from students and deposited into the only available Special Funds account . This revolving account is utilized to collect funds from our students to partially cover the cost of their education.
- 3. Students seek a better future for themselves by contributing and minimally investing in their own education. The charge of a nominal enrollment fee of \$20, encourages students to become vested in the cost of their education which can lead to increased employment opportunities, reduction in public assistance, and positive long-term outcomes for adults that correlate with a positive impact on many socio-economic issues affecting Hawaii. Also, attendance of students is found to be more regular with a vested nominal fee charged.
- 4. With the on-going pandemic, funds are extremely limited or substantially reduced. Any funds collected from enrolled adult education students contribute towards their education and are definitely beneficial to the school, the DOE, and the State of Hawaii.

Anger

Helen H. Sanpei, Principal

Lance Jyo, Vice Principal, Moanalua and Kauai Campus

Kurt Ginoza, Vice Principal Maui Campus

Michele Fukumoto, Farrington Campus

Mark Nakamura, Vice Principal McKinley Campus

DAVID Y. IGE GOVERNOR OF HAWAII





SUZANNE D. CASE CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

> POST OFFICE BOX 621 HONOLULU, HAWAII 96809

Testimony of SUZANNE D. CASE Chairperson

Before the House Committee on FINANCE

Tuesday, March 2, 2021 1:00 PM State Capitol, Via Videoconference, Conference Room 306

In consideration of HOUSE BILL 1298 RELATING TO STATE FUNDS

House Bill 1298 (HB1298) proposes to transfer the unencumbered balances of various non-general funds to the general fund. The Department of Land and Natural Resources (Department) opposes this measure for the reasons stated below.

S-302-C Conservation & Resources Enforcement

Purpose: The Conservation & Resources Enforcement (DOCARE) Special Fund was administratively established to receive funds from the Boating Special Fund to fund marine patrol responsibilities that were transferred from the Department of Public Safety to DOCARE.

Impact: Expenditures will need to be absorbed by the General Fund which will impact other critical Division priorities.

S-303-C Water and Land Development

Purpose: Operating special fund for geothermal/mineral resource management responsibilities and address public safety related to rockfalls or slope movement on lands under the jurisdiction of the Department.

Impact: Program will be unable to perform geothermal/ mineral resource management responsibilities to protect public safety and ensure the viability of the resource for future generations, and address public safety related to rockfalls or slope movement on lands under the Department jurisdiction.

AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONVEYANCES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND COASTAL LANDS FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS

<u>S-305-C Parks Administration and Operation</u>

Purpose: The Transient Accommodations Tax (TAT) funding was authorized by the legislature in 2003 and then in 2005. Legislation was passed that allocated 1 million dollars of the TAT to the Department for State Parks (900k) and Na Ala Hele Trails and Access Program (100k) in recognition of the critical nexus of these resources and the tourism industry. Over the ensuing 16 years there has been several legislative measures and statutory amendments to the allocation of the TAT to the Department – for deposit into the Special Land Development Fund (SLDF) and then disbursed to various divisions within the Department. For the past several budget cycles, the 3 million currently allocated to the Department has been used by State Parks, Office of Conservation and Coastal Lands and the Division of Conservation and Resources Enforcement.

Impact: State Parks will discontinue contracting with the Counties for lifeguard services.

<u>S-306-C Na Ala Hele Program</u>

Purpose: This fund was administratively established to account for the collection of the Highway Fuel Tax collected under Chapter 243, Hawaii Revised Statutes (HRS), Contributions, Fees, etc., to implement the Hawaii Statewide Trail and Access Program (Na Ala Hele).

Impact: The S-306-C funding source is derived from 0.3% of the State Fuels Tax that goes to the Na Ala Hele Trails Program. The funding source goes directly to three Na Ala Hele Trails Technicians personnel cost. The balance is used to make up for LNR804 general fund salary shortfall. Any deduction or loss of this funding would leave a salary shortfall, leaving no other funding source to pay for personnel. LNR 804 is under-funded and uses S-306 to make up the difference.

<u>S-308-C LNR - Natural and Physical Environment</u>

Purpose: The fund was established to account for the statewide allocated risk management costs and serves as the operating account for admin positions, Civil Resource Violations System (CRVS) operation costs (case management costs), APO operations (including contested case hearing costs), outreach and education costs, and community enforcement activities.

Impact: With the expected revenue trending lower and expenditure level being steady, the balance needs to be maintained to provide for special funded positions. The impact if funds were transferred to the general funds are: (1) potential layoff for all essential special funded positions, (2) limit the Department's initiatives and other program operational requirements (i.e. contested case-related expenses and other protection, management, operational or maintenance function), thus adversely impacting our ability to fulfill our mission.

S-309-C Bureau of Conveyances Special Fund

Purpose: To support the mission of the Bureau of Conveyances (BOC) which is to serve and protect the public by providing for an accurate, timely, and permanent system of recording, maintaining, preserving and secure accessibility to all documents dealing with real property, Uniform Commercial Code (UCC) forms and maps for the State of Hawaii. This will include but is not limited to the planning, design, construction and acquisition of equipment, furnishings, software and addition of permanent and temporary staffing necessary for the daily operations, administration and continued improvement of the Bureau of Conveyance recording office.

Impact: Transferring an amount exceeding the unrequired cash balance for the BOC will adversely impact the BOC's ability to fulfill its mission, serve the public and result in lasting, adverse effects on the critical \$40B+ real estate economic driver for the State of Hawaii. Besides supporting the daily operations and staffing, BOC's special fund has allowed for the pursuit of long overdue projects focused on maintaining, archiving, and preserving the vital land title records and maps that are recorded with the BOC. While the BOC is currently in the midst of two of these critical projects which will enhance the services provided to the public (digitization of all records and the implementation of a new land records management system), there is still much work to be completed including establishing a critical disaster recovery plan as well as the restoration and preservation of the records in BOC's care which maintain great historical and cultural value to the State of Hawaii.

S-312-C State Parks Special Fund

Purpose: The State Parks Special Fund was established under HRS Chapter 184 and include all proceeds collected by the State Parks programs involving park user fees, leases or concession agreements, the sale of any article purchased from the Department to benefit the state parks programs, or any gifts or contributions. The statutory mandate on expending the monies is for the following purposes: (1) Permanent and temporary staff positions (now funded by general funds; (2) Planning and development of state parks programs; (3) Construction, repairs, replacement, additions, and extensions of state parks facilities; (4) Operation and maintenance costs of state parks and state parks programs; and (5) Administrative costs of the division of State Parks. Additionally, within the State Parks Special Fund, there is a Diamond Head State Monument sub-account, into which shall be deposited fifty-five per cent of all proceeds collected from the admission fees charged at the Diamond Head State Monument, which will be used for repair, maintenance, and operating costs incurred.

Impact: One of the impacts that has been averted is that the Legislature converted 48 positions from special to general funds in FY20. This is a significant change in MOF which supported 48 staff positions. State Parks has a set of relatively fixed costs associated with operating the Hawaii State Parks System that include but are not limited to: vehicle fuel and oil, electricity, water, sewer, refuse collection, comfort station and portable toilet pumping and service, other utilities, hazard tree trimming and removal, janitorial supplies, rental of equipment, safety equipment, office and computer supplies and equipment, travel parking costs, travel per diem and helicopter cost for overnight work in remote wilderness parks. The fluctuating costs that occur are associated with repair and maintenance of park infrastructure and facilities (non-CIP) due to deferred maintenance and vandalism, and the repair of equipment and vehicles (State Parks has an aging fleet of vehicles purchased through State surplus). The revenue that is generated from fees and deposited into the special fund allows for the increased spending flexibility to address these variable and unbudgeted costs. In addition, to advance Hawaii's State Parks System with enhanced management and improvements, the anticipated revenue coupled with a ceiling increase would allow State Parks to plan for and address a variety of innovative and value-added park and management improvements. The elimination of S-312 would have an impact on how State Parks negotiates leases, concessions, and other contracted means of collecting current and future revenue. There may be a need to redefine the public and private partnerships to transfer greater management costs to the vendor in lieu of fee collection, if this is legally tenable or practical due to private sector skill and interest, union contracts and procurement requirements, etc. As revenue would not be available to offset current and projected deficiencies associated with general fund reductions to operational fund allocations, State Parks management will be as its been for decades – underfunded to address such actions as: deferred R&M, expand service and maintenance to underserviced park units and infrastructure, campgrounds, comfort stations and adding waste management units in areas where there are no comfort stations due to lack of utilities but increased demand (vault toilets), trails, roadways, and raw acreage currently underserviced.

<u>S-313-C Fisheries Management</u>

Purpose: This fund shall be used for programs and activities for projects concerning aquatic life used for commercial purposes such as developing and conducting resource monitoring programs, conducting studies to determine the sustainable use of aquatic life and developing recommendations for acceptable levels of use, research programs and activities concerning the conservation and management of aquatic life for commercial purposes, programs and activities concerning the importation and management, preservation, propagation, enforcement, and protection of aquatic life used for commercial purposes, and payroll for personnel of the Department or the awarding of grants-in-aid to or contracts with the University of Hawaii or other qualified organizations or individuals to develop or implement the programs and activities for the conservation and management of aquatic life for commercial purposes.

Impact: The impact of the fund being eliminated would be the loss of the only funding source of two permanent civil service licensing staff and the match and partial funding of 10 contractual staff collecting and collating data from shoreline fishing mainly on the neighbor islands. In addition, funds are used for support of the online commercial fisheries licensing system, supplies and equipment for the commercial fishing licensing and statistical units, enforcement needs and special research or management studies on commercial and important fish species.

The impact of these funds transferred to the State's general funds could result in the lack of available monies needed at the start of the new fiscal year for the first quarter salaries and fringe cost of two civil service staff (\$25,000) and a maximum of \$200,000 match for a contract of a fishing survey project involving 10 contract hires as there is no guarantee commercial marine fishing license revenue will continue to be collected near similar amounts annually due to the continued legal actions attempting to close Hawaii's longline fleet whose catches include several endangered and threaten marine species.

S-314-C Native Resources and Fire Protection Program

Purpose: This fund was administratively established to receive funds from the Special Land and Development Fund to develop a rapid response capacity within the Department to address invasive species on public lands.

Impact: None. This account was closed per Act 84, SLH 2015.

S-315-C Public Land Trust Inventory & Info Sys

Purpose: To finance the development of a comprehensive public land trust information system to inventory and maintain information about the lands of the public land trust.

Impact: None. Established by Act 54, SLH 2011, and valid for two fiscal years ending June 30, 2013.

S-316-C Special Land Development Fund

Purpose: For the planning, development, management, operations, or maintenance of all lands (including submerged lands) under the control and management of the Board of Land and Natural Resources (BLNR), including but not limited to staff positions. See Attachment 20210209 HB1298 and HB1299 SLDF LAND.

Impact: The Department would not be able to implement the projects and programs described in Attachment 20210209 HB1298 and HB1299 SLDF LAND.

S-317-C Land Conservation Fund

Purpose: (1) The acquisition of interests or rights in land having value as a resource to the State; (2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; (3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year; and (4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands.

Impact: Adverse impacts on base budgets that include payroll for two staff positions; administration costs; existing and pending contracts (funds from FY 2014 and FY 2017-2021) for land acquisition with counties and nonprofit land conservation organizations; FY 2022 and FY 2023 grants for land acquisition by State agencies, counties, and nonprofit land conservation organizations (from base budget), including required debt service payments for Turtle Bay reimbursable general obligation bonds.

S-318-C Maintenance of Public Lands

Purpose: For the planning, development, management, operations, or maintenance of all lands (including submerged lands) under the control and management of the Board of Land and Natural Resources (BLNR), including but not limited to staff positions. See also, Attachment 20210209 HB1298 and HB1299 SLDF LAND.

Impact: The Department would not be able to implement the projects and programs described in Attachment 20210209 HB1298 and HB1299 SLDF LAND.

<u>S-319-C State Historic Preservation Division (SHPD) - SLDF</u>

Purpose: Act 53, SLH 2018 authorized the funds that included: (a) \$200,000 for procuring archaeological services to assist in reducing the backlog of permits, submittals, and reports requiring review and determination by SHPD; (b) \$100,000 for the procurement of legal services to assist in the review and revision of SHPD's administrative rules.

Impact: In fiscal year 2020, SHPD encumbered two contracts under the SHPD – SLDF Special Fund. The first was an archaeological services contract for \$199,986 with an end date of 12/2021, and a \$99,000 legal services contract with the University of Hawaii, Richardson Law School with

an end date of 08/2021. Thus, any special fund residual balance at the end of a fiscal year will allow SHPD to procure additional archaeological services to reduce the backlog of reviews and meet the timeframes established in accordance with its administrative rules.

S-321-C Hawaii Historic Preservation Special Fund

Purpose: §6E-16 Hawaii historic preservation special fund. (a) There is established a Hawaii Historic Preservation Special Fund into which shall be deposited the following moneys: (1) Appropriations by the legislature to the special fund; (2) Gifts, donations, and grants from public agencies and private persons; and (3) All proceeds collected by the department derived from historic preserve user fees, historic preserve leases or concession fees, fees charged to carry out the purposes of this chapter, or the sale of goods. All interest earned or accrued on moneys deposited in the fund shall become part of the fund. The fund shall be administered by the Department; provided that the Department may contract with a public or private agency to provide the day-to-day management of the fund. (b) The Department may expend moneys from the fund to replenish goods, to produce public information materials, and to provide financial assistance to public agencies and private agencies in accordance with Chapter 42D involved in historic preservation activities other than those covered by Section 6E-9. (c) The Department shall adopt rules in accordance with Chapter 91 for the purposes of this section.

Impact: The transferring of unencumbered balances from the Hawaii Historic Preservation (HHP) Special Fund would have a severe impact on the State Historic Preservation Division's (SHPD) daily operations. SHPD's general fund budget is allocated 89% for payroll, 11% for other operating expenses. SHPD is critically dependent on its special funds to pay for its operating expenses. In Fiscal Year 2020, the HHP Special Fund paid out \$92,418 in operating or other current expenditures, including \$28,108 in telephone, Wi-Fi connectivity and mobile phones for field work, rental of land and buildings, \$12,027, rentals of copy machines for all units, \$10,857. These expenditures represented approximately 18% SHPD's operating budget. In addition, revenue from various permit, submittal and report review fees are the primary source of income for the fund. This fluctuates greatly with the economic environment at the time. Therefore, having a positive fund balance from a previous year which resulted from a large volume of reviews and fees often supplements the years in which the economic environment has slowed as operating expenditure remain the same. Looking forward with the Hawaii Cultural Resource Information System (HICRIS) now in operation, SHPD will be adding another \$40,000 annually in the form of a technical services and maintenance expenditures to support the IT functionality of the HICRIS system. This system now administers all requests for review under HRS, 6E and section 106 of the National Historic Preservation Act of 1966 as amended, or approximately 2500 annually. Therefore, it is incumbent upon SHPD to ensure that HICRIS is fully functional and that the special fund balance is sufficient.

S-323-C Prevention of Natural Disasters

Purpose: Operating special fund for LNR 810 program for expenses related to flood control and dam safety activities

Impact: Program will be unable to meet payroll requirements or perform dam safety and flood control responsibilities. May jeopardize State's good standing with NFIP program, availability of

flood insurance, availability of residential/commercial federally backed mortgages in special flood hazard areas, and eligibility to receive federal disaster funding.

<u>S-325-C Beach Restoration Special Fund</u>

Purpose: The Beach Restoration Special Fund (BRSF) was created in 1999 via Act 84. The purpose of the Act was to combat the loss of our beaches by establishing a revenue source for beach restoration projects.

Impact: Current spending ceiling is \$1M and there is an approximate unencumbered balance of \$2.5M. If the fund is swept, the impact will be severe. Without TAT, we expect a total cumulative income of between \$400K-600K from seawall easements over the next three years, which is insufficient, as our projected expenses over the next three years are about \$2.8M. The result is that we will be unable to maintain our commitments to beach protection and restoration statewide as our relationship with UH Sea Grant, and other partners such as USACE, OMPO, and the Counties will have to end due to lack of funds. In short, the coastal lands program of the Office of Conservation and Coastal Lands will become dormant and there will be little, if any staff support for Waikiki and Kaanapali beach projects. Beach and shoreline erosion management will be very challenging going forward.

S-326-C Water Resource Management Fund

Purpose: Provides supplemental financial assistance to Commission on Water Resource Management (Commission) in order to carry out the mandates of the State Water Code to protect Hawai`i's water resources and provide for maximum beneficial use of water for present and future generations protect. Allows revenues generated by the Commission to be used for activities to carry out these mandates.

Impact: The Commission will use the remaining balance of its spending ceiling to pay for four pending contested case hearings filed by: (1) Ho'opulapula Na Wai O Puna and James Torio, (2) Wailuku Water Company, LLC., (3) John and Linda Hayama, Structural Systems Hawaii, Inc., and HH Constructions Inc., (4) Ahonui HomesteadAssociation, Department of Hawaiian Home Lands, and Mahina Poepoe, and (5) Protect Mokule'ia Hui, which are expected to begin in FY21. The remaining cash balance at the end of FY21 carried over to FY22 is needed to continue implementing priority actions the Commission's Water Resource Protection Plan. Funds from S-326 are often used as non-federal cost-share to leverage federal funding, e.g., water resource investigations by U.S. Geological Survey.

<u>S-328-C Dam and Reservoir Safety Special Fund</u>

Purpose: Provide funding to reduce the risk of flooding to public safety and property from the failure of dams.

Impact: Program will be unable to meet existing contractual obligations or perform dam safety responsibilities to protect public safety from high hazard dams.

<u>S-341-C Ecosystem Protection and Restoration</u>

Purpose: To support a special funded position mistakenly transferred to LNR401 which does not have a special fund account.

Impact: Monies collected from the sales of commercial marine fishing licenses should be used to support the activities and programs of commercial fishermen.

<u>S-342-C Natural Area Reserve Fund</u>

Purpose: Implement the purposes of Chapter 195-9, Hawaii Revised Statutes, including the identification, establishment, and management of natural area reserves, the acquisition of private lands for new natural area reserves, the operation of the heritage program, and the provision of matching funds for the natural area partnership program.

Impact: The Department has begun collecting revenues from visitor parking fees at the 'Ahihi Kina'u Natural Area Reserve. Pursuant to HAR 13-209-5.6 (c) these fees are deposited into the Natural Area Reserve Special Fund. An extensive community planning and consultation process recommended the fees to manage the Reserve which is the third most popular outdoor site on Maui and overwhelmed by human use and subsequent impacts. During the public hearings on the fees, it was communicated that the funding would be deposited in S-342 to directly fund the management of this and other natural area reserves on Maui. Abolishing the Natural Area Reserve Fund would diminish NARS funding, and erode community trust about use of fees going forward. It also would discourage the Department from pursuing other innovative funding options to raise revenues.

<u>S-347-C Forest Stewardship Fund</u>

Purpose: The purpose of the fund is to support the Forest Stewardship Program and collect forest product revenue to use for: 1) replanting, managing, and maintaining timber management areas, 2) enhancing forest reserves with focus on koa forest management, and 3) developing environmental education and training programs.

Impact: The Forest Stewardship Special Fund is now primarily used to support the management of the forest reserve system and sustain forest product revenues. As revenue from forest production is extractive, it often requires reinvestment to sustain the product (replanting trees, collecting seeds for production, maintaining remote access to sites, mitigating environmental impacts). Without access to the revenues generated to reinvest in the product, the forest reserve system would not be able to continue to support use of natural resources for this purpose, due to funding limitations and long-term environmental impacts to the forest. There are no funds above the authorized spending ceiling for this account and all authorized funds have been allocated for FY21.

<u>S-348-C Sport Fish Special Fund</u>

Purpose: The Sport Fish Special Fund was established by Chapter 187A-9.5 in 1993 whereby moneys mainly collected as fees for sport fishing licenses and permits are deposited into the fund. Expenditures from the Sport Fish Special Fund shall be limited to programs and activities to implement Title 12, Subtitle 5, including the provision of state funds to match federal grants under the Federal Aid in Sport Fish Restoration Act, for acquisition of the use, development, or maintenance of trails and accessways into public fishing areas, fishery management areas, marine

life conservation districts, or private lands where public sport fishing is authorized, and for research programs and activities concerning sport fish conservation and management. Research programs and activities conducted by personnel of the department or through grants-in-aid to or contracts with the University of Hawaii or other qualified organizations or individuals. The proceeds of the Sport Fish Special Fund shall not be used as security for or pledged to the payment of principal or interest on, any bonds or instruments of indebtedness. The Department may use moneys in the Sport Fish Special Fund for the importation into, and the management, preservation, propagation, enforcement, and protection of sport fishes in, the State; provided that the Department, prior to authorizing expenditures or expending funds from the Sport Fish Special Funds to maximize the State's participation to secure federal funds under the Federal Aid in Sport Fish Restoration Act as amended. It should be noted the State is required to have (and does have) legislation that prevents diversion of fishing license fees from the control of the state's fisheries agency. The use of license fee "is limited to functions required to manage the agency and the fish resources for which the agency has authority under state law."

Impact: Diversion of any amount from the Sportfish Special Fund would cause the State to be ineligible to receive funding from the Sport Fish Restoration Program, resulting in a loss of more than \$3 million per year in federal funds.

S-349-C Conservation and Resources Enforcement

Purpose: Fund was established to deposit grants, awards, donations, gifts, transfers, or monies derived from public or private sources for purposes of enforcing the provisions of Title 12, Chapters 6D, 6E, and 6K.

Impact: All funds are required. Any amounts transferred to the general fund will decrease focused work in these areas.

S-351-C DOCARE - SLDF

Purpose: The DOCARE - SLDF fund was established to provide funding for overtime and other cost differentials incurred by DOCARE.

Impact: All funds are required. Any amounts transferred to the general fund will limit Division's ability to charge and receive state and federal reimbursements for expenditures that span over more than one Fiscal Year.

S-353-C DOFAW - SLDF

Purpose: Transfer into the subaccount as provided by Act 119, SLH 2015. Support of forest management within the public forest reserve system and on private forest lands.

Impact: Funds within the authorized ceiling of the account have already been allocated for FY21. Transfers of these funds would result in the state not being able to meet its contract obligations. Funds in the account above the current authorized ceiling could be redirected to other needs such as Department's Admin support.

<u>S-354-C CWRM - SLDF</u>

Purpose: Funds from this subaccount are primarily used for salaries for 6.0 FTE filled positions. Other uses are for Stream Protection and Management program expenses relating to hydrological studies/investigation, data collection, travel, and software license fees.

Impact: The unrequired cash balance is the payroll savings from a vacant Planner IV position. The impacts if funds exceeding this amount is transferred to the general fund are: (1) potential layoffs for the 5.0 FTE filled positions paid by S-354, (2) limit the Commission's ability to set instream flow standards, hinder stream permitting and regulatory functions, and delay the process for ascertaining appurtenant water rights.

S-355-C State Parks – SLDF

Purpose: Authorizes funds for lifeguard services with the City and County of Honolulu for lifeguard services at Keawa'ula portion of Ka'ena Point State Park.

Impact: If the Special Land and Development Fund is unable to transfer this allotment, State Parks will discontinue contracting with the City and County of Honolulu for lifeguard services at Keawa'ula portion of Ka'ena State Park.

S-359-C Ocean-based Recreation

Purpose: The purpose of this account is to expend Boating Special Fund revenues.

Impact: The Division will not be able to meet its basic operating expenses, will not be able to fill vacancies, will not be able to assist with funding DOCARE positions, and will not be able to engage in repairs and maintenance (R&M) which will result in facilities having to be taken out of service.

S-360-C Boating Special Fund

Purpose: The purpose of this account is to receive Boating Special Fund revenues.

Impact: The Division will not be able to meet its basic operating expenses, will not be able to fill vacancies, will not be able to assist with funding DOCARE positions, and will not be able to engage in R&M which will result in facilities having to be taken out of service.

S-362-C CB Cost Items, BU 14

Purpose: Fund was established to appropriate to collective bargaining statewide the funds necessary for fiscal biennium 2017 - 2019 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (14).

Impact: None. These funds are no longer needed.

<u>S-371-C IUCN - SLDF</u>

Purpose: This fund was established pursuant to Act 122, SLH 2014 for IUCN - SLDF.

Impact: None. These are leftover funds from the International Union for Conservation of Nature.

S-373-C Hawaii Historic Preservation Special Fund

Purpose: The fund was established pursuant to Act 89, SLH 2015.

Impact: None. These funds can be lapsed.

S-375-C Turtle Bay Conservation Easement Special Fund

Purpose: The fund was established to reimburse the state general fund for payment of debt service on reimbursable general obligation bonds issued to acquire the conservation easement and other real property interests in Turtle Bay, Oahu.

Impact: With the uncertainty of the TAT funds, there may not be enough funds in the future to cover the reimbursement to the State General Fund of debt service charges on general obligation bonds.

<u>S-376-C</u> County Lifeguard Services Special Fund

Purpose: To contract with the counties for county lifeguard services at designated state beach parks.

Impact: None. Authorized by Act 181, SLH 2018, and valid for two fiscal years ending June 30, 2020.

Thank you for the opportunity to comment on this measure.

THE SPECIAL LAND AND DEVELOPMENT FUND (SLDF) IS AN ESSENTIAL FUNDING SOURCE FOR DEPARTMENT OF LAND AND NATURAL RESOURCES THE SLDF MUST NOT BE ELIMINATED

The Department of Land and Natural Resources (Department) does not believe it would be fair or equitable to tap or otherwise take from the Department's Special Land and Development Fund (SLDF), considering the scope of the Department core mission and responsibilities, and the fact that the Department only receives about 1.1% of the entire State operating budget. The SLDF is supported by income derived through the management and utilization of public lands. Therefore, in lieu of general fund support and accomplished through the efforts of dedicated Department staff, the SLDF serves as the budgetary nucleus of the Department, supporting a number of its key staff and programs that are crucial to the Department's operations. In the event the SLDF is eliminated, the effect would extend far beyond the programs and staff directly funded by the SLDF. The impact would extend to other Department programs, impeding their ability to operate effectively. In short, the loss of the SLDF as a funding source will effectively preclude the Department from fulfilling its public trust obligations under Article XI of the Hawaii State Constitution.

The Department and Board of Land and Natural Resources are responsible for managing approximately 1.3 million acres of public lands comprising sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations. The SLDF is the only source of funding for the Land Division and the Office of Conservation and Coastal Lands (OCCL)) and is also a critical and essential funding source for the various other divisions and offices within the Department to deal with emergency response to natural catastrophes such as fire, rockfall, flood or earthquake, chronic statewide coastal erosion, and hazard investigation and mitigation and funding for conservation projects on all state lands. The SLDF has also become an important source of State match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

Historically, the Department has carried out its responsibilities with very limited resources, accounting for only 1.1% of the State's operating budget.¹ Furthermore, the Department has been successful in achieving operational self-sufficiency, relying on a mere 0.8% of the State's general fund budget. In consideration of the Department's austere fiscal management and self-sufficiency, further reductions the Department's budget would have a punitive detrimental effect on its ability to satisfy its public trust obligations.

To properly perform these fiduciary duties, the Board determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs which is deposited into the SLDF, HRS Section 171-19. The SLDF

¹ The Department's total operating budget in FY 2020 is \$171,330,918, of which \$65,240,556 are general funds. The total State operating budget is \$15,474,634,533.

is funded with revenues from leases or permits for use of State lands for commercial, industrial, resort, geothermal and other renewable energy projects, together with agricultural and pasture uses.

As noted above, the SLDF pays for 100% of the operating budget (i.e., salaries, fringes and program costs) for the Land Division and OCCL, and also provides funding for personnel costs and programming for the Commission on Water Resource Management (CWRM), the Dam Safety program, the geothermal program, a land maintenance crew, State Parks, the Division of Forestry and Wildlife, and staffing costs for the IT office, Chair's office and Fiscal Office. In other words, the SLDF is a critical funding source for personnel and essential programs for the Department.

In addition to the 56 positions in the SLDF, 33 other positions are funded by LNR 101 (24 wholly, 9 partially: LNRs 141/810/404/906).

LNR 101 Position Matrix (LAND DIVISION)					
NUM	POSITION TITLE	POSITION	APPRN		
		NUMBER	SYMBOL		
	Land Division				
	Administration				
1	Administrator	027440	S-316		
2	Assistant Administrator	002738	S-316		
3	Administrative Specialist	120663	S-316		
4	Special Projects Coordinator	111576	S-316		
5	Project Development Specialist	118343	\$-317		
6	Project Development Specialist	041674	S-316		
7	Project Development Specialist - Water Leasing	122161	S-316		
8	Planner V	034333	S-316		
9	Special Projects & Development Specialist	112605	S-316		
-	Central Processing Office				
10	Compliance Specialist	111096	S-316		
11	Asst. Compliance Specialist	110304	S-316		
12	Asst. Compliance Specialist	113187	S-316		
13	Office Assistant III	038696	S-316		
	Support Branch				
14	Supervising Land Agent	013178	S-316		
15	Project Development Specialist	111435	S-316		
	Land Acquisition/Disposition Services				
16	Land Agent V	048238	S-316		
17	Land Agent IV	008804	S-316		
	Appraisal Services	009632			
18	Appraisal & Real Estate Specialist	110287	S-316		
19	Real Estate Specialist Abstract Services	110201	S-316		
20	State Abstractor	110285	S-316		
20	Abstractor VII	110286	S-316 S-316		
1		110200	3-510		
-	Oake District Branch (ODLO = 5)				
22	Oahu District Land Agent	012077	S-316		
23	Oahu Land Agent IV	027722	S-316		
24	Oahu Land Agent IV	041671	S-316		
25	Shoreline Disposition Specialist	121586	S-316		
26	Secretary I	027788	S-316		
	Maui District Branch (MDLO = 5)				
27	Maui District Land Agent	027729	S-316		
28	Maui Land Agent IV	002724	S-316		
29	Maui Land Agent IV	122500	S-316		
30	Documentation Specialist	113186	S-316		
31	Secretary I	006628	S-316		
-					
00	Kawai District Branch (KDLO = 4)	002723	0.040		
32	Kauai District Land Agent	002723	S-316		
33	Kauai Land Agent IV Kauai Land Agent IV	116697	S-316 S-316		
34	Secretary I	002734	S-316 S-316		
35	Secretary I	002104	3-310		
-	Hawaii District Branch (HDLO = 6)				
36	Hawaii District Land Agent	050976	S-316		
37	Hawaii Land Agent IV	117776	S-316		
38	Hawaii Land Agent IV	117777	S-316		
39	Hawaii Land Agent IV	121037	S-316		
40	Office Assistant III	027731	S-316		
41	Secretary I	002732	S-316		
1					

B.U. 18-8	LNR 101 Position Matrix (NON-L		10000
NOM	POSITION TITLE	POSITION NUMBER	
	Office of Conservation & Coastal Lands		SYMBOL
1	Administrator	039428	S-316
2	Planner VI	026435	S-316
3	Planner VI	039429	S-316
4	Office Asst. IV	033056	S-316
5	Planner V	026433	S-316
6	Planner V	118782	S-316
7	Coastal Lands Program Specialist	121527	S-316
' '	Division of Forestry & Wildlife	ie ive i	3-010
	-	118345	0.047
8	Program Specialist V	110-345	\$-317
	Engineering Division		
	Hilo	050004	
9	Geothermal Compliance Specialist	050981	S-316
	Land Maintenance Crew - Halawa Baseyard		0.040
10	Land Maintenance and Repair Supervisor I	052363	S-316
11	Equipment Operator III General Laborer	052358	S-316 8-316
12 13	General Laborer General Laborer	052353	S-316 S-316
13	General Laborer Equipment Operator II	052362	S-316 S-316
15	Tractor Operator	052360	S-316
	Tractor operator		0-010
	Positions funded by LNR 10	1	
	Engineering Division		
	Oabu		
1	Engineer VI	010162	LNR810/323
2	Engineer Technician	011271	LNR810/323
3	Engineer V	052373	LNR810/323
4	Engineer V	052368	LNR810/323
5	Engineer V	118292	LNR810/323
6	Engineer V	118293	LNR810/323
7	Engineer V	118924	LNR810/323
8	Office Assistant III	119210	LNR810/323
		119308	
9 10	Geologist II Facility M	119309	LNR141/303
11	Engineer V Secretary II	120715	LNR141/303 LNR141/303
12	Mineral Resources Specialist	120856	LNR141/303
16	Connission of Water Resource Mgnt		LIN1411.000
13	State Drought and Water Conservation Coordinator	113074	LNR404/354
14	Hydrologist and Legislative Analyst	103132	LNR404/354
15	Hydrologist	103128	LNR404/354
16	Engineering Aid IV	121596	LNR404/354
17	Planner IV	122127	LNR404/354
18	Planner IV	122716	LNR404/354
	Office of the Chairperson		
19	Communication and Video Conference Assistant	121500	LNR906/308
20	Temp. Senior Communications Manager	117517	LNR906/308
21	SPL Project and Cultural Resources Manager	121310	LNR906/308
22	ADA Specialist (50%)	116420	LNR906/308
	Administrative Services Office	400000	
23	Accountant IV <u>(85%)</u>	117692	LNR906/308
24	Accountant IV (14.2%)	121067	LNR906/308
25	Accountant Clerk IV (33.3%)	121362	LNR906/308
26	Accountant Clerk IV (14.3%)	116451	LNR906/308
27	Accountant Clerk IV <u>(8.3%)</u> Accountant IV	120343 122036	LNR906/308
28	Accountant IV	122036	LNR906/308
29	Personnel Office Human Ressources Specialist <u>(14,3%)</u>	127661	LNR906/308
23	Human Ressources Specialist <u>[14,33]</u> Information Technology Services Office	121001	LURGOOLOOS
30	State Lands Information Systems Manager	111074	LNR906/308
31	Applications/Systems Analyst	120503	LNR906/308
32	Information Technology Specialist IV (14.3%)	048167	LNR906/308
33	Π Specialist (25%)	121036	LNR906/308
22	o akaanna faan t	121000	LIN SUOLOO

About 50 Percent out of 80+ funded positions are not in LAND 89

In addition to the fixed personnel and operating expenses, the SLDF must retain additional funds in reserve to address unexpected public health and safety issues that arise on State lands. For example, the Department has executed a second contract with a private operator for the interim operation and maintenance of the east Kauai irrigation system. The irrigation system is a part of the old plantation system that is partially located on State land, placing it under the Department's jurisdiction. The East Kauai Waters Users Cooperative previously operated the system to provide water for agricultural purposes, but ultimately relinquished the system due to prohibitive management costs. Furthermore, the State Department of Agriculture has refused to assume management of the system despite its use for agricultural purposes due to a lack of the resources. Ultimately, the Department is responsible for maintaining the system at its own cost despite it being outside the Department's core mission in order to address public health and safety issues. It is important to consider that just in the last year since COVID-19 began impacting the State, there were two major rain events on Kauai, causing significant flooding. Additionally, the Department has used SLDF funds in the past to conduct clearings of certain river mouths on Kauai for health and safety reasons, which was a County responsibility, and contracted to remove unauthorized encroachments from a State beach reserve at Nomilo, Kauai.

The Department also intends to use SLDF monies to further key development projects to generate consistent future income to support Department programs, as well as promoting economic recovery for the State. The Department has four parcels in the vicinity of the UH West Oahu rail station, including the parcel adjacent to the rail station. The parcel adjacent to the rail station is intended for mixed use development, while planned uses of the other parcels include light industrial and affordable housing. The Department is also developing a proposed industrial and business park at Pulehunui in central Maui. The project is intended to support light industrial uses as well as limited commercial uses to support the light industrial operations. The Department's project is part of the greater State effort to develop the area. Other State projects intended for the region include the Department of Public Safety's Maui Regional Public Safety Complex and the Department of Hawaiian Home Lands' Pulehunui North and South developments to include commercial and agricultural uses. The SLDF is intended to fund completion of the entitlement process for both projects, including planning and consulting services, as well as potentially providing partial funding for the development of infrastructure.

Finally, Land Division procured an architect to plan the refurbishment of an existing commercial building on State land in Hilo to use as the new Hawaii District Land Office. The current office space available to the Hawaii District staff in the State Office Building in Hilo is inadequate for its needs. The number of Hawaii District personnel has expanded to currently have the most staff members of any district land office. The existing office space is shared with three other divisions of the Department and the combined workstation and file storage needs of the four divisions exceed the capacity of the space. Land Division approached the Department of Accounting and General Services to inquire as to whether additional space in a State facility was available, and the response was negative. The hotel/resort, commercial and industrial leases the Hawaii District manages on Banyan Drive and in the Kanoelehua Industrial Area all go to support the SLDF. Also, of all the Land Division districts, Hawaii District is responsible for the management of the largest unencumbered land area. Providing the Hawaii District staff with an office of appropriate size will facilitate the management of existing leases and issuance of new ones. Plans and specifications for renovation of an existing structure have been substantially completed, so deferral or abandonment of the project would result in no return on those expenditures. Additionally, the lack of needed additional space would impact the Hawaii District's ability to effectively resolve priority issues facing the division.

HRS §171-19 requires maintenance of a balance of at least an amount sufficient to pay for the next fiscal year (FY 2022). To ensure that the division is able to fulfill all planned and unexpected obligations, we prefer to retain a cash balance of at least \$30 million at any given time. However, in the current economic climate, there is a need and desire of even more than the minimum \$30.0 million cash on hand.

Unencumbered cash balance =	\$30 million
Operating costs JAN–JUN 2021 =	(\$7) million
$CIP^2 =$	(\$3) million
Operating costs/transfers FY 2022 =	(\$15) million
Operating costs/transfers FY 2023 =	(\$15) million
TOTAL RESERVE NEEDED	<u>\$40 million</u>

No TAT Allocation for Parks, OCCL and DOCARE in FY2021

In 2019, the TAT Allocation was as follows:

Amount of Transfers	<u>Less 5% SFA</u>	Amount of Transfer	OCCL	PARKS	DOCARE
\$3,000,000	\$150,000	<u>\$2,850,000:</u>	<u>\$570,000</u>	\$1,900,000	<u>\$380,000</u>

In 2020, the TAT allocation was as follows:

Amount of Transfers	Less 5% SFA	Amount of Transfer	OCCL	PARKS
\$2,500,000	\$125,000	<u>\$2,375,000:</u>	\$475,000	\$1,900,000

The SLDF did not receive any TAT revenues in 2021 and does not expect to receive any TAT revenues in the near term. Planned programs that would be impacted would be the following:

Pursuant to Section 237D-6.5, HRS, as amended by Act 161, 2013 Session Laws of Hawaii, the amount of \$3,000,000³ shall be appropriated to the Department, but this past year, due to the pandemic and travel restrictions, the Department was not allocated TAT revenues that would and could have been used⁴ for the following:

- The protection, preservation, and enhancement of natural resources important to the visitor industry;
- Planning, construction, and repair of facilities; and
- Operation and maintenance costs of public lands connected with enhancing the visitor experience.

² Proposed \$3mil. CIP for the Hawaii District Land Office. In addition, within the next fiscal year or two, it is anticipated another \$2.0 million may be needed for a project at Shangri La.

³ The \$3 million appropriated is subject to the Administration's allotment and release of funds process. In FY19, only \$3.0 million was allotted and released. In FY20, \$2.5 was allotted and received. The Department was informed not to expect any TAT in FY21, or very little, because tourism has been shut down or severely curtailed.

⁴ Expenditures of TAT revenues are subject a mutual agreement of the Board of Land and Natural Resources and the Board of Directors of HTA in accordance with the Hawaii Tourism Authority Strategic Plan.

The SLDF was being used as a convenient vehicle to split the transfer of the TAT revenues between State Parks, the Division of Conservation and Resources Enforcement (DOCARE) and OCCL. Any take or restriction on TAT revenues would result in a reduction or elimination of the following program funding.

STATE PARKS

State Parks was supposed to be allocated \$1.9 million of the TAT funds.

- In the past, approximately \$1.5 million has been applied to offset cost of lifeguard contracts with 1 million being used for Makena State Park lifeguard service.
- In the past, \$500k was applied towards equipment repairs and acquisition, materials associated with the maintenance, light construction and repair, services and operation of park units statewide.

State Parks had plans to repurpose TAT funds to offset the general fund reductions and loss of special fund income. State Parks currently lacks adequate funding to continue County lifeguard contracts.

<u>OCCL</u>

OCCL had been scheduled to receive \$570K from the TAT annually. The funds were planned to be used to support beach improvements, mainly at Waikiki which is one of the world's most popular tourist attractions. These funds are generally matched with private funds (e.g., Waikiki Beach Special Improvement District Association (WBSIDA)). OCCL is also programming funds to match a federal grant, along with City and County of Honolulu, for beach resiliency efforts including one in the works at Punaluu and Haleiwa Beach Parks. In short, OCCL leverages funds to pay for and conduct larger beach restoration projects through partnerships. It should also be mentioned that OCCL has an existing legislative authorization which originally amounted to around \$10M for Waikiki Beach Improvements. \$1.5m of that appropriation was slated to come from the Beach Restoration Special Fund (BRSF), but those funds were removed from the appropriation last session. The OCCL is also involved in a major partnership with the Kaanapali Operators Association (KOA) to conduct an \$11M beach restoration project at Kaanapali Beach. Although the source of the funds is not BRSFs, such projects must be staffed by experts that in the field of coastal geology that are supported by BRSFs.

TAT funds administered through the BRSF are used to support one full time in-house coastal geologist via U.H. Sea Grant. These positions are critical to help OCCL oversee all beach restoration projects, such as at Waikiki and Kaanapali, and they are critical to OCCL's efforts to manage the plethora of coastal erosion emergencies that are prevalent throughout the State, as well as sea level rise adaptation guidance. OCCL has another contract with UH Sea Grant to support ¼ of a Sea Grant position to help with climate change initiatives, beach management, coastal policy, and other matters related to coastal lands and beaches. Because OCCL is a small office, its partnership with Sea Grant has allowed it to carry forth all its beach management and climate adaptation efforts. With these extra resources, OCCL has even been able to keep many of our beaches clear of encroaching vegetation.

If the Legislature did not pass Act 161 (SLH 2013) and fund the Department with TAT, OCCL's beach restoration and coastal lands management functions would be severely diminished or defunct. OCCL would no longer be able to engage in partnerships for beach restoration projects and would not be able

to provide professional services to the coastal community regarding coastal erosion mitigation, as well as guidance on climate change adaptation efforts such as sea level rise adaptation. Large government strides in the overall improvement of coastal lands and resources would be seriously jeopardized.

DOCARE

DOCARE was supposed to receive \$380,000 annually. No TAT revenues were allotted in FY2021.

DOCARE is a relatively small agency charged with upholding Federal and State laws, administrative rules, and county ordinances that serve to protect Hawaii's unique and limited natural, cultural, and historic resources, many of which are used by visitors to the State. DOCARE's jurisdiction encompasses nearly 1.3 million acres of state lands and 3 million acres of ocean and coastal waters as well as 750 miles of coastline. It also includes protecting the public's safety when using the natural and cultural resources under the Department's jurisdiction including state parks, historic sites such as the Iolani Palace, forest reserves, the Na Ala Hele trail system, aquatic life and its sanctuaries, state ocean waters, including ocean recreation management areas (such as Waikiki ocean waters), game management areas, public hunting areas and natural area reserves.

DOCARE used the TAT funds for:

- Overtime work focused in areas of visitor use including but not limited to State parks, beaches, ocean waters and the Na Ala Hele Trail system. A reduction in TAT funding may decrease overall safety of individuals and their property in these areas. The reduced law enforcement visibility may signal an increase in criminal activities in these areas of high visitor traffic.
- Records management initiatives and systems used to gather and compile officer activity data, incident reports, ability to extract statistical data for reporting purposes and community interaction tools such as the Tip411 smartphone application.

DAVID Y. IGE GOVERNOR



DR. CHRISTINA M. KISHIMOTO SUPERINTENDENT

STATE OF HAWAI'I DEPARTMENT OF EDUCATION P.O. BOX 2360 HONOLULU, HAWAI'I 96804

> Date: 03/02/2021 Time: 01:00 PM Location: 308 Via Videoconference Committee: House Finance

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1298 RELATING TO STATE FUNDS.

Purpose of Bill: Transfers to the general fund the unencumbered balances of various non-general funds of the department of accounting and general services; department of agriculture; department of budget and finance; department of business, economic development, and tourism; department of commerce and consumer affairs; department of defense; department of education; department of Hawaiian home lands; department of health; department of human resources development; department of human services; judiciary; department of labor and industrial relations; department of land and natural resources; office of Hawaiian affairs; department of the attorney general; office of the governor; department of public safety; department of taxation; department of transportation; and university of Hawaii.

Department's Position:

The Hawaii State Department of Education (Department) is <u>opposed</u> to the portions of HB 1298 that relate to the Department of Education.

Section 2 of this bill specifies minimum amounts in excess of the requirements as determined by the Legislature for twelve Department special fund accounts and authorizes the Director of Finance to transfer these amounts to the General Fund on an unspecified date in March 2021.

The Department is opposed to this bill and any other bill which reduces the Department's capacity to support predictable and reliable resources for and in support of school operations.

This testimony addresses each of the funds identified in the bill for the Department of Education, but the following are examples of the types of concerns the Department has with the

proposed "Minimum amount in excess of requirements of the fund as determined by the Legislature":

- 1. The mixed message sent to schools in recent years that have been encouraging the pursuit of revenue generation where authorized by statute;
- 2. The inequity of sweeping funds being held by schools statewide, in essentially sub-accounts, at a time when, due to a decline in State support, they are looking for predictable and reliable funding (i.e. the Use of School Facilities fund S-325);
- 3. The Lingle v. Hawaii Insurance Council decision and the potential implications for lawsuits alleging illegal taxation with the transfer of various fees into the general fund;
- 4. A lack of clarity on how the "Minimum amounts in excess of the requirements of the fund as determined by the legislature" were calculated;
- 5. The existence of duplicate listings of S-301;
- The reference to prior year accounts instead of the current year for the S-301 appropriation and several others (i.e., S-18-301 is referring to the account established for the S-301 appropriation for FY 2017-18);
- 7. The inclusion of a federal fund appropriation (S-21-376) specifically made for the acquisition of air purifiers for school facilities that would have been ineligible to sweep to the general fund;
- 8. The inclusion of the HTSB fund that has already been repealed by Act 161, SLH 2019 (S-321); and
- 9. The inclusion of the SEFI fund that was capitalized with general obligation bond funds, which would seem to be ineligible for sweep to general fund and was eliminated by Act 72, SLH 2020 (S-340).

These special fund accounts provide predictable and stable resources for critical school programs. The Department is already facing severe shortages in General Fund resources and will not have the ability to cover shortages in non-General Funds if funds are diverted for other uses.

Any reductions from these funds will compound the disruption schools are already experiencing since March 2020.

S-301-E Regular instruction - high school (§302A-420). The fund was established to hold revenues collected by any school arising from agricultural and industrial pursuits (originally the Lahainaluna Boarding Special Fund). Funds are used for the purchase of equipment and material not otherwise in a school's budget. Revenues in this fund have come from the sale of agricultural products.

S-302-E School community services (§302A-435). This fund was established to finance the adult and community education program in part through fees collected from students enrolled and in part from public funds appropriated for this purpose. Revenues are from the adult education student tuition for special interest classes and GED test fees.

Especially in light of significant current and anticipated budget reductions, all funds are required for related administrative costs and all other expenses including classroom instructor costs, especially as operations resume.

In addition to an anticipated budget reduction, the COVID-19 pandemic has significantly reduced enrollment and revenues. At the same time, it has required an investment in distance learning resources to address enrollment and provide equity in access to students. These

funds will also be relied on for workforce readiness partnerships that build skills and opportunities for employability that contribute to the welfare of adult education students and will, thus, contribute to aid in the State's economic recovery efforts. This may include expanded technical support staff to assist and maintain devices for instructors and participants, an expanded instructor pool to address smaller online class sizes, and support staff for outreach and counseling of online participants.

As such, due to the restrictions on the use of funds and anticipated needs, this fund has no unrequired cash balance that can be transferred.

The adult education program is a service provider and core partner for the Workforce Innovation and Opportunity Act, federal workforce legislation. The program would need to continue even without these funds and would require alternative sources to do so.

The impact on the adult education program will be significant if funds are removed. When the adult schools were reorganized in 2013, State General Funds for them were significantly reduced. At that time, the Legislature and the Department allowed the adult schools to generate revenue to cover operational costs by allowing the collection of enrollment fees. The funds support the administration of the high school equivalency testing program, office operations, and other expenses not covered by federal funds or provided for through the State budget.

S-304-E School support (§302A-405). Created in 1960, this fund supports the expense of operating public school cafeterias. Allowable expenses are those that support the school lunch program. Revenues are from the sale of lunch, breakfast, and snacks primarily to students who pay either regular or reduced prices. Meal sales to others, such as teachers, are also deposited into this fund.

The monies deposited in this fund represent meal payments by students and must, by federal law (7 CFR 210.14), be spent in support of the student food/nutrition service program. 7 CFR 210.14 states, "Resource Management. (a) Nonprofit school food service. School food authorities shall remain a nonprofit school food service. Revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service, except that, such revenues shall not be used to purchase land or buildings, unless otherwise approved by USDA Food and Nutrition Service, or to construct buildings." Noncompliance with 7 CFR 210.14 would jeopardize the Department's federal meal reimbursement revenues, which are about \$60 million annually and which cover about 50% of the cost of the food service program.

Especially in light of significant current and anticipated budget reductions and projected deficits in the food service program, all funds are required to support the school lunch program. As such, due to restrictions on the use of funds and anticipated needs, this fund has no unrequired cash balance that can be transferred.

Additionally, this account was not identified in Auditor's Report No. 20-08 as an account from which funds can be transferred to the General Fund.**

S-305-E/S-328-E Special education & student support services (§302A-707). This fund was established to create a special fund into which shall be deposited moneys received as repayment from students who have breached their contractual agreements under the Felix stipend program. Allowable expenses are to provide tuition assistance to students for the Felix

consent decree recruitment and retention program, or any successor programs, and related costs.

Especially in light of significant current and anticipated budget reductions, all funds are required to provide tuition assistance to students for the Felix consent decree recruitment and retention program, or any successor programs, and related costs. Thus, due to the restrictions on the use of funds and anticipated needs, this fund has no unrequired cash balance that can be transferred. If these funds are removed, future funding of special education stipends would need to be reduced, especially in light of reductions to the Department's budget. A lack of trained special education teachers may place the State back in jeopardy of lawsuits, which would further necessitate use of these funds.

S-321-E Hawaii teacher standards board special fund (§302A-806). This fund was created in 1998 to support the Hawaii Teachers Standard Board (HTSB). HTSB establishes standards governing teacher licensing and credentialing within the Department, conducts cyclical review of standards, and suggests revisions for their improvement. ACT 161/SLH 2019 repeals the HTSB Special Fund effective 7/1/19 with any balances reverting to the Treasury. This fund has not had new collections since July 2019, when the Legislature fully funded HTSB with general funds and it was no longer necessary to collect license or permit fees from teachers.

S-323-E Other regular instruction programs (§302A-1310). The summer school fund was originally established in 1971 to finance summer school programs. Amended in 1996, the fund currently serves inter-session programs for year-round school in addition to summer school programs. Allowable expenses include summer school and inter-session program support. Revenues are from summer school and inter-session program tuition.

Except as otherwise provided by the Legislature, all expenditures for the operation of public out-of-school time instructional programs shall be made from this fund. Thus, due to the restrictions on the use of funds and anticipated needs, this fund has no unrequired cash balance that can be transferred.

Especially in light of significant current and anticipated budget reductions, all funds are required for summer school and inter-session program support, especially as schools return to its pre-COVID-19 operations. Schools are currently in the midst of planning for summer school and are relying on these funds in their school accounts for program planning and implementation, which includes the hiring of summer school staff.

Tuition is collected by the schools in accordance with HAR Chapter 30. These monies should remain with the schools and be used for the purpose intended; the monies should not be subject to administrative expenses or directed to the General Fund.

Without the ability to use the funds in this account, many schools will have to cancel their summer school program offerings this year. To be able to offer summer school or inter-session programs in the future, schools will have to secure alternative sources of funding, which will jeopardize other educational priorities.

Additionally, this account was not identified in Auditor's Report No. 20-08 as an account from which funds can be transferred to the General Fund.**

S-325-E Use of school facilities fund (§302A-1148). The fund was established in 1982 to collect fees and charges from those who use school buildings, facilities, grounds, and

equipment for recreational and community purposes. Allowable expenses include payment of custodial services, replacement of custodial and janitorial supplies, and the repair, maintenance, and replacement of equipment used. Revenues are from use of school facility charges.

Especially in light of significant current and anticipated budget reductions, all funds are required for payment of custodial services, replacement of custodial and janitorial supplies, and the repair, maintenance, and replacement of equipment were used. Thus, this fund has no unrequired cash balance that can be transferred.

Schools use these funds to cover costs related to the general maintenance of school facilities that are used by the community. If these funds are removed, alternative sources of funds would need to be found in order to allow for the continued use of facilities by the community.

Fees may not be sufficient to cover all costs related to facility maintenance in every circumstance of community use of school facilities. It would be a great hindrance to a school's ability to cover these costs if funds were placed under the time restrictions of General Funds.

S-327-E Hawaii school-level minor repair & maintenance special fund (§302A-1504.5).

This fund was established in 2001 to deposit funds received for school-level minor repairs and maintenance. The fund collects donations by individuals for Hawaii 3Rs. The money is then transferred to the not-for-profit Hawaii 3R's. Allowable expenses include school-level minor repairs and maintenance. Revenues are from funds collected pursuant to section 235-102.5(b), HRS and from grants and donations. Per statute, the fund shall be used to fund school-level minor repairs and maintenance. The Department only administers the special fund in which all monies contributed to the fund are transferred to Hawaii 3R's.

This account was not identified in Auditor's Report No. 20-08 as an account from which funds can be transferred to the General Fund.**

S-330-E Damaged & lost equipment, textbooks, and supplies (§302A-1130.5 and

§302A-1130.6). This fund was established to deposit fees collected to replace damaged or lost books and supplies. Allowable expenses include the replacement of textbooks, library books, and supplies that are either broken, damaged, lost, or destroyed. Revenues are from fees collected from students who negligently break, damage, lose, or destroy equipment, textbooks, library books, and supplies.

Especially in light of significant current and anticipated budget reductions, all funds are required for the replacement of textbooks, library books, and supplies that are either broken, damaged, lost, or destroyed. As such, this fund has no unrequired cash balance that can be transferred.

Removal of these funds would result in schools having to use other sources of funds to replace damaged, lost, or destroyed equipment, textbooks, library books, and supplies. With the current economic turmoil, funds will be difficult to locate without hindering other educational priorities.

With a majority of schools conducting distance learning, the ability to replace lost, damaged, or destroyed computer equipment is essential to ensure continued learning and progression by students.

S-333-E Private trade, vocation & technical school licensure (§302A-425.5). For

administrative costs associated with licensure of private trade, vocational, or technical schools, including establishing one permanent full-time equivalent (1.0 FTE) position within the

Department of Education. Licensing fees are collected by the Department pursuant to section 302A-425.

Especially in light of significant current and anticipated budget reductions, all funds are required to fund activities related to the licensure requirements established under section 302A-425, including funding for permanent staff position and administrative and operational costs. Applications for licensure are usually done in "odd years."

Thus, due to the restrictions on the use of funds and anticipated needs, this fund has no unrequired cash balance that can be transferred.

Revenues from the current licensing fee ensure the program's sustainability, including funding for a half-time staff position and operational costs. If funding is eliminated, there would no longer be a means to manage the program, the purpose of which is to protect consumers from false, deceptive, misleading, and unfair practices, and to ensure adequate educational quality. If the program is abolished as a result of the elimination of funding, there would no longer be oversight for schools teaching post-secondary training in a trade, occupation, or vocation.

Additionally, this account was not identified in Auditor's Report No. 20-08 as an account from which funds can be transferred to the General Fund.**

S-340-E State educational facilities improvement special fund (§36-32). The State Educational Facilities Improvement (SEFI) Special Fund is used solely to plan, design, acquire lands for, and to construct public school facilities and to provide equipment and technology infrastructure to improve public schools and other facilities under the jurisdiction of the DOE, except public libraries. In addition, activities of the Department intended to eliminate the gap between the facilities needs of schools and available resources shall be eligible for funding from the special fund. Revenues are from the deposit of state funds, either General Funds or General Obligation Bond Funds.

Act 72, SLH 2020, already sweeps the balance of unused funds into the School Facilities Agency account. These funds are encumbered into design and construction contracts; of which many of these contracts are still active. These funds could have restrictions imposed by General Obligation Bond IRS regulations regarding use.

Expenditures shall be limited to projects authorized by the Legislature.

Revenues are from General Funds or General Obligation Bond Funds. Thus, this fund has no unrequired cash balance that can be transferred. If funds are removed, there will be insufficient funds to cover obligated contracts.

Additionally, this account was not identified in Auditor's Report No. 20-08 as an account from which funds can be transferred to the General Fund.**

S-376-E CRF subaward (2,000,000). For the purchase and distribution of air purifiers to Department and Charter Schools. This is a sub-award granted by the Governor specifically for the cost of acquiring air purifiers for schools. All funds were encumbered by 12/31/2020 and expended on 2/1/2021.

**In May 2020, the Hawaii State Auditor released a report (Report No. 20-08) regarding excess special and revolving fund balances that could potentially be transferred to the General Fund.

The report found about \$483.6 million of potential funds statewide from 57 special and revolving funds that could be transferred, of which only three funds and about \$645,000 were from the Department of Education.

Thank you for the opportunity to provide testimony on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.
DAVID Y. IGE GOVERNOR



CATHY BETTS DIRECTOR

JOSEPH CAMPOS II DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF HUMAN SERVICES

P. O. Box 339 Honolulu, Hawaii 96809-0339

March 1, 2021

TO: The Honorable Representative Sylvia Luke, Chair House Committee on Finance

FROM: Cathy Betts, Director

SUBJECT: HB1298 – RELATING TO STATE FUNDS.

Hearing: March 2, 2021, 1:00 p.m. Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) understands the intent of the measure, and provides comments related to DHS related funds. In the chart below, we indicate which fund balances may be lapsed to the general fund. However, DHS respectfully requests that the majority of the funds identified below be retained as these funds support basic and essential programs and services. Additionally, DHS requests that accounts established to receive federal pandemic stimulus funding be retained to facilitate distribution of future federal funds.

PURPOSE: Transfers to the general fund the unencumbered balances of various nongeneral funds of the department of accounting and general services; department of agriculture; department of budget and finance; department of business, economic development, and tourism; department of commerce and consumer affairs; department of defense; department of education; department of Hawaiian home lands; department of health; department of human resources development; department of human services; judiciary; department of labor and industrial relations; department of land and natural resources; office of Hawaiian affairs; department of the attorney general; office of the governor; department of public safety;

department of taxation; department of transportation; and university of Hawaii.

Account	Description	Balance	Division/Agency	Position
S-14-302	General support for health			
	care payments	\$14,355.00	MQD	Lapse
S-20-303	Health care payments	\$	MQD	Lapse
S-17-314	Child protective services	\$4,926.64	SSD	Retain
S-19-317	General assistance payments			Transfer
				balance to S-
		\$1,350,871.74	BESSD	20-382
S-02-339	Financial assistance for			
	housing	\$1,769.44	HPHA ¹	Lapse
S-21-353	Child care grant program	\$	BESSD	Retain
S-13-368	Nursing facility sustainability			
	sp fund	\$28,097.30	MQD	Lapse
S-16-372	Nursing facility sustainability			
	sp fund	\$1,119,729.15	MQD	Lapse
S-17-374	Hospital sustainability special			
	fund	\$	MQD	Lapse
S-18-378	Hospital sustainability special			
	fund	\$20,139,024.46	MQD	Retain
S-18-379	Nursing fac sustainability			
	special fund	\$3,239,853.03	MQD	Retain
S-15-382 ²	Nursing facility sustainability			Lapse
	prog sf		MQD	(correct
				amount is
		\$904,177.60		\$166,325.66
S-20-382	Interim assistance			
	reimbursement spec fd	\$904,177.60	BESSD	Retain

HMS funds subject to this measure are:

In general, these special funds are used to support a variety of continuing programming. Please note that the balances listed do not reflect encumbrances or funds needed at the start of the fiscal year. The following are descriptions of those funds that DHS requests to retain.

¹ HPHA will provide separate testimony on this fund balance.

² We believe this may be an error.

Benefit, Employment, and Support Services Division (BESSD)

S-21-353 Child care grant program	\$ BESSD	Retain
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This fund was established to process Coronavirus Relief Funds (CRF) appropriated to HMS through Act 9, Session Laws of Hawaii (SLH) 2020. The funds were dispersed through contract with the Hawaii Community Foundation. Any remaining funds were lapsed to the general fund as required by provisions of Act 9, SLH 2020.

However, we expect to receive additional federal COVID-19 stimulus funds related to child care, and request to retain this account to facilitate timely distribution of those funds.

S-19-317	General assistance payments			Transfer
				balance to S-
		\$1,350,871.74	BESSD	20-382

We understand that this account is a duplicate and holds Interim Assistance Reimbursement funds. We respectfully request that the balance in S-19-317 be transferred to S-20-382 the Interim Assistance Reimbursement (IAR) special fund and not lapse to the general fund. Transferring this balance to the IAR special fund is aligned with budget considerations DHS used for proposed biennium budget increases for the GA program. See discussion that follows.

S-20-382	Interim assistance			
	reimbursement spec fd	\$904,177.60	BESSD	Retain

The entire \$3 million ceiling has been encumbered for SFY 2021.

To support funding for the General Assistance (GA) program, Act 196, SLH 2015, established the Interim Assistance Reimbursement (IAR) special fund into which federal reimbursements from the Social Security Administration are deposited and used to provide support to the GA program. The GA program provides financial benefits to disabled adults who are unable to work 30 hours a week and who do not have dependent minor children. Disabilities often include physical and or mental health conditions. Codified at section 346-57.5, Hawaii Revised Statutes (HRS), the IAR special fund may retain up to \$3,000,000, and any excess amounts lapse to the general fund. The intent of the special fund is to avoid the need for emergency appropriations when caseloads rise during economic downturns. The IAR special fund's balance is not used to determine the amount of GA assistance payments.

However, the financial crisis resulting from the COVID-19 pandemic is of a magnitude far greater than the previous great recession that prompted the IAR special fund's establishment and \$3 million ceiling. As of December 2020, the GA program caseload is currently **30%** higher than it was in February 2020; as of December 2020, there were 6,765 GA recipients. To address the revenue shortfall due to the high GA caseload, administration measure SB 1127 requests an Emergency Appropriation of \$5.4 million to maintain the GA program for State Fiscal Year (SFY) 2021; the measure is currently pending before Senate Ways & Means to be heard on March 2, 2021.

In SFY2020 and SFY2021, the GA program use of IAR special funds, as follows:

Expenditure Date	Amount
06/30/2020	\$202,223
12/14/2020	\$2,325,000
01/28/2021	\$675,000

As 2020 was the first time the IAR funds were needed, the IAR worked as intended. DHS needed ready access to additional funds at times when additional appropriations were not readily available. However, as mentioned above, the magnitude and the duration of this pandemic are unanticipated. DHS respectfully suggests the Legislature consider temporarily raising the spending ceiling or provide the Director with the authority to use other available funds to cover a shortfall greater than \$3 million until such time as a request can be made before the Legislature.

Importantly, given the uncertainty of Hawaii's economic recovery, DHS projects that high caseloads for all financial programs will continue through the biennium. DHS includes the proposed budget increase for the GA program of \$5.4 million for SFY2022 and SFY2023 with the March 1, 2021 Page 5

IAR special fund \$3 million amount built into the calculation. If the IAR special fund is removed, we would need to ask for an \$8.4 million increase for each fiscal year of the biennium.

We ask that this special fund balance be retained as it aligns with DHS budget considerations used to project funding needs for the program through the biennium.

Med-QUEST Division (MQD)

S-18-378	Hospital sustainability special			
	fund	\$20,139,024.46	MQD	Retain
S-18-379	Nursing fac sustainability			
	special fund	\$3,239,853.03	MQD	Retain

The Hospital Sustainability Program Funds and Nursing Facility Sustainability Program Funds are critical to the operations of MQD as it allows MQD to leverage tens of millions of additional federal funds into the State, reduce the MQD general fund need, and to support hospitals and nursing facilities to maintain access to care for Medicaid recipients. During the pandemic, support of the Medicaid program, hospitals and nursing facilities is critically heightened.

At this time, Hawaii's Medicaid enrollments increased more than 23% (78,479) over last year, or 405,598 individuals as of February 22, 2021. The Medicaid program now provides health care insurance coverage for nearly one third of the State's population.

To access the available match funds through these sustainability programs, preservation of the active Hospital (Human Services 2-18-378) and Nursing Facility (Human Services S-18-379) special funds is required as well as the addition of a third sustainability special fund. The additional federal funds are crucial to maintaining the department's capacity to administer the Medicaid program, and to bring needed revenue to Hawaii's health care providers and health care system, as more funds are returned to providers and facilities that serve a greater proportion of Medicaid recipients.

Specifically, (lines 171), S-18-378 Hospital Sustainability Fund and (line 172), S-18-379 Nursing Facility Sustainability Fund, are the active Sustainability programs special funds. They should not be abolished nor swept. Per sections 346F-4 and 346G-4, HRS, 88% of funds shall be used for payments to nursing facilities or to hospitals to maintain access to care for Medicaid beneficiaries, and 12% for Departmental administrative purposes. Both sustainability programs would be discontinued if funds were not used for an allowable purpose. These funds are utilized and collected at various times in the year, so at any given time, there will be balances in the fund.

These funds should be retained and not lapse.

				Lapse
				(correct
	Nursing facility sustainability			amount is
S-15-382 ³	prog sf	\$904,177.60	MQD	\$166,325.66)

Finally, we note that the dollar amount listed for line 173, S-15-382, should be <u>\$166,325.66</u> and not \$904,177.60.

Social Service Division – Child Welfare Services Branch

S-17-314 Child protective services	\$4,926.64	SSD	Retain
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DHS has encumbered all SCASF funds for SFY 2021.

In 1994, the Seventeenth Legislature of the State of Hawaii, established the Spouse and Child Abuse Special Account (SCASA or SCASF). Act 232, SLH 1994, specified "the proceeds of the account shall be reserved for use by the department of human services for staff programs and grants or purchases of service . . . that support or provide spouse or child abuse intervention or prevention as authorized by law." The funds originally came from fees for marriage licenses and over the years different sources of funds were added.

Per section 346-7.5(b), HRS, is funded by certain fees from vital records per sections 338-14.5 and 572-5, HRS, income tax remittances allocated per section 235-102.5, HRS, federal reimbursements received through Title IV-E of the Social Security Act received in the following fiscal year from which the Title IV-E funds were expended, interest and investment earnings, grants, donations, and contributions from private or public sources.

³ We believe this may be an error.

March 1, 2021 Page 7

For State Fiscal Year 2021, planned expenditures are for the following services:

PLANN	ED EXPENDITURES for SFY 2021	
1.	Family Wrap Hawaii – EPIC `Ohana, Inc.	\$ 238,340
2. 3	Sex Trafficking Services to Minors – Susannah Wesley Community Center	\$ 179,006
3.	Institute on Violence, Abuse, and Trauma Training Statewide	\$40,000
4.	Hawaii State Citizen's Review Panel	\$20,000
5. (CWS Management Leadership Team	\$30,000
6.	DAGS Special Fund Assessment	\$34,000
7.	DV Training and DV Fatality Review	\$5,000
8.	Hawaii Interagency State Youth Network of Care (HISYNC)	\$30,000
9.	Intra-Familial Sex Abuse Treatment Services - Oahu	\$120,000
	Total Planned Expenditures	\$696,346

Maintaining the vital records, tax remittances, and other earnings and donations is needed to continue these necessary services and other programming.

In 2018, Congress passed the Family First Prevention Services Act (FFPSA) establishing a new Title IVE funding model for time-limited prevention services for mental health, substance abuse, and in-home parent skill-based programs for children or youth who are candidates for foster care, pregnant or parenting youth in foster care, and the parents or kin caregivers of those children and youth. FFPSA is aimed to transform the child welfare system into a preventive rather than reactive model where families feel supported rather than policed.

As part of the new funding model, FFPSA may reimburse up to 50% of state or nonfederal funds expended on evidenced based programming.

In December 2020, Hawaii submitted its Family First Hawaii (FFH) Prevention Services Plan for federal review and approval, and DHS CWS is currently awaiting a response. The proposed budget for FFH is approximately \$4,935,000 annually.

DHS CWS received the FFPSA transition grant and the funding certainty grant to begin partial implementation of its FFH Prevention Plan. The FFPSA transition grant is a one-time payment and the estimated allotment is \$1,955,441. The funding certainty grant provides coverage to states who experience a defined reduction in Title IV-E funding as compared to the amounts authorized under the Title IV-E Waiver terms and conditions for FY2019 and covers two years after the end of the Title IV-E Waiver.⁴

Although DHS would be able to implement parts of its FFH plan with these transition and certainty funds, these funds are not-ongoing, and it is imperative that DHS have a robust and sustainable source of non-federal funds to properly resource the FFH plan and maximize federal reimbursements. Successful implementation of FFH plan aims to decrease the number of children entering care and will have a positive impact on the community for years to come.

Currently, the FFPSA implementation date is October 1, 2021, and the State will need to expend non-federal funds to claim federal reimbursement. In administration measures, SB1137/HB983 and the executive budget HB200, DHS is requesting the SCASF ceiling be raised to \$5,000,000 based on 4th quarter Title IV-E expenditures of approximately \$5,000,000. This ceiling should cover the projected first year costs of FFH services of \$4,935,000.

In 2019, the Legislature passed the administration measure adding federal Title IV-E reimbursements received after the end of the state fiscal year as a source of revenue for SCASF. Per Act 84, SLH 2019, the statutory ceiling of SCASF is set in statute at \$3,000,000; however, we have not been able to retain that amount as the requested budget adjustment was not incorporated into Act 9, SLH 2020.⁵

As the pandemic health and economic conditions continue, we anticipate the families and children will continue to experience financial, housing instability, substance abuse, and other stressors that often contribute to child abuse and neglect in Hawaii. This SCASF funding stream is critical to Hawaii's implementation of FFH prevention services under the FFPSA, which will take pressure off some need for additional general fund appropriations and will maximize available federal reimbursements.

All SCASF funds have been encumbered and we ask that the balance not be transferred. Thank you for the opportunity to provide comments on this measure.

⁴ Hawaii implemented its Title IV-E waiver program on January 1, 2015; nationally, the Title IV-E waiver program ended on September 30, 2019.

⁵ This year per SB1137 and HB983 we are proposing that the statute be amended to raise the SCASF fund ceiling to \$5 million; a similar request is also included in the executive budget.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

DAVID Y. IGE GOVERNOR



KENNETH S. HARA MAJOR GENERAL ADJUTANT GENERAL

STEPHEN F. LOGAN COLONEL DEPUTY ADJUTANT GENERAL



STATE OF HAWAII DEPARTMENT OF DEFENSE OFFICE OF THE ADJUTANT GENERAL 3949 DIAMOND HEAD ROAD HONOLULU, HAWAII 96816-4495

TESTIMONY ON HOUSE BILL 1298 A BILL RELATING TO RELATING TO STATE FINANCES

PRESENTATION TO THE HOUSE COMMITTEE ON FINANCE

ΒY

MAJOR GENERAL KENNETH S. HARA ADJUTANT GENERAL AND DIRECTOR OF STATE EMERGENCY MANAGEMENT AGENCY

MARCH 1, 2021

Chair Sylvia Luke, Vice Chair Ty J.K. Cullen and Members of the House Committee on Finance.

I am Major General Kenneth S. Hara, State Adjutant General and the Director of the Hawaii Emergency Management Agency. I am testifying in **OPPOSITION** of House Bill 1298.

HB1298 identifies account S-350, Personel Protective Equipment. These funds were derives from CARES ACT funding provided in ACT 9. The measure is in conflict of ACT 9, which states On December 28, 2020, any unexpended funds shall be transferred to the unemployment compensation trust fund established under section 383-121, Hawaii Revised Statutes. HB1298 states that excess funds in S-350 be transferred to the General Fund.

Thank you for the opportunity to testify on HB1298. If you have any questions or need additional information to our response, please contact our administrative services officer Rusty Spray at (808) 330-7744 or at rusty.spray@hawaii.gov

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 2:30:41 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Kevin G. Thornton	Judiciary	Oppose	No	

Comments:

I am a Judiciary team member available to support our testifier (Rodney Maile) in the event there are any questions on HB1298 and HB1299.

<u>HB-1298</u>

Submitted on: 3/1/2021 3:09:17 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cheryl Higuchi	Hawaii State Judiciary	Oppose	No

Comments:

I am Judiciary team member avilable to support our testifier (Rodney Maile) in the event there are any quenstions on HB1298.



DAVID Y. IGE GOVERNOR

MIKE MCCARTNEY DIRECTOR

CHUNG I. CHANG DEPUTY DIRECTOR

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MIKE MCCARTNEY Director Department of Business, Economic Development, and Tourism before the HOUSE COMMITTEE ON FINANCE

> Tuesday, March 2, 2021 1:00 PM State Capitol, Conference Room 308

In consideration of HB 1298 **RELATING TO STATE FUNDS.** and HB 1299 RELATING TO NON-GENERAL FUNDS.

Chair Luke, Vice Chair Cullen and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) would like to offer its comments on HB1298 and HB1299, which repeals various non-general funds and/or transfers the unencumbered balances to the General Fund.

DBEDT affirms its commitment to work with the Committee to come to an amicable agreement on the various DBEDT programs' unencumbered cash balances that can be reverted to the General Fund and repeal of certain special funds.

Thank you for the opportunity to comment.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM



Fax:

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

DAVID Y. IGE GOVERNOR



TESTIMONY BY:

JADE T. BUTAY DIRECTOR

Deputy Directors LYNN A.S. ARAKI-REGAN DEREK J. CHOW ROSS M. HIGASHI EDWIN H. SNIFFEN

STATE OF HAWAII DEPARTMENT OF TRANSPORTATION 869 PUNCHBOWL STREET HONOLULU, HAWAII 96813-5097

March 2, 2021 1:00 P.M. State Capitol, Room 308, Via Videoconference

H.B. 1298 RELATING TO STATE FUNDS

House Committee on Finance

The State of Hawaii, Department of Transportation (DOT) **strongly opposes** H.B. 1298 (Bill) which proposes the transfer of non-general funds into the general fund. Doing so may contravene DOT's contractual obligations, federal limitations, and the constitutions of the United States and the State of Hawaii.

The DOT – Airports Division respectfully offers the following comments for the Committee's consideration:

- 1.) The State's airport system relies heavily on grants from the federal government administered by the Federal Aviation Administration (FAA). FAA policies and procedures forbid grant recipients from using airport revenues for non-airport purposes. If the FAA determines that an airport operator has been unlawfully diverting airport revenues they may, among other things, withhold payments of current grants, suspend passenger facility charge authorization and withhold future grants.
- 2.) The DOT Airports Division is subject to contractual obligations under the Certificate of the Director of Transportation (Certificate) authorizing the issuance of airport revenue bonds, over \$1.5 billion of which are currently outstanding. The Airports Division has covenanted in the Certificate to apply airport revenues and aviation fuel taxes to specific purposes in a specific order of priority. The Certificate does not permit the diversion of airport revenues in the manner proposed by the Bill and such application would constitute an event of default under the Certificate.
- 3.) The DOT Airports Division is party to a number of airport lease agreements (Leases) with the airlines pursuant to which a substantial portion of the airport revenues are generated. The airlines have residual exposure (meaning they are required to fund operating shortfalls) and, as such, these Leases contain restrictions on the use of airport revenues. The Leases would not permit the

diversion of airport revenues in the manner proposed by the Bill and such application would constitute an event of default under the Leases.

4.) Article I, Section 10, Clause 1 of the United States Constitution, and, by incorporation, Article III Section 1 of the State's Constitution, known as the contract clause, prohibits any state from adopting any law "impairing the obligations of contracts."

The diversion of airport revenues from airport purposes as proposed by the Bill would jeopardize the Airports Division's FAA grants and would constitute an event of default under the Leases and the Certificate (including with respect to the over \$1.5 billion of bonds outstanding thereunder). In addition to constituting a significant threat to the ability of the airports system to continue to operate, this diversion would likely be considered unconstitutional due to the impairment of the Certificate and the Leases.

The DOT – Harbors Division respectfully offers the following comments. The bill identified \$84,769,543.91 (page 11 and page 12) as unencumbered balances from 13 various past Harbors Division appropriation accounts from 1987 to 2018 (excluding Hana Harbor and Kewalo Basin). In reviewing the account balances, as of January 31, 2021, the current balance is significantly less than what is currently reflected in the bill.

The Harbors Division provides its willingness to reconcile the differences in the bill and its current accounting reports in the FAMIS system.

The DOT – Highways Division respectfully offers the following comments for the Committee's consideration:

- 1. A transfer of revenues will affect operations and routine maintenance; special maintenance; our Capital Improvement Program and affect our ability to fund emergency projects;
- 2. The funding for the routine operation and maintenance is used for maintaining and repairing the pavement and shoulders; bridges and other structures; fencing and walls; drainage systems; traffic signs; guardrails; highway pavement markings; highway lighting system; sidewalks and wheelchair ramps; landscaping and irrigation systems; cleaning the streets; and restoring State Highways after slides, storm damages, accidents, and other catastrophic events. Additionally, operations and maintenance activities on Oahu includes a 24-hour, 7-days-a-week schedule, a traffic management center, all mechanical, electrical, electronic, plumbing and drainage, ventilation, traffic monitoring and control, fire control systems in our major tunnels; and managing and monitoring the National Pollutant Elimination System (NPDES) – Municipal Separate Storm Sewer System (MS4) Program.
- 3. Since the Highways Special Maintenance Program (SMP) is funded out of the State Highway Fund, reductions to the State Highway Fund may affect funding levels for the Highways SMP. The special maintenance funds are essential to the health, welfare and safety of our motoring public because the funds are used to maintain the highway infrastructure and keep our highways safe and secure. Additionally, Federal laws require that the State maintain all state highways that

were constructed with the use of Federal funds. Not properly maintaining our highways jeopardizes our ability to obtain Federal funds.

- 4. Any decrease in revenues for the State Highway Fund would necessitate a reduction in the highways CIP. It will also impact our ability provide state matching funds for the highways federal-aid program. The lack of adequate state matching funds could result in a loss of federal funds. The normal federal share for projects on the interstate system is 90% and for other eligible roadways it is 80%. It would not be in the best interest of the public to risk a transfer of these funds because the state lacks it's 10% or 20% matching share.
- 5. Highways is also subject to a Certificate of the Director of Transportation authorizing the issuance of Highways' revenue bonds and the transfer of funds would be an impermissible impairment of contract. Like the other divisions, this would lead to default and severe financial repercussions. Highways will be going out to market on a Revenue Bond Transaction this Spring and our current strong bond ratings (Aa2 from Moody's, and AA+ from Standard and Poor) are based on the high debt service coverage provided by our pledged revenue stream from the state highway fund. A transfer of revenue will require disclosure and significantly impact the Highways Revenue Bond ratings. A lower bond rating means an increased amount of debt service over the twenty-year bond term.
- 6. As well as the transfer of DOT funds, the Judiciary has informed the DOT that all funds in the Driver Education Special Fund are required for the continued operation of the Driver Education Program. Due to declining revenues that have been significantly impacted by the COVID-19 pandemic, and continually increasing payroll requirements per collective bargaining agreements, the special fund is not carrying any excess monies. The Judiciary has further noted that a certain level of cash balance must be maintained because a substantive portion of the special fund's revenues are not available until the last quarter of the fiscal year. DCCA deposits the motor vehicle insurance underwriter fees into the special fund only once annually in April or May of each fiscal year. Therefore, transferring the Driver Ed special fund balance to the general fund may lead to the termination of the fund and thereby jeopardize the operation of the Driver Ed program.

Thank you for the opportunity to provide testimony.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/2/2021 10:46:39 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Holly Osumi	HHFDC	Oppose	No

Comments:

I am available for comments

TESTIMONY ON HOUSE BILL 1298

RELATING TO STATE FUNDS

FINANCE COMMITTEE

ΒY

DAVLYNN RACADIO

SUPERVISING EMERGENCY SERVICES DISPATCHER

MARCH 2, 2021

Chair Luke, Vice Chair Cullen and Members of the Committee on Finance:

My name is Davlynn Racadio and I am a Supervising Emergency Services Dispatcher for the County of Maui. I am grateful to be allowed to submit testimony in **strong opposition** of HB 1298.

The State of Hawaii Enhanced 9-1-1 Board collects surcharges from Cell Companies for each phone instrument that are purchased by consumers. Those surcharges are used to support Hawaii's Public Safety Answering Points also known as PSAPs. They are called 9-1-1 Communications Centers or Dispatch Centers located at each of our Counties. Those funds are the reason why each of the Counties has robust communications systems that support 9-1-1. The Board allocates funds to each county based on need and in a rotating format. This gives the Counties time to plan for current or future needs. The funds was created to specifically support the delivery of 9-1-1 calls.

If the funds are removed, the PSAPs costs will be diverted to the respective Counties. The Counties will have to absorb the costs that could be overwhelming. The PSAPs will not be able to operate in the manner that they public is used to and who will support the equipment. Our communities are used to calling and having someone there to answer the call for help. But will the PSAPs be able to support our communities by sending help in a timely manner?

Thank you for allowing me to submit my testimony in **strong opposition** of HB 1298.

Davlynn Racadio Maui Police Department/Communications Davlynn.Racadio@mpd.net 808-244-6338. KELDEN B.A. WALTJEN PROSECUTING ATTORNEY

STEPHEN L. FRYE FIRST DEPUTY PROSECUTING ATTORNEY



655 KILAUEA AVENUE HILO, HAWAI'I 96720 PH: (808) 961-0466 FAX: (808) 961-8908

74-675 KEALAKEHE PARKWAY KAILUA-KONA, HAWAI'I 96740 PH: (808) 322-2552 FAX: (808) 322-6584

64-1067 MAMALAHOA HIGHWAY, C-3 KAMUELA, HAWAI'I 96743 PH: (808) 887-3017 FAX: (808) 887-3016

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION OF HOUSE BILL 1298

A BILL RELATING TO STATE FUNDS

COMMITTEE ON FINANCE Representative Sylvia Luke, Chair Representative Ty Cullen, Vice Chair Tuesday, March 2, 2021 at 1:00 p.m. State Capitol, Via Videoconference & Conference Room 306

Honorable Chair Luke, Vice-Chair Cullen and Members of the Committee on Finance. The Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in opposition of House Bill No. 1298.

As written, this bill would cease the operations of the Crime Victim Compensation Commission (CVCC). CVCC is a vital resource for victims of crime by providing financial assistance to victims. They step in and step up when no one else can or will. The Crime Victim Compensation Commission was established in 1967 to provide financial assistance to victims of violent crimes – money to help pay out of pocket medical and counseling expenses, lost wages, and funeral expenses. The partnership of our Victims Assistance Unit and CVCC has literally helped countless victims. To lose this resource would be devastating to victims and our community.

While no one is arguing that a full accounting of funded programs may need to be done, transferring the remaining funds to the general fund to conduct an audit will cause irreparable harm to the Commission. To be clear, the transfer of these funds will result in the closure of the Crime Victim Compensation Commission. Surely the intent of the legislation is not to shut down CVCC, but that is in fact what will occur if this bill is passed. Without these funds CVCC will have no way to pay compensation nor its operating expenses.

In 1998 a special fund was created to act as a funding source for the Commission. This is the primary source of income for the Commission as they receive no state general funds. Additional funds are received through the Victims of Crime Act. This federal grant, however requires a match fund, a match they would not be able to meet without the special funds.

Without the Crime Victim Compensation Commission, Hawai'i would be the only state in the nation that does not have a compensation program.

The Office of the Prosecuting Attorney, County of Hawai'i oppose the passage of House Bill No. 1298. Thank you for the opportunity to testify on this matter.

MICHAEL P. VICTORINO M ayor

ANDREW H. MARTIN Prose cuting Attorney

MICHAEL S. KAGAMI First Deputy Prosecuting Attorney

ROB ERT D. RIVERA Second Deputy Prosecuting Attorney





DEPARTMENT OF THE PROSECUTING ATTORNEY

COUNTY OF MAUI 150 SOUTH HIGH STREET WAILUKU, MAUI, HAWAI'I 96793 PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY ON H.B. 1298 RELATING TO STATE FUNDS

March 1, 2021

The Honorable Sylvia Luke Chair The Honorable Ty J. K. Cullen Vice Chair and Members of the Committee on Finance

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning H.B. 1298, Relating to State Funds. Specifically, we would like to express our <u>opposition to H.B. 1298 in its current form</u>. We would also like to make it clear that our opposition is based solely upon the bill's proposal to transfer \$214,493.05 in unencumbered funds from the Criminal Injuries Compensation Special Fund ("the Fund") to the State general fund.

It is our understanding that the Crime Victim Compensation Commission ("the Commission") is currently funded via the amount in question, has seen its normal revenue stream reduced due to the COVID-19 pandemic, and will likely need to shut down if this amount is transferred to the general fund. Moreover, in light of H.B. 1299 (which eliminates the Fund and diverts all payments to the State general fund), it is unclear how future compensation funding will be allocated or administered and whether we will be able to maintain our current levels of funding, including federal VOCA grants that are dependent on matching State funds.

In our view, the Commission plays an important role in assisting the victims of violent crimes with medical costs, counseling costs, lost wages, and funeral and burial expenses that are not covered by other sources. Even a temporary shut down due to the removal of current unencumbered funding will be an immense loss for the victims we encounter on a daily basis, many of whom have sudden expenses that are the direct result of criminal activity (funerals, medical expenses, counseling) and who have no extra income to deal with these unexpected expenses.

For these reasons, the Department of the Prosecuting Attorney, County of Maui <u>requests</u> <u>that H.B. 1298 be deferred or, in the alternative, amended based upon our comments above</u>. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

POLICE DEPARTMENT

CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 98813 TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org

ELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org



SUSAN BALLARD CHIEF

JOHN D_ MCCARTHY AARON TAKASAKI-YOUNG DEPUTY CHIEFS

RICK BLANGIARDI Mayor

OUR REFERENCE AF-AS

March 2, 2021

The Honorable Sylvia Luke, Chair and Members Committee on Finance House of Representatives Hawaii State Capitol, Room 308 415 South Beretania Street Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: House Bill No. 1298, Relating to State Funds

I am Aaron Farias, Captain of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 1298, Relating to State Funds.

The HPD is the primary Public Safety Answering Point for the island of Oahu. All 911 calls we receive are routed for service by first responders from the police, fire, and emergency services departments for the City and County of Honolulu. The special fund for Enhanced 911 and Wireless Enhanced 911 supports the public safety communication services for the four counties of our state. This bill would transfer funds from the Enhanced 911 and Wireless Enhanced 911 to the general fund.

The HPD strongly urges you to oppose House Bill No. 1298.

Thank you for the opportunity to testify.

APPROVED: Ballad

Susan Ballard Chief of Police

Sincerely,

Aaron Farias, Captain Communications Division



MICHAEL P. VICTORINO MAYOR

OUR REFERENCE YOUR REFERENCE POLICE DEPARTMENT

COUNTY OF MAUL

55 MAHALANI STREET WAILUKU, HAWAII 96793 (808) 244-6400 FAX (808) 244-6411



TIVOLI S. FAAUMU CHIEF OF POLICE

DEAN M. RICKARD DEPUTY CHIEF OF POLICE

March 1, 2021

The Honorable Sylvia Luke, Chair The Honorable Ty J.K. Cullen, Vice Chair Committee on Finance 31st State Legislature 2021 Hawaii State Capitol 415 South Beretania Street Honolulu, HI 96813

RE: **HOUSE BILL 1298 RELATING TO STATE FUNDS**

Dear Chair Luke and Committee Members:

The Maui Police Department OPPOSES the passage of HB 1298, which transfers all unencumbered balances of non-general funds, to include department of public safety, to the general fund.

Like other communications centers around the state, our 911 Emergency Dispatch Center depends on available funding to pay for equipment and software critical to emergency services. These resources include mapping, phones, recorders, radio sites and repeaters, and other basic and advanced technology that are required to properly operate. The communications centers should retain the discretion to administer these funds immediately and for future acquisitions as they deem appropriate and necessary. Diverting these reserved funds to the general fund will negatively impact the ability to acquire essential support and maintenance and ultimately affect functions needed for public safety.

Thank you very much for the opportunity to testify.

Sincerely,

NVW S Jaaunen

ŤIVOLI S. FA Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY

CITY AND COUNTY OF HONOLULU

ALII PLACE 1060 RICHARDS STREET • HONOLULU, HAWAII 96813 PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM PROSECUTING ATTORNEY



THOMAS J. BRADY FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE MARK M. NAKASHIMA, CHAIR SENATE COMMITTEE ON JUDICIARY Thirty-first State Legislature Regular Session of 2021 State of Hawai`i

March 2, 2021

RE: H.B. 1298, RELATING TO STATE FUNDS.

Chair Nakashima, Vice Chair Matayoshi, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony, <u>expressing concerns</u> regarding H.B. 1298.

The purpose of this bill is to re-examine the objectives and performance of various nongeneral funded programs by diverting existing funding to the general fund. Although the Department agrees that from time to time programs should be reviewed to ensure they are deployed effectively and efficiently, we would like to expresses concerns over the following items being transferred to the general fund:

Areas of Concern:

Item 175 (The Judiciary - pg. 8)

- The Judiciary Computer System Special Fund is a substantial source of funding that supports the operating costs for programs such as the Judiciary Management System (JIMS) and the Judiciary Electronic Filing and Services System (JEFS). The Department routinely utilizes JIMS to enable electronic access to court cases and case information and JEFS to electronically file numerous court documents. Without JIMS and JEFS, the Department and the general public would not be able to review their cases online or electronically file documents and would require in person data requests and filings.

Item 177 (The Judiciary – pg. 8)

- The Driving Education and Training Fund is routinely utilized in state mandated programs resulting from offenses such as Operating a Vehicle Under the Influence of an Intoxicant, speeding and child restraint violations. When a defendant is mandated by statute to participate in a particular drivers education class, courts will refer that individual to the Driver's Education Branch which is funded by this special fund. Without this fund, state certified driver education programs will ceases to exist and defendants will not be able to comply with the Hawaii Revised Statutes (H.R.S.) or receive proper education.

Item 180 (The Judiciary – pg. 9)

- The Probation Services Special Fund currently supports resources used by probation offices in supervising and managing over 20,000 offenders statewide. Removing the funding would have serious detrimental effects on providing necessary supervision of high risk categories of individuals which include but is not limited to sex offenders, domestic violence offenders and high risk drug offenders.

Item 181 (The Judiciary – pg. 9)

- The Spouse and Child Abuse Special Fund are used to address domestic violence and child abuse statewide. Defunding this program would reduce the access to domestic violence intervention training which is state mandated for individuals convicted of Abuse of Family or Household Member. The Department is concerned that without properly funded programs, defendants would lack the tools necessary to avoid reoffending, exposing children, families and the community to unnecessary safety concerns.

Item 230 (Dept. of the Attorney General – pg. 10)

- The DNA Registry Special Fund is used to keep a comprehensive database of convicted felons through the use of their DNA. This database is key to ensuring the correct identification by law enforcement during investigations and is key to ensure continued support to secure public safety.

Item 238 (Dept. of Public Safety - pg. 11)

- The Criminal Injuries Compensation Special Fund has been the bedrock of services to victims of violent crime in Hawaii. It is a payer of last resort that has rescued thousands of crime victims from financial and emotional destitution since it was created. Diverting these funds would close a program which provides not only financial remuneration from crime victims, but it also offers an important gesture to victims of our collective apology for the wrongs that that they have suffered due to crime.

Item 240 (Dept. of Public Safety – pg. 11)

- The Statewide Auto Victim Info and Notification System Fund is important as it provides necessary information for crime victims, survivors and the community regarding the custody status of criminal offenders. Without proper funding, victims of crime will be negatively impacted by reduced support and services which would result in additional harm suffered.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu <u>expresses concerns</u> regarding the passage of H.B. 1298. Thank you for the opportunity to testify on this matter.

<u>HB-1298</u> Submitted on: 2/26/2021 6:11:51 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Reid Takano	Hawaii Athletic Trainers' Association (HATA)	Oppose	No

Comments:

Dr. Madam Chair and members of the Finance Committee,

My name is Reid Takano, I am the President of the Hawai'i Athletic Trainers' Association and an athletic trainer at the Kamehameha Schools – KapÄ• lama Campus. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic. Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers. Some of the presenters have authored leading research in the field of mild Traumatic Brain Injury (mTBI). Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

<u>HB-1298</u> Submitted on: 2/27/2021 11:43:05 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louise Tatekawa	Hawaii Athletic Trainers Association	Oppose	No

Comments:

Dr. Madam Chair and members of the Finance Committee,

My name is Louise Tatekawa, I am the Governmental Affairs Committee Chair for the Hawaii Athletic Trainers Associatioin. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic.

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Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.



Thomas D. Farrell Certified Specialist in Family Law* tom@farrell-hawaii.com Anthony A. Perrault tony@farrell-hawaii.com Leslie Ching Allen leslie@farrell-hawaii.com Kainani Collins Alvarez kainani@farrell-hawaii.com Philip J Dureza phil@farrell-hawaii.com David B. Russell brad@farrell-hawaii.com

TESTIMONY OF THOMAS D. FARRELL Regarding HB 1298, Relating to State Funds and HB 1299, Relating to Non-General Funds Committee on Finance Rep. Sylvia Luke, Chair/Rep. Ty Cullen, Vice Chair Tuesday, March 2, 2021 1:00 p.m. (via videoteleconference)

Chair Luke, Vice Chair Cullen and Members of the Committee:

As the second largest family law firm in Hawaii, we have a special interest in fiscal legislation that impacts the thousands of our fellow citizens who interact with the Family Court and their access to justice there.

Our position on HB 1298 and HB 1299 are that they are "not ready for prime time" and should not emerge from your committee.

We are acutely aware of the financial crisis engendered by the COVID-19 pandemic. There were times last year that I wondered if my law firm would be here in 2021, and we know of many individuals and families who have suffered tremendous economic and other losses, with a concurrent effect on state revenues. We also understand that you have difficult choices to make.

Collectively, HB 1298 and HB1299 constitute a repeal and abolition of every special fund and a transfer of their unencumbered balances to the general fund. It is a money grab, pure and simple. If you abolish the funds, you abolish the authority to levy the user fees, penalties, or other taxes that generate the revenue now sitting in the coffers of these funds. So, while you may grab the money that is there now, this is a one-time event. When the revenue source is abolished, the programs that they support will cease to operate, and you may expect that the various departments will come back to you next year asking that you fund the restoration of these programs from the general fund.

Let me speak to three of the special funds that are proposed to be abolished, and which are of particular importance to those of your constituents who find themselves in family court. Let me add, that my law firm has no particular economic incentive to advocate for family court. The abolition of the three special funds I will highlight will have absolutely no adverse economic impact on Farrell & Perrault.

Divorce ◆ Paternity ◆ Custody ◆ Child Support ◆ TROs ◆ Arbitration also handling national security cases involving revocation or denial of security clearances

700 Bishop Street, Suite 2000, Honolulu, Hawaii 96813 Telephone 808.535.8468 ♦ Fax 808.585.9568 ♦ on the web at: www.farrell-hawaii.com

*Certified by the National Board of Trial Advocacy. The Supreme Court of Hawaii grants Hawaii certification only to lawyers in good standing who have successfully completed a specialty program accredited by the American Bar Association. Testimony of Thomas D. Farrell HB 1298 and HB 1299 March 2, 2021 page 2

<u>ILAF</u>: As a matter of conscience, this law firm has maintained a strong commitment to pro bono, donating both time and money. Therefore, the most important on our list is the Indigent Legal Assistance Fund (ILAF). NO STATE REVENUES support this fund. It is funded by the interest on lawyer trust accounts. The proceeds are allocated by a board subject to a statutory formula, and provide financial support to Volunteer Legal Services Hawaii, the Legal Aid Society, and various other pro bono organizations. The state general fund will not get a nickel by eliminating ILAF. Absent the ILAF statute, our position is that the legal owner of the interest on our client trust account is this law firm, or perhaps our clients ---not the State of Hawaii.

<u>Judiciary Computer Special Fund</u>: Most cases filed in all courts impose a \$50 tack-on to the filing fee which is currently paying for the creation of the Judiciary Electronic Filing System. JEFS has been on a multi-year implementation schedule, with Family Court at the end of the line. If memory serves me, JEFS will finally reach Family Court in 2022. The current system of filing paper pleadings at the clerk's office and delivering or mailing them to opposing counsel is inefficient, time-consuming and expensive. Of course, we pass on the costs to our clients. My complaint is that the users of Family Court have been paying a \$50 tack-on to their filing fee for many years, and are finally about to see some return on it. If you take that money, god knows when we'll get JEFS extended to Family Court.

<u>Parent Education Special Fund</u>: There is also a \$50 tack-on to the filing fee in divorce and paternity cases, which supports a mandatory educational program for the parents and children involved in custody cases. Among its objectives is to help children cope with the anxiety engendered by custody litigation and to try to teach parents about the effects of custody litigation on children and how to peacefully co-parent. While I am personally a little cynical on whether the participants in these programs really learn anything, they are prevalent throughout the United States and represent "best practices" for family courts. That said, the more that parents fight, the more money we lawyers make. So if you want to get rid of the Parent Education Special Fund, so be it. Its only the kids that will suffer.

Frankly, HB 1298 and HB 1299 are examples of "sounds like a great idea" legislation that falls flat when you get into the details. It has long been my belief that the oath of office that all legislators take should be augmented by this line from the Hippocratic Oath: "First, do no harm." While particular funds may have outlived their usefulness, the mass murder of all special funds is a terrible idea that will create financial chaos and which---if you give it sanction---you will soon come to regret.

Trever Asam Board President

Angela Kuo Min Executive Director



545 Queen Street, Suite 100 Honolulu, Hawai`i 96813 Phone: (808) 528-7050 Fax: (808) 524-2147 **www.vlsh.org**

TESTIMONY IN SUPPORT OF H.B.1298 RELATING TO STATE FUNDS COMMITTEE ON FINANCE – VIA VIDEOCONFERENCE, CONF. RM. 306 MARCH 2, 2021 AT 1:00 P.M. Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

CHAIR LUKE, VICE CHAIR CULLEN, AND MEMBERS OF THE COMMITTEE ON FINANCE:

Volunteer Legal Services Hawaii ("Volunteer Legal") submits its testimony in support of H.B. 1298 – Relating to State Funds, specifically the importance and need for the Indigent Legal Assistance Fund ("ILAF") for the organization. Funding through ILAF is very vital and has been a consistent source Volunteer Legal has relied on over the years; with the more recent years providing approximately 8-10% of Volunteer Legal's annual budget. More than ever before, ILAF funds are crucial to the survival of Volunteer Legal and Hawaii legal non-profits. Please allow ILAF funds to Hawaii legal non-profits to continue to carry on its missions and work in the community.

With the ongoing pandemic, demand for legal services by those disenfranchised in Hawaii's community is rapidly increasing. In 2020, Volunteer Legal provided free legal services to over 2,000 Hawaii residents in various areas of law including: family law, estate planning, bankruptcy, landlord-tenant, collections, and veterans' benefits. We value the 3,000+ hours donated by Hawaii lawyers at a value of over \$771,000. Since COVID-19, Volunteer Legal has made necessary adjustments to maintain delivery of legal services including telephone and remote appointments with volunteer attorneys. Our online legal portal, Hawaii Online Pro Bono, alone has seen over a 250% increase in questions answered since pre-COVID-19 times. Without Volunteer Legal, these individuals would have been easily overwhelmed by the legal system. Instead, Volunteer Legal was able to provide these individuals with the support and counsel they needed to effectively address their legal needs.

However, Volunteer Legal faces a funding crisis as the demand for our legal services increase. Volunteer Legal anticipates a deficit of over 25% for 2021 and likely more in the following year. ILAF has always been a consistent source of funding that Volunteer Legal has relied on each year. Without ILAF, Volunteer Legal would not be able to continue to deliver on its mission of providing pro bono legal service to those in need in our community. Please allow ILAF to continue provide funding to the Hawaii legal non-profits. Thank you for this opportunity to provide this testimony.

Sincerely,

Angela Kuo Min Executive Director



CATHOLIC CHARITIES HAWAI'I

COMMENTS on HB 1298: Relating to State Funds

TO:	House Committee on Finance
FROM:	Rob Van Tassell, President and CEO, Catholic Charities Hawai'i
Hearing:	Tuesday, 3/2/21; 1:00 pm; via videoconference

Chair Luke, Vice Chair Cullen, and Members, Committee on Finance:

Thank you for the opportunity to provide **Comments on HB 1298**, which transfers to the general fund the unencumbered balances of various non-general funds in a wide range of state departments. I am Rob Van Tassell, with Catholic Charities Hawai'i. **We urge your Committee to delete the following special funds from this bill:**

- DOH: S306: Special Fund for the Department of Health's Child and Adolescent Mental Health Division (CAMHD)
- DHS: Interim Assistance Reimbursement Special Fund
- DHS: Spouse and Child Abuse Special Fund

Catholic Charities Hawai`i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai`i for over 70 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai`i. We operate 2 programs which may be seriously impacted if funds are transferred out of the CAMHD special fund.

The Department of Health's Child and Adolescent Mental Health Division Special Fund provides critical services to children and adolescents across the State of Hawai'i. Cuts in this special fund would result in fewer critical services to high risk youth. Catholic Charities Hawaii's Community Based Residential II (CBR) program helps boys ages 12-17 who have sexual behavior problems and usually mental health issues as well. We are the only program of this kind in the state. Less state funding could mean we could not afford to keep staff and pay for the home we rent without sufficient funding. These children are referred to us because they are unable to be maintained in their homes or in foster homes because of their behavior. Where would they go without specialized services like we provide? Might they become homeless or incarcerated in the future when their behaviors have not changed? Programs like ours at CCH give youth a second chance to live their lives as stable adults.

Our Intensive Clinical Services program (ICS) works with youth ages 3 to 20 who are at risk for out of home placement due to mental health and behavioral issues. They are funded directly through Medicaid reimbursements that CAMHD gets and passes along to us. If they were unable to continue to get their Medicaid reimbursements, they would be unable to pay us and this level of services would be eliminated unless they found another way to pay for it.

Please read the story on page 2. These programs can give kids a second chance at life and a stable future as they battle to overcome sexual, physical, and emotional abuse.





Catholic Charities Hawai`i is very worried that loss of funding and other changes to this special fund could cause the CAMHD mental health system to collapse. The ICS level of care which CAMHD refers to as "Intensive In-Home" receives the highest number of referrals of all levels of care in their system. Without funding, all of the youth at that level of care would be without services. There are no alternatives right now in Hawaii. There are few alternatives for the CBR level of care and we frequently have a waitlist for CBR services. Programs for children and youth at other agencies are similarly threatened if the CAMHD special fund loses funding.

We are also very concerned about the following 2 special funds at the Department of Human Services and the negative impacts on those most vulnerable in our society.

- Interim Assistance Reimbursement Special Fund- This special fund is used primarily to support State funded financial assistance payments for the General Assistance (GA) welfare benefit. The intent of this special fund is to avoid the need for emergency appropriations when caseloads rise during economic downturns. However, the current financial crisis resulting from the COVID-19 pandemic is of a magnitude far greater than the previous recession that prompted the IAR special fund's establishment.
- **Spouse and Child Abuse Special Fund** This special fund is used by DHS to support staff programs, grants, and contracts that support and provide spouse or child abuse intervention or prevention programs. In the upcoming State Fiscal Year (2021-2022), the funds will be critical to assist DHS in implementing its Family First Prevention Services Act Plan. The Family First Prevention Service Act fiscal model is a reimbursement model, which requires the State to expend non-federal funds on eligible activities to seek federal reimbursement. If the Spouse and Child Abuse Special Fund is reduced, DHS may have difficulty in upfronting these costs.

Story of a 9 year old helped by CCH's CAMHD funded program:

Imagine a youth around age 9, struggling to find himself in the world while battling the echoes of his own sexual, physical, and emotional abuse. The frontline of defense is his ICS therapists, who have grown to be not only his most outspoken advocates, but also his most stable caregiving figures. When he first entered into ICS services four years ago, his behaviors were erratic and aggressive at best, and actively abusive toward others at worst. It was his ICS therapists that assisted the neglected, innocent part of himself to come to the forefront. It required hours of conflict with them over the years, fighting his worst impulses, leading to the current state that he is in now. Progress was not always in a positive direction. Last year, he was hospitalized due to a medical condition that robbed him of his eyesight and placed him in a coma for a month. This youth was without his ICS allies for around half a year. Believing in his resiliency, his therapists patiently awaited his return to their care, to continue growing into a healthy young child. At the present time, he is able to return to school, is out of shelters, and medically and psychologically stable. Nevertheless, the last dregs of his past continue to come out of the shadows through his behaviors, which only his ICS therapists fully understand, allowing them to compassionately and adeptly attend to, and assist him with these inpulses. His therapists continue to struggle alongside him to transcend the circumstances he was born into. This is a service only the State can provide and a responsibility his therapists have committed to.

We urge you to remove CAMHD's special fund and these 2 DHS special funds from this bill. Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



HB1298 Special Fund for Services

COMMITTEE ON FINANCE:

- Rep Sylvia Luke, Chair; Rep. Ty Cullen, Vice Chair
- Tuesday, Mar. 2[,] 2021: 1:00: Videoconference

HSAC Opposes HB1298:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

The Reductions would be hurtful for many health services, especially for the behavioral health services.

- 1. These funds are vital for services providers for the Department of Health for behavioral health services, including services for the youth.
- 2. Significantly impair substance abuse and mental health services, especially at a time that such services are needed more than ever for COVID-19.

We appreciate the opportunity to provide testimony and are available for questions.



Hella



FROM: Robert J. LeClair, Executive Director, Hawaii Justice Foundation (HJF)

DATED: February 28, 2021

TO: Representative Sylvia Like, Finance Committee Chair

Members, House Committee on Finance

HEARING DATE, TIME, AND LOCATION:

March 2, 2021, 1:00 p.m. Room 306, Hawaii State Capitol

RE: HB 1298 (Item 178), HB 1299 (Section 201)

Testimony in Strong Support that the Indigent Legal Assistance Fund (ILAF) Special Fund Not Be Included in HB 1298 or 1299

The Indigent Legal Assistance Fund (ILAF) was created by the Legislature in 1996 to provide funds for essential legal services for Hawaii's limited-income people and has operated successfully for twenty-five years. No general funds are involved in the process, and all the funding is generated from surcharges on selected court case filings (no government case filings are surcharged.) Legal needs of the limited-income involve help with critical legal issues such as landlord & tenant, housing, financial situations, family law, and elder law. For FY 2019-20, which are the latest figures available for a year, the total number of cases handled under the Indigent Legal Assistance Fund (ILAF) program exceed 10,000. These cases range from full representation in complex cases to providing legal information or making appropriate referrals for assistance. All cases meet the statutory requirements of ILAF, including poverty income guidelines and/or type of case (i.e., elderly or disabled.) The current process ensures that all funds collected under program will be used only for the intended purposes. Placing the collected funds in the general fund subjects these funds to possible expenditures of less than the collected amounts or for purposes other than the designated use, thus jeopardizing the effectiveness of the ILAF Program. It is thus requested that ILAF not be included in the provisions of HB 1298 or HB 1299.

From the inception of ILAF in 1996, the Hawaii Justice Foundation (HJF) has served as Fund Administrator. HJF handles the extensive and careful application process from the various legal service providers (currently ten are participating). ILAF distributions are handled on a statutory pro rata basis that arises from prior year expenditures by the applicants for providing qualified legal services. HJF also handles review of the quarterly invoices and review of the requisite quarterly and annual reports. Every two years, in cooperation of HJF and the Judiciary, an extensive report is filed with the Legislature. ILAF is a Special Fund that receives surcharges collected on selected types of civil cases filed in Hawaii's various state courts (no governmental cases are surcharged.) These surcharges are then distributed to qualifying organizations that provide direct civil legal services to those in Hawaii whose income does not exceed 125% of federal poverty guidelines or who are eligible for free services under the Older Americans Act or Developmentally Disabled Act. HJF knows from lengthy first-hand experience that ILAF is an excellent program that operates smoothly and provides essential services for Hawaii's lower-income people.

HB 1298 (Item #178 of the Bill). The ILAF Special Fund balance is not "inactive" or "excess." HB 1298 lists many non-general funds including the ILAF Special Fund and states that the sum of \$176,104.70 (Item #178 of HB 1298) is in excess of the requirements of the ILAF fund and should thus be captured by Budget and Finance for the general fund. This is not a correct characterization of the operation of the ILAF Special Fund. Each year, funds are collected from surcharges on select types of cases filed (no governmental filings are surcharged). All funds collected for that year are then awarded to qualifying legal service providers for the following year, paid out on a quarterly basis. To capture \$176,104.70 from the ILAF Special Fund would cripple much of the funds available for distribution in FY21-22.

HB 1299 (Section 201 of the Bill). It is requested that the ILAF Special Fund be removed from inclusion in HB 1299 (Section 201 of the Bill.) HB1299 proposes possible sweeping changes to various special funds, and states:

"The purpose of this Act is to trigger a full accounting of various non-general funded program objectives, performance, and results by repealing or abolishing those non-general funds."

The ILAF Special Fund should not be repealed or abolished, since every two years the Legislature has been provided with a complete accounting of the activities, results, and success of ILAF and the Program has proven to be both effective and essential. The ILAF Program has procedural safeguards to ensure accuracy, accountability, and fairness of distribution among the qualifying organizations. All legal service providers receiving funds under ILAF are strictly monitored by HJF to ensure compliance with all statutory requirements. ILAF is an active, vibrant fund meeting essential legal needs of Hawaii's many limited-income people.

Placing ILAF under Budget and Finance could result in ILAF funds being used for purposes other than providing needed low-income legal services, and stable funding is essential for qualifying ILAF providers. Currently the ILAF Special Funds are statutorily mandated to be used for the purposes of qualified legal services. There is a very real risk that placing the funds in the general fund could result in uses of these funds for purposes other than outlined in the ILAF statute. Such a situation would reduce the stability of use of the funds collected, making financial planning even more difficult for the participating ILAF organizations.

Current conditions faced by legal service providers make the ILAF Program even more essential. Low-income legal service providers are currently facing extreme financial hardships. COVID-19 has eliminated the traditional private fundraising opportunities of dinners and other fundraising events. No Legislative funding under Grants-In-Aid was provided in 2020, and none is expected in 2021. Operational details under COVID-19 conditions have created additional expenditures by the legal service providers to deliver essential services. ILAF funds are one of the few stable financial sources available to providers. Anything that jeopardizes ILAF funding should be avoided.

Summary and Conclusion. It is certainly understandable and commendable that the Legislature wishes to ensure that all non-general funds are active and are used for their intended purposes, rather than languishing in a dormant condition. These concerns do not apply to the ILAF Special Fund. The ILAF process has operated smoothly and successfully for twenty-five years, and qualifying organizations know they will receive their fair pro rata share under the Program. More than 10,000 cases were handled under ILAF in FY19-20, helping more than 10,000 of Hawaii's people. Additional details on the Program are of course available from HJF upon request. It is respectfully requested that ILAF be allowed to continue in its present form for the benefit of all involved.



February 28, 2021

То:	Representative Sylvia Luke, Chair – House Committee on Finance; Representative Ty J.K. Cullen, Vice Chair; and members of the committee
From:	Theresa Paulette, Victim Services - MADD Hawaii
Re:	House Bill 1298 – Relating to State Funds

MADD Hawaii is testifying in strong opposition of House Bill 1298 Relating to State Funds.

No one believes they will be a victim of a violent crime. When someone suffers a violent crime they're suddenly thrust into shock, pain, trauma, and grief. Within a short time they're also faced with the stress of how they will pay for the unexpected expenses...medical, lost wages, funeral, burial, counseling, and more. They are distraught and concerned about the impact on themselves, their families, and their children. Victims are from various socio-economic backgrounds, some even homeless. In the case of impaired driving victims, when they reach out to MADD they are relieved to learn that if they don't have insurance or if the expenses aren't covered by insurance we will assist them in applying to the Crime Victim Compensation Commission for financial help. A welcome – and essential - safety net in their time of need.

COVID has not only impacted the state financially but a majority of its citizens. Violent crime has continued during COVID, and some types (domestic violence) may have increased. There have been approximately as many highway fatalities in 2020 as in the year before. During this downturn in the economy, the Crime Victim Compensation Commission is needed as much, or more, than ever. Victims of violent crime cannot be forgotten in these most difficult times.

MADD urges the committee to oppose HB 1298 as it applies to Hawaii's Crime Victim Compensation Commission.

Thank you for the opportunity to testify.
HB-1298 Submitted on: 2/28/2021 8:00:50 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
nanci kreidman	domestic violence action center	Comments	No

Comments:

Aloha,

The Spouse and Child Abuse accounts are crucial to community programs (contracts), professional training and special initiatives to address needs of those suffering the harm of abuse, whether adult or child. Funds will support the implementation of Family First Prevention Services Act Plan (in 2021-22), a new federal approach to addressing families where child abuse threatens safety of children. (The federal fiscal model is a reimbursement model, without funds, the State of Hawaii willface difficulty fronting the costs).

When the accounts were first imagined and devised, there was a great deal of discussion about the nexus between marriage licenses, for example, and abuse- since abuse occurs in the context of intimate partnerships. This still seems relevant. The same is true for birth certificates- fees imposed on birth certificates can help children who are victimized by abuse.

The Domestic Violence Fatality Review Coordaintor position is funded by funds deposited into the Domestic Violence and Sexual Assault Fund. The Fatality Review process has been important in examining various system reform needs - how did our system fail the person who died as a result of a domestic homicide?

Thank you.

Center for Hawaiian Sovereignty Studies 46-255 Kahuhipa St. Suite 1205 Kane'ohe, HI 96744 (808) 247-7942 Kenneth R. Conklin, Ph.D. Executive Director e-mail <u>Ken_Conklin@yahoo.com</u> Unity, Equality, Aloha for all



To: House Committee on Finance For hearing Tuesday, March 2, 2021

Re: HB1297,HD1 RELATING TO STATE FINANCES HB1298 RELATING TO STATE FUNDS HB1299 RELATING TO NON-GENERAL FUNDS

CONSOLIDATED TESTIMONY IN SUPPORT OF HB1297, HB1298, HB1299 AND THE UNDERLYING CONCEPTS THEY IMPLEMENT. SPECIAL ATTENTION TO OHA Mahalo nui loa to Sylvia Luke, Chair of the House Committee on Finance, for conceptualizing and authoring these bills regarding "special funds" and for bringing them forward to a hearing. Thanks to her also for clipping a notch in the ear of a sacred cow which we desperately need to milk.

The basic principle embedded in these bills is that unencumbered money remaining in special funds should lapse and be returned to the general fund. As coaches and teachers might say about muscle tone and skills: USE IT OR LOSE IT.

Other basic principles are that money held by government agencies comes from taxpayer dollars combined with fees and revenues earned by property owned by the government on behalf of all our people; and that money is fungible and may be spent only for the specific purposes authorized by the legislature -- purposes which the legislature always has a right to change as changing circumstances may call for.

There's nothing new about "raiding" the special funds. Two favorite funds for raiding over many years have been the Hurricane Relief Fund and the Highway Fund (much to the displeasure of motorists and the double-happiness of car repair shops).

At this time of financial crisis caused by the COVID-19 virus, people and businesses have great need for government assistance; even while government has great loss of revenue. Hence the need for big-time raiding of cash hoarded by numerous special funds.

There is one government agency that has a HUGE cash stash of hundreds of millions of dollars accumulated during four decades by hoarding government money that should have been spent providing help to needy beneficiaries. That Daddy Warbucks among Hawaii's special funds is OHA -- the Office of Hawaiian Affairs. According to their annual report, as of July 1, 2020 OHA had \$666,000,000 of assets, mostly in stocks, bonds, and real estate -- by now probably much more. That money has been sucked out of Hawaii's economy and buried like pirate's treasure. The auditor assigned to draw a map to the treasure's location has had his pen taken away by the pirate.

No other Hawaii government agency has ever hoarded so much money as OHA. You, the state Legislature, can and should go grab as much of it as necessary to help our desperately needy families and businesses, instead of dreaming up new taxation schemes that will hurt us even more. While we are desperate for money for basic needs like food and rent, OHA has bills in the legislature, and a history of many lawsuits against the State, demanding more, MORE money to make the cash stash bigger and BIGGER. And what do they plan to do with all that money? For more than two decades they have spent tens of millions of dollars lobbying Congress and the Department of Interior to pass legislation or proclaim a regulation to establish a federally recognized tribal "Nation of Hawaii"; and, alternatively, they have paid authors and outside "experts" on "international law" to describe strategies for ripping the 50th star off the flag to make a "Nation of Hawaii" truly sovereign and independent. Either way, OHA leaders and employees have made clear their intention to simply turn over OHA's cash stash to the Hawaiian nation; and then turn out the lights at OHA while raising a banner saying "Mission Accomplished!" Not even a Mahalo to the oppressor colonizer United States or its subsidiary puppet regime, the "Fake State of Hawaii."

So how has Chairwoman Sylvia Luke clipped a notch in the ear of a sacred cow? Two of these bills, HB1298, HB1299, actually mention the name of that sacred cow -- OHA -- and name specific programs inside OHA whose funds should lapse and be returned to the general fund. It's only a notch in the ear, not a piece of the tail or a chunk of offal. But there's a famous proverb from Chapter 64 of the Tao Te Ching by Lao Tse, or sometimes said to have been stated by Confucius: A journey of a thousand miles begins with a single step.

HB1298 and HB1299 introduced in the House Committee on Finance show that the Legislature might finally muster the courage to fight

back against the bully OHA -- the bills are a portent that OHA is losing the mandate of heaven.

OHA propagandists like to say that either the Statehood Admissions Act of 1959, section 5(f); or the Hawaii Constitution Article XII Section 6; require that 20% of ceded land revenues must be paid to OHA. That is false. Section 5(f) of the Admissions Act lists 5 purposes for which ceded land revenue can be spent and identifies one of them as "for the betterment of native Hawaiians AS DEFINED IN THE HAWAIIAN HOMES COMMISSION ACT OF 1920" [i.e., Hawaiians with at least 50% native blood quantum -- a clear reference to supporting what is now known as DHHL and clearly not a reference to what is now known as OHA whose beneficiaries are identified according to the "one drop" rule].

There is a long history of contentious negotiation, legislation, and litigation over the amount of money owed to OHA under the rule specifying 20% of ceded land revenue.

The requirement to pay OHA 20% of ceded land revenue is statutory law enacted as Act 273, Session laws of 1980. It is not in the Statehood Admissions Act nor in the State Constitution. Therefore, this law can be amended by the legislature at any time to reduce the percentage; or the law can be rescinded entirely.

At this time of severe budget crisis, Act 273, Session laws of 1980 should be rescinded. OHA should be funded in the same manner as any other branch of the State government; i.e., by an appropriation included in the annual or biennial State budget, including a line-item listing of the purposes for which the money may be spent. Then there would be no further conflict or litigation over how to calculate the 20%.

Furthermore, the 20% rule violates one of the fundamental principles of legislative control over budgeting; namely, that specific amounts of government money are appropriated by the legislature for specific purposes, and administrative agencies are not allowed to re-allocate money among those purposes or to different purposes altogether. Lapsing unencumbered money back to the general fund is one way the legislature can exercise its authority to designate the purpose for appropriated money to be spent. Raiding special funds in the middle of a budget cycle is another way of doing this. But under the 20% rule money is simply handed over to OHA with no designated purposes and no accountability for results. Rescinding the 20% rule is an important way to free the legislature to exercise its power to lapse or to raid.

Act 273 (1980) says "twenty per cent of all funds derived from the public land trust ... shall be expended by the office of Hawaiian affairs ... for the purposes of this chapter." Act 273 does not say the funds may be invested in an investment portfolio, it says the funds SHALL BE EXPENDED to provide services. "Shall" means it is mandatory, which is very different from "May" which is merely permissive. Yet OHA seems to think it can grab tens of millions of dollars every year which it then invests or uses for political purposes such as lobbying for the Akaka bill or building a racial registry for "nationbuilding", but OHA fails to provide more than sporadic and inadequate funding for purposes which OHA should be supporting.

According to its 2020 Annual Report, OHA has \$666 Million in assets -a Beastly number. No other agency of the state government is allowed to squirrel away huge amounts of wealth as a permanent cash stash. At its current level of expenditures OHA has enough money in its slush fund to pay all its current expenditures for more than a decade. Stop feeding this beast! And feel free to raid it. Indeed, the legislature has a moral obligation to make use of hundreds of millions of dollars lying fallow, to avoid raising taxes on suffering citizens.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Raid on Special Funds

BILL NUMBER: HB 1298

INTRODUCED BY: LUKE

EXECUTIVE SUMMARY: Transfers to the general fund the unencumbered balances of various non-general funds of various state departments.

SYNOPSIS: Provides, in a non-codified section, that on March ___, 2021, the director of finance may transfer into the general fund specified amounts from listed special funds. 320 special funds are now included in the list.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: The bill essentially raids the specified funds. The State's justification is that additional funds from various special funds are needed for transfer to the general fund to ensure continued funding of critical state programs.

We cannot argue with the proposition that excess balances in special funds should be repurposed first before reducing core services or increasing taxes.

Appropriation is not supposed to be difficult. Lawmakers, with the help of our Council on Revenues, figure out how much money we're expected to collect. They listen as the various executive agencies and departments show them what their respective programs have achieved for the people of Hawaii. Lawmakers then decide which programs and services are worthy of how much of our hard-earned taxpayer dollars, and off we go for another fiscal year.

This, however, isn't enough for some people (or departments), who are absolutely fixated on securing a "dedicated funding source" for their favorite program or department. A dedicated funding source usually means setting up a special fund, which is tougher to police using the appropriation process, and a grab on tax revenues before they can be counted with the rest of state realizations during the budgeting processes. Dedicated funding sources can and do protect inefficient or questionable programs and expenditures.

Legislators argue that the Legislature exercises more than adequate oversight over these special funds even though they aren't covered in the normal appropriation process. But how does that explain findings like the State Auditor's Report No. 20-06, which found more than \$75 million in accounts associated with inactive special or revolving funds? Or Report No. 20-07, which found tens of millions of dollars in special funds that swelled in size over the years, indicating an imbalance between the so-called dedicated funding source and the programs and services it was supposed to fund? Or Report No. 20-08, which built on Report No. 20-06 and made the bold statement, "More than \$483 million in excess moneys may be available to be transferred from 57 special and revolving fund accounts to the General Fund without adversely affecting programs"?

Re: HB 1298 Page 2

The continued existence of a program or service is supposed to be earned. If a program or service efficiently delivers value to the people of Hawaii, then it is worthy of our continued support. It's not supposed to be forced by tax grabs, special funds, and other gimmicks. We need to start recognizing that this "dedicated funding source" rhetoric is taking us down the wrong path.

Digested 2/27/2021



March 2, 2021

TO: Rep. Sylvia Luke, Chair Rep. Ty J.K. Cullen, Vice Chair Members of the House Committee on Finance
FROM: Christy MacPherson, Director, PHOCUSED
SUBJECT: Testimony: Relating to State Funds
Hearing: March 2, 2021 at 1:00 pm Via videoconference

Chair Luke, Vice Chair Cullen, and Members of the Committee on Finance.

PHOCUSED is a nonpartisan project of Hawai'i Appleseed Center for Law and Economic Justice and comprises health and human service organizations and the people they serve across the State of Hawai'i. We have been collaborating on advocacy pertaining to critical procurement and service delivery issues that directly impact our communities.

Thank you for the opportunity to provide testimony **in opposition** to HB1298 with recommendation of amendments if the bill is passed.

PHOCUSED has concerns about this bill for the following reason:

• Departments stated in the bill provide critical services that rely on the excess funds, especially during the recovery from the COVID-19 pandemic. Therefore, their excess funds should not be transferred to the State's General Fund.

Should HB1298 be passed, PHOCUSED recommends that language be inserted into the bill that clarifies a deliberate process and tiered proposal of what will be done with these funds if they are transferred to the General Fund.

Thank you for the opportunity to submit testimony on this issue.

PHOCUSED IS A PROJECT OF HAWAI'I APPLESEED

733 BISHOP STREET, SUITE 1180 • HONOLULU, HI 96813 • (808) 587-7605 • PHOCUSED.ORG

3/1/2021 RE: HB1298 and HB1299

Dr. Madam Chair and members of the Finance Committee,

My name is Kristie Tokushige, I am the athletic trainer at Kalaheo High School. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic. Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers. Some of the presenters have authored leading research in the field of mild Traumatic Brain Injury (mTBI).

Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

I have been the Athletic Trainer at Kalaheo High School since 1997 and this concussion program has helped me tremendously. It helps to bring concussion awareness to the students, parents, teachers, coaches and administrators. Before the HCAMP, it was difficult at times to get the parents and students on-board with my concussion assessment. Having HCAMP and its references, parents and students have a better understanding of concussions; as there is an entity where they can do their own research vs just "taking my word" on the subject matter. Funding for HCAMP is vital to the high school in Hawaii and ultimately for the well-being of the students of Hawaii.

If you have any further questions or concerns, I will gladly speak to you on this matter.

Sincerely, Kristie Tokushige, MS, ATC Athletic Trainer/Asst. AthleticDirector Kalaheo High School 730 Iliaina St. Kailua, HI 96734 (808)305-0283

HOUSE OF REPRESENTATIVES THE THIRTY-FIRST LEGISLATURE REGULAR SESSION OF 2021

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

HEARING: Tuesday March 2, 2021 1:00 p.m. VIA VIDEOCONFERENCE HB 1298: Relating to State Funds

TO THE HONORABLE SYLVIA LUKE, CHAIR AND THE HONORABLE TY J.K. CULLEN, VICE CHAIR AND MEMBERS OF THE COMMITTEE

My name is Tracey Wiltgen, and I am writing to request that the \$176,104.70 of the Indigent Legal Assistance Funds (ILAF) funds not be transferred to the general funds. ILAF provides critical financial support for the Mediation Center of the Pacific (MCP) and the other civil legal service providers, enabling us to assist thousands of people in the indigent population. In light of the Coronavirus pandemic and the accompanying economic downturn which has impacted funding for MCP and all of the civil legal service providers, while simultaneously increasing caseloads, all of the ILAF funds are needed more than ever. Therefore, I ask your support in maintaining the ILAF funds for the work of the civil legal service providers, and not transferring any portion of it to the general funds.

Like every other business and organization in Hawaii, for MCP, calendar year 2020 was a year of overcoming challenges created by the Coronavirus pandemic, including transitioning services primarily to a remote platform, while still ensuring that services were accessible for all. Despite these adjustments, MCP served 7,656 people during the year, an increase of 469 people from the prior year. 2,763 cases were managed, an increase of 845 cases from the prior year, including opening 1,793 new cases. A total of 681 cases were mediated, involving 3,729 hours of mediation, and requiring over 1,000 more case management hours from the prior year. Approximately 30% of the individuals in those cases were in the indigent population. The ILAF funds awarded to MCP, were used to provide services to those individuals.

While MCP provides mediation and dispute resolution services in many areas, the preponderance of cases are primarily focused on domestic, landlord-tenant, consumer-merchant, and family matters, key areas identified as needing increased access to justice. Equally significant, due to the pandemic, the number of requests for mediation in these areas has grown. For example, last year 648 new divorce and custody cases were opened, and 410 cases were mediated. In addition to mediating the typical divorce and custody issues, new issues related to the pandemic also needed to be addressed such as which home is safest for the children, and who will supervise the children's remote learning from home. The ILAF funds supported this work.

In the landlord-tenant arena, 844 new landlord-tenant cases were opened requiring MCP to hire temporary staffing to manage the large number of cases. Over the past four months, MCP has also invested over \$5,000 in interpreters and translation services, because English is not the primary language of many of the tenants assisted by MCP.

The number of indigent needing services, has continued to increase in 2021. If the ILAF funds awarded to MCP were reduced because funds were moved to the general funds, we would not be able to continue serving all of the members of the indigent population who need our services.

As the District Courts gradually reopen, MCP is experiencing a large number of consumer- merchant referrals, as well as landlord-tenant cases involving payment of back rent. MCP is also managing hundreds of domestic cases involving married and unmarried couples with children. With many people furloughed, laid off, or working remotely, more employment disputes are also being addressed through MCP. While people with financial resources can access private mediators and other dispute resolution options, MCP is the only dispute resolution option for people in the indigent population. For this reason, it is imperative that MCP's services remain available and accessible for these individuals. Without all of the ILAF funds, MCP will not be able to provide the services at no cost for individuals who are indigent.

With many of MCP's traditional fundraising sources such as the annual fundraiser, on hold or reduced due to the pandemic, the ILAF funds have become an even more important resource for providing mediation and dispute resolution services to people in the indigent population. This is true for all of the civil legal service providers. I therefore respectfully request that you and the members of the committee not move the \$176,104.70, or any portion thereof, from the ILAF to the general funds.

Sincerely,

Sincerely,

Tracey S. Wiltgen Executive Director The Mediation Center of the Pacific, Inc.



HAWAI'I STATE BAR ASSOCIATION Family Law Section

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VICE-CHAIR/CHAIR-ELECT Seth Harris sharrist@Haynall.cgal.com

<u>SECRETARY</u> Mari Kishimoto Doi mkishimotodoi @hmfordylay.com

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TESTIMONY

House Committee on Finance Hearing: Tuesday, March 2, 2021 (1:00 p.m.)

TO:	The Honorable Sylvia Luke, Chair The Honorable Ty J.K. Cullen, Vice Chair
FROM:	Gemma-Rose Poland Soon, Esq. Hawai'i State Bar Association, Family Law Section Chair
RE:	House Bill No. 1298 Relating to State Funds and House Bill No. 1299 Relating to Non-General Funds

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance, the Family Law Section of the Hawai'i State Bar Association writes in <u>strong opposition</u> to House Bill 1298 and 1299 and <u>strongly oppose</u> any action by the committee to advance either of these bills. as it would have a disproportionally large and devastating impact on Hawaii's Family Courts.

As we are all certainly aware, the Covid-19 pandemic and the resulting economic damage it has caused has dramatically impacted all of Hawai'i, not the least of which are government services that provide necessary and important services to our communities across the Hawai'i. House Bill 1298 and 1299 could cause significant damage to basic services needed to facilitate access to justice in all of our communities. The judiciary is tasked not only with timely provide access to justice and resolution of legal disputes, but also provide crucial services to often underserved and under or unrepresented portions of the community.

By denying non-general funds set aside for specific tasks, the legislature risks undermining key functions necessary for ongoing and future access to justice. More specifically:

<u>Judiciary Computer System Special Fund</u> – Most cases filed in Family Court impose a \$50.00 Computer System Surcharge fee as part of the fee to file the case with the court. These fees have been used to pay for the Judiciary Electronic Filing System. The Judiciary Electronic Filing System has been on a multi-year implementation schedule to automate documents and filing. Appellate, criminal, civil and traffic documents have been automated. Family Court is the **last** court to transition to E-Filing, and the Computer Special fund is the money that was set aside for this to happen.

As the last of the Hawai'i state courts to be scheduled for online filing, the funds set aside for this transition are crucial for reasonably accessing documents without direct interaction with filing and records section staff. The potential benefits of this system are wide reaching in impacting not only those who may not currently want access to the Family Court facilities directly due to concerns over exposure to Covid-19, but also others such as those who might benefit from online access such as individuals geographically distant from the courthouse without easily accessible transportation, individuals who are primary or sole providers who cannot leave work during regular hours to get to the Courthouse to file or individuals with disabilities. Online access helps remove impediments to filing that will facilitate access to justice during a time when the limitation of in person access has necessarily been limited. Beyond Covid-19, no automating Family Court documents and filing will result in continued use of a system with reduced public access, significant inefficiencies, and increased costs.

<u>Parent Education Special Fund</u> – The funds used to facilitate the Kids First program are established for the purpose of helping parenting and children at the start of litigation of child-related issues and are specifically aimed at assisting children during what is often an exceptionally traumatic event with the separation of parents. The program provides both short and long term benefits to Hawaii's children and considering the primary financial support received from fees paid by participants, terminating this program would undermine basic initial services that may assist children in avoiding more serious emotional harm.

<u>Spouse and Child Abuse Special Account</u> – Funds allocated to use of judiciary for programs, and grants or purchases of services that support victims of domestic violence or provide spouse or child abuse intervention and prevision, creates a serious threat at a time when domestic violence incidents are reported to have sharply increased.

As the group most directly litigating issues regarding children and families, the attorneys of the Family Law Section are acutely aware of the negative impacts that sweeping funds for services directly connected with providing access to justice and protecting the vulnerable. We strongly oppose House Bills 1298 and 1299 as detrimental to these fundamental needs of our community.

Sincerely,

Gemma-Rose Poland Soon, Esq., Chair Hawai'i State Bar Association, Family Law Section

HB1298

Dear Rep. Sylvia Luke, Members of the Finance Committee

My name is Mark Shimabukuro. I am the Peer Education Coordinator at Aiea High School. Peer Education is a program designed to give students the opportunity to advocate for issues that they might face. Two of those issues are pedestrian and traffic safety. Around the country traffic accidents are the leading causes of teenage deaths.

I am writing opposition to HB1298. The Graduated Licensing Program was created to reduce the number of accidents involving drivers under 18. If HB 1298 is passed then this would defeat the purpose of the GLP (Graduated Licensing Program). Eliminating funds earmarked for Driver's Education Program would have a detrimental effect on students. Students would either have to pay \$500 + for private lessons (compared to \$10 DOE) or wait till after they turn 18 yrs. old.

Driver's Education teachers are trained and certified to be driving instructors. If these funds are eliminated then Hawaii's roads will become more dangerous and there will be an increase in accidents caused by teenage drivers. Students who cannot afford to pay \$500 for private lessons will wait until after they turn 18 yrs old. This means that they will develop bad driving habits because parents are not trained instructors.

I feel saving lives should be the first priority. Too often we hear about a promising teenager whose life is cut short. Unfortunately, that person will never get to fulfill his/her potential. Traffic accidents are the leading cause of teenage fatalities across the country (other states don't require drivers education). Keeping Driver's Education in DOE schools is the only way to reduce this trend.

Thank you for giving me the opportunity to submit testimony. I would urge you to consider continuing to fund the Driver's Education Program. If you have any questions feel free to email me at <u>mark_shimabukuro@email.com</u>.

Sincerely, Mark Shimabukuro





March 2, 2021 at 1:00 pm Via Videoconference

House Committee on Finance

- To: Chair Sylvia Luke Vice Chair Ty J.K. Cullen
- From: Hilton Raethel President and CEO Healthcare Association of Hawaii

Re: Testimony in Opposition HB 1298, Relating to State Funds

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities, and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to provide testimony in **opposition** to lines 171 and 172 of this measure. We understand that this is a broad-based bill meant to identify unspent dollars in various special funds and transfer those funds to the general fund. However, we would urge removal of the funds listed on lines 171 and 172 because they are active funds that are being used appropriately for the hospital and nursing facility sustainability programs.

We understand that Med-QUEST has streamlined their accounting processes for the hospital and nursing facility sustainability programs and that the current funds they are using for those programs are S-18-378 (hospital sustainability program) and S-18-379 (nursing facility sustainability program.) These funds are where the current fees assessed on participating hospitals and nursing facilities are deposited, and are being actively used to receive assessed fees, match with federal dollars, and disburse back to participating hospitals as appropriate. Because they are active, we would ask that those two fees be removed from this measure.

Thank you for your consideration of our concerns.

Appellate Section Hawaii State Bar Association

Hearing on H.B. No. 1298, Relating to State Funds March 2, 2021 at 1:00 p.m.

House Committee on Finance Honorable Sylvia Luke, Chair Honorable Ty J.K. Cullen, Vice Chair

Dear Chair, Vice Chair, and Members of the Committee:

On behalf of our colleagues in the Hawaii State Bar Association's Appellate Section,¹ we write in **strong opposition** to H.B. 1298. Members of the section are appellate practitioners, and we have a keen interest in the proper functioning of the State appellate courts and the State Judiciary as a whole.

H.B. 1298 proposes to eliminate special funds for—among others—the Judiciary. This legislation will have a devastating impact on court functions. The programs supported by the Judiciary's special funds serve critical roles in the administration of justice and require steady, dedicated sources of financial support. Without these programs, our community will be less safe.

We would highlight the Computer System Special Fund. As appellate practitioners, the members of Appellate Section rely heavily on the Judiciary's electronic case management system. The proper functioning of that system—which covers civil and criminal trial cases also—is the cornerstone for modern and effective judicial administration. It significantly reduces the cost of litigation and thus improves the community's access to justice. In addition, electronic case management expands the public's ability to access court files and understand how the Judiciary operates. Eliminating the Computer System Special Fund jeopardizes those important public benefits.

Thank you for the opportunity to testify in **strong opposition** to H.B. 1298.

Deirdre Marie-Iha, Section Chair

¹ The views and opinions expressed here are those of the HSBA's Appellate Section. The HSBA Board has not reviewed or approved the substance of the testimony submitted.

<u>HB-1298</u>

Submitted on: 3/1/2021 9:51:27 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted	By Organization	Testifier Position	Present at Hearing
Chad Tanigu	ichi Hawaii Bicycling Leagu	e Oppose	No

Comments:

When you're weary Feeling small When tears are in your eyes ...I Oh, when times get rough

Like a bridge over troubled water...

Thank you for serving during these hard times.

These are hard times. Hard times call for hard measures. The Hawaii Bicycling League opposes this bill as it relates to the Safe routes to School Special Fund, which is collected based on traffic violations in school zones. It works to provide counties funds to improve school access and safety.

Please do not raid special funds that work, like the Safe Routes to School Special Fund. The lives saved by the Safe Routes to School Special Fund are important.

I am old enough to remember when the Employees Retirement System special fund was raided 4 decades ago so that it's future solvency is put in jeopardy, and extraordinary measures now still need to be made to insure its viability. That raid back then was wrong, and we know it in hindsight.

There are other ways to use intelligence and creativity to balance our budget. Hard, not easy. Resist the easy fix of just raiding working special funds.

This crisis is an opportunity to do better with what we have. Task state and county departments and staff to move in new directions, to innovate, to find better ways to maintain and improve the quality of life. Make budget changes with the recognition of what is needed for the future, not just to maintain the status quo. Necessity is the mother of invention!

Thank you for serving during these hard times. I was in your position in 1992 during Hurricane Iniki on Kauai. Think hard, work hard, be creative, educate our citizens, keep them involved, motivate our citizens and workers. You can do it! We can do it.

Dr. Madam Chair and members of the Finance Committee,

My name is Cynthia Shimoda, I am the athletic trainer at Moanalua High School. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. The Hawaii Concussion Management Program(HCAMP) uses the Department of Health's Neurotrauma Special Fund for the healthcare and safety of all Hawaii's students. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations, and computerized neuropsychological tests, which has and will be a tremendous help during this pandemic. Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers, coaches and parents.

Taking these funds will ultimately put Hawaii's students in danger, and the State in negligence (if schools can no longer provide these tests due to lack of funds). Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date Traumatic Brain injury research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

Mahalo, Cynthia Shimoda, ATC Moanalua High School, Athletic Department 2825 Ala Ilima St Honolulu, HI 96819 808-305-1147



Chairman of the Board Glen Kaneshige

President Michael Lui, MD

Board Members

Rick Bruno, MD, FACEP Jackie De Luz Brandt Farias Jason Fujita Mimi Harris Zia Khan, MD Brandon Kurisu Arnold Martines Michael Rembis, FACHE Andrew S. Rosen Timothy Slottow Jennifer Walker

Serving Hawaii since 1948

Our Mission:

"To be a relentless force for a world of longer, healthier lives."

For more information on the AHA's educational or research programs, visit <u>www.heart.org</u> or contact your nearest AHA office.

American Heart Association testimony in OPPOSITION to HB 1296, "Relating to State Funds"

Hawaii has made great strides in reducing tobacco use, but despite these advances, tobacco use remains the leading cause of preventable death in our state and challenges to tobacco control still exist. Hawaii's current adult smoking prevalence (13%) remains higher than the national Healthy People 2030 target of 5%. Moreover, our low smoking rates (relative to other states) can conceal the fact that smoking continues to disproportionately affect populations and community groups by race and ethnicity, income and education, mental health and substance abuse, and lesbian, gay, bisexual, and transgender (LGBT) orientation.

Tobacco use is a leading cause of preventable disease and death and a major risk factor in the development of cardiovascular diseases and stroke, Hawaii's leading causes of death and major disability. Of the approximately 480,000 Americans who die from smoking each year, 35% of those deaths are from cardiovascular disease.

In Hawaii alone, tobacco use claims 1,400 lives each year and creates \$526 million in annual health care costs (\$141.7 million of that is covered by the state Medicaid program). Hawaii residents' state & federal tax burden from tobacco-caused government expenditures is \$836 per household. Smoking-related losses in productivity total \$387.3 million per year.

The tobacco industry spends an estimated \$26.1 million each year marketing its products in Hawaii. Yet, Hawaii is allocating just \$7.9 million in state funds to tobacco prevention this year, 58% of the Centers for Disease Control and Prevention's recommended annual investment target for tobacco control in the state.

The AHA strongly believes that allocating funds from the state's settlement agreement with the tobacco industry to community tobacco prevention, education and cessation programs is not only pono, but helps to increase the desired impact of those settlement dollars by further reducing the use of tobacco products by our youth and the state's most health vulnerable populations.

The Hawaii Department of Health reports that over the last decade,

State Tobacco Settlement Fund investments in cumulative tobacco control efforts resulted in approximately \$1 billion in healthcare cost savings to the state. Tobacco prevention and control programs have a strong return on investment - for every \$1 spent on tobacco prevention, Hawaii saves \$6.64 in direct healthcare costs.

It is important now as ever to continue that funding considering the record increase in use of electronic smoking devices by Hawaii's youth. According to recent Department of Health data, over half of Hawaii's youths have tried e-cigarettes, and over 30 percent are now regular users. Those levels mirror youth cigarette use at its peak in Hawaii. This is concerning because e-cigarettes not only often contain nicotine and serve as a gateway to traditional cigarette use, but nicotine can harm the developing adolescent brain. Nicotine addiction that occurs with e-cigarette use may lead to transition to use of combustible tobacco products. Addiction itself, whether to nicotine or other drugs, can drive undesirable behaviors. And using ecigarettes increases your odds of having a stroke, heart attack and coronary heart disease. Hawaii must continue to work to ensure that future generations avoid the pitfalls of tobacco use, including this latest threat by electronic smoking devices, and the healthcare issues and costs associated with it.

I conclude by stressing that the American Heart Association's advocacy for the appropriate use of Tobacco Settlement revenue is not based on its desire to have access to those funds. The AHA by policy does not accept state or local government funding. However, the AHA does see itself as an important watchdog for public health, and for ensuring that our state government fulfills its State Constitutional role (Article IX, Section 1) in protecting and promoting the public health.

We urge legislators to not curtail Tobacco Settlement revenue to the State's Tobacco Prevention and Control Special Fund, and to ensure continued funding for community efforts to reduce the toll of tobacco on our state's residents.

Respectfully submitted,

) male B. Weismon

Donald B. Weisman Hawaii Government Relations/Communications Director

HAWAII COUNTY BAR ASSOCIATION

HCBA@hsba.org

Michelle S.K. Oishi President

Jeffrey W. Ng Vice-President

Shaunda A.K. Liu Secretary

Sherilyn K. Tavares Treasurer

February 28, 2021

Via https://www.capitol.hawaii.gov/submittestimonyss.aspx

Representative Sylvia Luke, Chair Representative Ty Cullen, Vice Chair House Committee on Finance Conference Room 308 State Capitol 415 South Beretania Street Honolulu, Hawaii 96813

> RE: HB 1298 RELATING TO STATE FUNDS HB 1299 RELATING TO NON-GENERAL FUNDS Hearing Date: Tuesday, March 2, 2021 at 1:00 p.m. Letter in Opposition to the Reallocation of Judiciary Funds

Dear Representative Luke, Representative Cullen and Committee Members:

The Hawaii County Bar Association ("HCBA") is comprised of over one-hundred eighty attorneys who are either based on Hawaii Island, or are interested in issues pertaining to Hawaii Island. The HCBA respectfully submits this letter in opposition to HB 1298 and HB 1299 as it pertains to Judiciary matters and urges this Committee to support full funding for our Judiciary.

During times of economic crisis and hardship, difficult decisions must be made to allocate limited funds for the benefit of our entire state. While all government offices and services are important, the Judiciary's function within our community is critical to the health and welfare of us all. The reallocation of funding for items 175-181 in HB 1298, and the repeal of the related funds in HB 1299, if passed, would redirect funds that affect our entire community, and would result in a dire and immediate impact on the most vulnerable.

In HB 1298, Item 175 would reallocate the Judiciary Computer System Special Fund, which is currently earmarked for the addition of the Family Courts to the current electronic filing system. The Family Courts are the only courts not part of the Judiciary Electronic Filing System ("JEFS"). The JEFS system has streamlined the court filing system by increasing efficiency and reducing costs for users. In these times of social-distancing, electronic filing has the additional benefit of allowing litigants to file from their homes or offices, thereby reducing congestion in our courthouses.

Board Members:

Laura J. Knudsen James "Jimi" H. Kunimura Jennifer D.K. Ng Jill D. Raznov

P.O. Box 585 Hilo, Hawaii 96721

HB 1298 Item 177 reallocates the "Driver education and training fund," a fund that is essential to keeping our roads safe. Ensuring that young drivers are properly educated and skilled and re-training unsafe drivers protects all of us. Diverting funds away from these programs must not be contemplated.

HB 1298 Items 178 and 180 would remove resources for the "Indigent legal assistance fund" and the "Probation services special fund." Indigent legal services are constitutionally mandated, and the reallocation of these funds may affect our State's ability to comply with these mandates. Reducing probation services funds would affect the Judiciary's ability to monitor and assist offenders. The repeal of these funds would take away funds that are vital to rehabilitation and the prevention of recidivism.

HB items 179 ("Parent education special fund") and 181 ("Spouse and child abuse special fund") are necessary to protect and assist children and families in our community. Especially in these difficult times, services that are designed to keep children safe must be maintained. Any reduction in these funding sources affects vulnerable families in their time of need.

We submit to you that any reduction in the Judiciary budget would profoundly affect its ability to fulfill its constitutionally and statutorily mandated mission. Thank you for your time and attention to this matter.

Very truly yours,

Inichel Acorsto

Michelle S.K. Oishi, Esq. President Hawaii County Bar Association



521 Ala Moana Blvd, Ste 255 808-539-3806 Honolulu, Hawaii 96813 www.htdc.org

Written Statement of Len Higashi Acting Executive Director Hawaii Technology Development Corporation before the House Committee On Finance Tuesday, March 2, 2021 1:00 p.m. Videoconference

In consideration of HB1298 RELATING TO STATE FUNDS.

Chair Luke, Vice Chair Cullen, and Members of the Committee.

The Hawaii Technology Development Corporation (HTDC) offers **comments** on HB1298 that transfers to the general fund the unencumbered balances of various non-general funds.

HTDC opposes the lapse of \$26,858.10 from the S-19-357 Technology special fund. The technology special fund is an integral part of HTDC's operations. Furthermore, auditor's report no. 20-01 states "This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established". The fund is used to take in revenue from projects, events, activities, leases and sponsorships. While HTDC receives a general fund appropriation from the State, we often require some co-payment from our various stakeholders to receive services to ensure commitment by the recipient and to maximize our effectiveness. This model has served HTDC very well in maintaining programs that are relevant and needed by our target constituents. We also use the special fund to take in revenue and spend as cash-match requirements for our federal programs. The special funds provide operating capital to assist with cash flow management for our federal fund reimbursements. Income collected from federally funded activities must be spent on cash match or must be deducted from the award. Annually, HTDC brings in more federal dollars for our programs through grants and contracts than the general fund appropriation we receive. The special fund is critical in maintaining that high level of performance.

The bill lapses \$12,968.37 from the S-19-308 Hydrogen investment capital special fund related to HRS §206M-63 which was used to make investments by the Hawaii Strategic Development Corporation before it merged into HTDC. HTDC manages the Hawai'i Center for Advanced Transportation Technologies (HCATT) which has successfully demonstrated various

hydrogen projects and could potentially leverage the fund. The fund concept has merit, but if there is no intention by the legislature to appropriate additional funds into the account, HTDC does not object to lapsing the balance to cover the State's immediate general fund obligations.

Thank you for the opportunity to offer these comments.



March 2, 2021

House Committee on Finance March 2, 2021 Conference Room 308

RE: Testimony HB 1298 & 1299

The North Shore Community Land Trust was created to protect, steward, and enhance the natural landscapes, cultural heritage, and the rural character of ahupua'a from Kahahuku to Kaena. We appreciate the opportunity to offer testimony on HB 1298 & 1299.

Since our founding in 1997 the Legacy Land Conservation Program has been instrumental in securing the funding necessary to execute several conservation easements that will protect over 4,000 acres of land in our mission area in perpetuity. These lands help to preserve a lifestyle and offer valued recreational, agricultural, and cultural opportunities for residents statewide. Often times the opportunity to preserve land is temporal and accordingly we must have reasonable funds available to acquire available properties. Available federal funding through the Land and Water Conservation Fund often times require matching funds from local/state government making the Legacy Land Funds a critical piece of the puzzle. Without these vital funding sources NSCLT could not have found the success we have to date.

Due the vital importance of Legacy Land Conservation program the NSCLT strongly opposes House Bills 1298 and 1299. Base levels of funding for the Legacy Land Conservation Program of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects such as Nā Wai 'Eha on Maui. A designated special fund like the Legacy Land Conservation Fund qualifies the State for 75% match of federal funds – eliminating the funds would reduce federal matches to 50%.

NSCLT shares the position of our valued partner Trust for Public Land that any appropriation out of the Legacy Land Conservation Fund should a one-time transfer and should not leave the fund under the necessary base level funding to ensure the viability and continued success of this important program. Furthermore, we agree that the funds appropriated should support existing staff and operational costs of DLNR and not be appropriated to the general fund or other departments.

Thank you for the opportunity to comment on SB 1092 and SB 1091.

Mahalo

Adam/C. Borrello Executive Director

P.O. Box 1179, Hale'iwa, HI 96712 - www.northshoreland.org

HAWAI'I PACIFIC HEALTH



Executive Director Cindy Shimomi-Saito	Date:	March 2, 2021	
ADVISORY BOARD	To:		
President Mimi Beams		Representative Ty J.K. Cullen, Vice Chair House Committee on Finance	
Joanne H. Arizumi	F ile in a	Cincle Chimanni Caita, Evalutiva Director	
Andre Bisquera	From:	Cindy Shimomi-Saito, Executive Director The Sex Abuse Treatment Center	
Kristen Bonilla		A Program of Kapi'olani Medical Center for Women & Children	
Dawn Ching	55		
Monica Cobb-Adams	RE:	Testimony in Strong Opposition of HB 1298, Relating to State Funds	
Donne Dawson	Hearing:	Tuesday, March 2, 2021, Via videoconference	
Donalyn Dela Cruz			
Dennis Dunn			
Steven T. Emura, M.D.	Good afternoon Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance, The Sex Abuse Treatment Center (SATC) is in strong opposition of HB 1298 which transfers the unencumbered balance in the Criminal Injuries Compensation Special Fund of \$214,493.05 as of December 31, 2020, and \$99,103.66 in the Domestic Violence and Sexual Assault Special Fund to the General Fund.		
Councilmember Carol Fukunaga			
David I. Haverly			
Linda Jameson			
Lindsay Norcross Mist			
Nadine Tenn Salle, M.D.	The Crimi	nal Injuries Compensation Special Fund supports the Crime Victim	
Joshua A. Wisch	Compensation Commission (CVCC) which serves as a vital safety net for victims of violent crime. The CVCC is a vital part of the recovery of many victims for it serves to mitigate the physical, mental, and financial impacts of the crimes endured. Often, the		

most vulnerable victims benefit from the CVCC, enabling access to care to reduce the long-term impact of trauma on health and future functioning. Last year alone, the

The transfer of the \$214,493.05 balance in the Commission's special fund would result in the Commission's closure. The Commission's estimates of its expenditures for the rest of FY2021 requires the retention of the current balance of funds in its special fund account in order to offset the shortfall in revenue and remain viable

The Domestic Violence (DV) and Sexual Assault (SA) Special Fund has been used to support projects that further the efforts of prevention education in these areas.

CVCC supported 279 clinical service hours at the SATC which equates to approximately 9% of direct service therapy hours provided; the assistance was provided to those who did not have access to health insurance, or who were unable to cover insurance co-payments. The assistance provided by the CVCC supported

the safety and psychological care instrumental to recovery.

through the end of the fiscal year.

This fund for example, has enabled the Hawai'i Theater for Youth (HTY) to creatively educate on healthy relationships, consent, and respect in a relevant manner that resonates with youth. In addition, funds have been used to support the University of Hawai'i's PAU Violence program which provides needed assistance to student victims of sexual assault and domestic violence. As areas of needed attention are identified, the DV/SA Special Fund has played a significant role in meeting these needs. The current balance of funds in this special fund account is needed to continue these efforts.

The SATC respectfully asks that you do not pass HB 1298.

Thank you for the opportunity to provide testimony.



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ph: 808.791.0729 126 Queen St., Ste. 306 Honolulu, Hawaii 96813 www.hilt.org March 1, 2021

The Honorable Representative Sylvia Luke, Chair The Honorable Representative Ty Cullen, Vice Chair House Committee on Finance Hawai'i State Legislature

Re: HB1298 and HB1299, Hearing on Tue. Mar. 1, 2021 at 1:00pm

Dear Chair Luke, Vice Chair Cullen & Committee Members,

Hawaiian Islands Land Trust, d/b/a Hawai'i Land Trust ("HILT") is Hawai'i's islands-wide land trust that is both a Hawai'i 501(c)3 nonprofit, and a nationally accredited land trust. Our mission is to protect and steward the lands that sustain Hawai'i, and to perpetuate Hawaiian values by connecting people to 'āina. HILT is actively working with willing landowners, government, and private sector partners to protect over 5,500 acres of coastlines, forests, and lands that grow healthy food for local families throughout Hawai'i through the acquisition of conservation easements and fee ownership and stewardship of lands in partnership with community. HILT also owns and stewards seven preserves totaling 2,033 acres of coastal and cultural landscapes where in a year of hardship, we were able to hire 47 temporary conservation workers during the COVID-19 pandemic, getting Federal funds into local households and provide open space reprieve for over 26,000 individuals.

We appreciate the opportunity to provide testimony in strong opposition to HB1298 and HB1299 as it could negatively impact on our ability to serve our communities and State.

HILT opposes HB1298 and HB1299 as it proposes to halt all deposits into the State's Legacy Land Conservation Fund for two fiscal years. Although the purpose of the bill indicates that the intent of the bill is to re-deposit funds into the Legacy Land Conservation Fund, the current draft of the bill does not have any redposit provision. Instead, the bill as written, effectively suspends conveyance tax deposits into Legacy Land Conservation Fund, and uses that conveyance tax allocation to issue general obligation bonds for unspecified purposes.

Base levels of funding for the Legacy Land Conservation Program of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects.

The following HILT projects will be greatly compromised without FY22 and FY23 State Legacy Land Conservation Fund appropriations:

Mālama Mokae's coastal lands at Hāna, Maui (34 acres): a conservation acquisition project that will protect local community stewardship and access to an indigenous food source and ensure the permanent protection of this open space resource sung about by the late Pekelo Cosma. In partnership with Ke Ao Hāli'i, local 501(c)(3), the County of Maui's Open Space Fund has earmarked the matching funds for this project and State funds are needed for a successful



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ph: 808.791.0729 126 Queen St., Ste. 306 Honolulu, Hawaii 96813 www.hilt.org close of this fourth and final phase of the community's landscape conservation effort to protect the entire coastline from Hamoa Beach to Waioka Pond.

Māhukona Navigational & Cultural Complex at Kohala, Hawai'i (642 acres): land that was once slated as another resort development along the Kohala coastline, to an opportunity for us to protect the lands and waters that have and continue to teach generations of navigators the living cultural practice of noninstrumental navigation. HILT is working in partnership with Nā Kālai Wa'a, local 501(c)(3), and the greater Kohala and Hawai'i Island community to protect the home of over 175 cultural sites including Ko'a Heiau Holomoana and community access and stewardship to lands that have and can continue to serve as a hub for educational and cultural resiliency and opportunities for climate change mitigation. Māhukona ranked the #1 priority project in 2020 for the County of Hawai'i's open space program to provide matching funds for, alongside Federal and private funding partners—we hope the State Legacy Land Conservation Program can be a part of this incredible community effort.

As HILT steps into its 10-year anniversary in 2021, we are humbled and equally emboldened in how our mission directly provides reprieve and addresses the environmental and community resiliency issues our Hawai'i families face statewide. As we grow our strength in connection and storytelling, we hope we were able to communicate the <u>importance and security that the State of</u> <u>Hawai'i's Legacy Land Conservation Fund holds for a resilient future for</u> <u>Hawai'i.</u>

Mahalo nui loa for your public service and for the opportunity to submit testimony. We look forward to working collaboratively to protect our most special places in Hawai'i. Please do not hesitate to reach out as we would love to have you and your 'ohana out on the land with us.

Mālama pono,

Shae Kamakaala Director of 'Āina Protection, <u>shae@hilt.org</u>, 808-940-0639

Enclosure



TESTIMONY House Committee on Finance **Hearing: Tuesday, March 2, 2021 (1:00 p.m.)**

- TO: The Honorable Sylvia Luke, Chair The Honorable Ty J.K. Cullen, Vice Chair
- FROM: Levi Hookano HSBA President
- RE: House Bill No. 1298 Relating to the Judiciary

Chair Sylvia Luke, Vice Chair Ty J.K. Cullen and Members of the House Finance Committee, thank you for the opportunity to offer testimony on behalf of the Hawaii State Bar Association (HSBA) in **OPPOSITION** to HB1298 which indicates that if the Legislature determines that there are amounts in excess of the requirements of certain funds listed as of December 31, 2020, in March of 2021 the Director of Finance will be authorized to transfer these funds to the State general Fund. Effective Date: upon approval.

Special funds of the Judiciary which would be impacted are:

- Driver Education and Training Fund
- Indigent Legal Assistance Fund
- Parent Education Special Fund
- Probation Services Special Fund
- Spouse and Child Abuse Special Account
- Judiciary Computer System Special Fund

Driver Education and Training Fund

The transfer of funds from this Special Fund would eliminate programs for individuals convicted of serious traffic crimes such as operating a vehicle under the influence of an intoxicant, excessive speeding and failing to properly restrain a child which allow individuals to complete their required education courses to fulfill legal obligations. And approximately \$4 million in Federal funding for the Hawaii Highway Safety Program may be jeopardized.

Sources of funding: \$1 per year for each motor vehicle insured by each insurer of self-insurer. \$7 per moving violation. \$100 for driving under the influence, \$50 for not using child passenger restraint system. \$75 for excessive speeding.

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EXECUTIVE DIRECTOR Patricia A. Mau-Shimizu Testimony of HSBA House Bill No. 1298 Page 2

Indigent Legal Assistance Fund

A portion of court filing fees are deposited into this Special Fund to provide legal services to the poor, disabled, unserved and underserved communities across the State. Services for these individuals are critically needed as the State continues its COVID recovery.

Sources of funding: various court document filing fees.

Parent Education Special Fund

Funds in this Special Fund benefits the statewide Kids First Program, a mandatory program that educates and seek to mitigate the impacts of divorce and separation on children. Funds are used to train staff and judges on divorce and separation trends.

Sources of funding: \$50 for filing of initial complaint or petition for annulment, divorce or separation). Donations and contributions also collected.

Probation Services Special Fund

Funds in this Special Fund are used for supervision, training and certification training of Probation Officers who on any given day are responsible for over 20,000 offenders statewide. The need for supervision during a court ordered probation period is critical to the smooth and hopefully successful transition to life outside correctional facilities.

Sources of funding: \$150 when a defendant is sentenced to probation for a term of more than 1 year. \$75 when a defendant is sentenced to probation for a term of one year.

Spouse and Child Abuse Special Account

Funds in this Special fund are used for Domestic Violence intervention training to supervise and keep offenders accountable and compliant with legal obligations. The increase in Domestic Violence cases due to the additional stresses of COVID ex: (lack of employment, housing payments, health services, childcare, and food sustainability) makes this training especially important. It is estimated that over \$150,000 in Federal funds may be jeopardized needed for direct services for survivors, victims, families, children and offenders.

Sources of funding: \$1 for each certified copy of birth, marriage, divorce or death certificate. \$4.50 for each marriage license issued. Fines between \$150-\$500 for first conviction of TRO violation. \$250-\$1,000 for each subsequent conviction of TRO violation. Testimony of HSBA House Bill No. 1298 Page 3

Computer Systems Special Fund

While all of the other Special Funds of the Judiciary serve specific constituencies in need of specific services, of significant concern to Family Law practitioners is the Computer System Special Fund (current \$1,450,298) which will fund the automation of Family Court documents similar to the automation of the Appellate, Criminal and Civil cases (JIMS). The automation of Family Court documents is the most complex system due to the volume of documents which must remain confidential but accessible to attorneys representing the parties.

This Special Fund is the primary source of funding to operate the JIMS statewide electronic filing system. JIMS is the modernized case management electronic system ESSENTIAL to the Judiciary's operation. It is the central repository of all official case records. Attorneys are able to file documents electronically without physically going to a Court counter to file paper documents.

JIMS allows the general public to review their cases online via eCourt Kokua. The demand for electronic services during the COVID pandemic illustrates the Judiciary's pivot to technology to meet safe access to justice objectives.

Sources of funding: \$20 for each civil filing in district courts. \$50 for each civil filing in the circuit court. \$10 for processing of traffic citations (stopping, standing or parking where prohibited) \$40 for other traffic citations. \$30 for vehicular violations not covered by two prior categories.

Thank you for the opportunity to submit these comments in **OPPOSITION** to House Bill 1298.

HAWAII HEALTH SYSTEMS



R P O R A T I O *Quality Healthcare For All*

COMMITTEE ON FINANCE

March 2, 2021 1:00 p.m. Via Videoconference

Testimony Providing Comments to House Bill 1298 RELATING TO STATE FUNDS.

Transfers to the general fund the unencumbered balances of various non-general funds of the department of accounting and general services; department of agriculture; department of budget and finance; department of business, economic development, and tourism; department of commerce and consumer affairs; department of defense; department of education; department of Hawaiian home lands; department of health; department of human resources development; department of human services; judiciary; department of labor and industrial relations; department of land and natural resources; office of Hawaiian affairs; department of the attorney general; office of the governor; department of public safety; department of taxation; department of transportation; and university of Hawaii.

Linda Rosen, M.D., M.P.H. Chief Executive Officer Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **providing comments to H.B. 1298** that transfers to the general fund the unencumbered balances of various non-general funds.

Most of the special funds listed are established at the start of every fiscal year to hold our payroll funding until it can be sent to the State Department of Accounting and General Services (DAGS). When the new fiscal year starts, the balances of the prior fiscal year accounts are zero.

Item #160, account #S-97-403 is a revolving trust account that has not been active since 1999. This is not a State treasury cash account, so there is no cash currently sitting in the fund. HHSC is currently working with DAGS to identify the accounting entries needed to clear out the balance in this fund.

Thank you for the opportunity to provide testimony on this measure.

3675 KILAUEA AVENUE • HONOLULU, HAWAII 96816 • PHONE: (808) 733-4020 • FAX: (808) 733-4028



<u>Tuesday, March 2, 2021; 1:00 pm</u> Via Video Conference

House Committee on Finance

- To: Representative Sylvia Luke, Chair Representative Ty Cullen, Vice Chair
- From: Jen Chahanovich President & CEO

Re: Testimony in Opposition to HB 1298 Relating to State Funds

My name is Jen Chahanovich and I am the chief executive officer of Wilcox Medical Center. Founded in 1938, Wilcox Medical Center is a not-for-profit hospital dedicated to providing the Kaua'i community with accessible, quality health care. Wilcox is the largest medical facility on Kaua'i and has been recognized as one of the nation's best small hospitals. With more than 200 physicians on staff, Wilcox Medical Center offers island residents and visitors expert diagnosis and treatment for more than 22 specialties. It is a state-of-the-art acute care facility with a full suite of services including emergency, OB/GYN, pediatrics, cardiology, gastroenterology, ophthalmology, pulmonology, nephrology, orthopedics, neurology, internal medicine, trauma, family practice, radiology, urology, otolaryngology and general surgery.

<u>HPH writes in opposition to HB 1298</u> which proposes to transfer to the general fund the unencumbered balances of various non-general funds of the department of accounting and general services, including the trauma system special fund.

While we are sensitive to the challenging budget circumstances the State is confronting, we are compelled to write in opposition to HB 1298 which would adversely impact the trauma system special fund and the hospitals' abilities to provide care to patients suffering from traumatic injuries. The trauma special fund was created in order to provide funds to support the continuing development and operation of a comprehensive statewide trauma system to ensure the availability of care for trauma patients. A reduction in the amount of funds available to support trauma care will have a significant negative impact on hospitals' abilities to provide care for patients whose injuries require immediate attention and intervention to prevent further complications or death.

Hawai'i's trauma system is a cooperative network of nine trauma centers (including Tripler Medical Center), critical access hospitals and aeromedical services. The funding and development of the state trauma system allows the health care systems of the state to overcome its unique geographical challenges and to coordinate services, resources and transports across our unique island chain to serve the community. The trauma centers of this state collaborate
closely to overcome its unique geographical challenges, spanning nearly 300 miles, with individual counties separated by miles of open water and isolated by over 2000 miles from the mainland. The trauma centers and aeromedical partners work collaboratively to expedite transfers and deliver efficient care to Hawai'i's community, and the loss of trauma funds would be a great disservice to the community of Hawai'i. The State trauma funds have been used collectively by Hawai'i's hospitals and individual health care systems to create a unified, collaborative state system which affords an injured individual the highest probability of survival and return to their pre-injury quality of life.

As the largest medical facility on Kauai, Wilcox plays a crucial role in providing high quality health care for the entire island of Kaua'i. At Wilcox these funds help subsidize trauma program costs The trauma funds do not cover the entire trauma program costs which are necessary to ensure quality and ideally reduce the number of trauma cases. As the only trauma center on the island of Kauai, Wilcox is a vital link in providing prompt assessment, resuscitation, emergency surgery, and stabilization as well as arranging for transfer to a facility that has additional resources not available on Kaua'i if necessary. In 2020, Wilcox treated 417 trauma patients; in 2019, 437 trauma patients were treated, and in 2018, 341 trauma patients were treated.

Wilcox was the first American College of Surgeons-verified Level III Trauma Center in the state of Hawai'i. Through the trauma program, Wilcox has been able to achieve improvement in our hospital's response to traumas and expediting workup on a level comparable to the requirements of the American College of Surgeons Committee on Trauma (ACS-COT). In addition, given our complex geography, having status as a Level III Trauma Center has allowed us to provide leadership in improving the transfer process. This is evidenced by decreased transfer times on our trauma quality improvement program report.

A reduction or loss of trauma funding would be devastating to the level of services Wilcox delivers to the residents of Kauai. The island community relies on Wilcox to provide trauma care.

Based on the above reasons, Wilcox respectfully opposes this measure.

Thank you for the opportunity to testify.

HB-1298 Submitted on: 3/1/2021 11:36:12 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ava Kimberly	Peer Education Program at Aiea High School	Oppose	No

Comments:

Dear Representative Sylvia Luke and members of the Finance Committee,

My name is Ava Kimberly and I am a student at Aiea High School writing on behalf of the Peer Education Program. Peer Education is a program that is designed to help students and give them the opportunity to advocate and speak out for issues that they might face. Two of these issues are pedestrian and traffic safety because around the country traffic accidents are the leading cause of teenage deaths.

I am writing opposition to HB 1298. By passing this bill which calls for unencumbered funds from the Insurance Commissioner for drivers education program to go to the general funds. The amount that is listed is \$47k, which shows what the Insurance Commission collected in the last guarter of 2020 that did not get transferred to the Department of Education. Since repealing the fund does not support the Graduated Licensing Program which is what makes drivers education mandatory for drivers under 18 years of age, if drivers ed does not become mandatory for new learners, this could cause some serious safety hazards, not just for the driver, but for those around as well. The Graduated Licensing Program was found to have reduced the number of traffic accidents among drivers under the age of 18. In addition to this, this bill would also make drivers ed more expensive. Some families already struggle paying the original price, so if it increases by \$10 or \$500, more families would struggle paying for the learning experience. So, if the driver cannot afford to pay what is due to take these classes, then they would have to wait until they are 18 years old to get their driver's license. The driver education program funds are used to promote traffic safety and education programs in the kindergarten through 12th grade DOE schools. Using the positive traffic safety messages, this program has reached and helped over 60,000 people. This program also helps the new drivers and teenagers to become advocates so that they can spread these positive messages to their peers. Thank you for taking the time to read this testimony and I strongly encourage you to stop this bill and keep the drivers education program.



H A W A I ⁽ I 1003 Bishop St. Pauahi Tower, Ste. 740 Honolulu, HI 96813 T: 808.524.8694 **tpl.org**

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THE TRUST FOR PUBLIC LAND'S TESTIMONY OPPOSING HB 1298 & HB 1299

House Committee on Finance Tuesday, March 2, 2021, 1:00 p.m. Conf. Rm. 308

The Trust for Public Land strongly opposes HB 1298 and 1299. We recognize the current fiscal crisis facing the State and appreciate the Governor, this Committee, and the Legislature for its difficult work. However, the dedicated special fund and source of funding (a portion of the conveyance tax) for the Legacy Land Conservation Fund is critical to qualify for 75% of federal matching funding. In addition, base levels of funding of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects such as Nā Wai 'Eha on Maui.

HB 1298 proposes to transfer existing Legacy Land Conservation Fund balances into the general fund, and HB1299 proposes to eliminate the designated special fund – requiring the portion of the conveyance tax currently allocated to the Legacy Land Conservation Fund to the general fund.

If deposits in the Legacy Land Conservation Fund are stopped and the designated fund eliminated, Hawai'i will be unable to capitalize on millions of dollars of federal funding opportunities that can provide up to 75% of matching funding because Hawai'i has established a dedicated source of conservation funding via the Legacy Land Conservation Fund. In the Summer of 2020, Congress passed and the President signed the Great American Outdoors Act, which fully funded the Land and Water Conservation Fund (LWCF) at **\$900 million annually**. LWCF finances conservation programs like the U.S. Forest Legacy Program under the U.S. Department of Agriculture, the Outdoor Recreation Legacy Partnership under the National Park Service, and U.S. Fish & Wildlife Recovery Land Acquisition and Habitat Conservation Plan Acquisition Programs. As a result, federal funding has increased (in some cases, more than doubled) for these federal programs.

The Legacy Land Conservation Fund provides an important source of local/state match for these federal conservation programs. Because Hawai'i has a dedicated source of funding – the Legacy Land Conservation Fund – the match requirements for some federal programs are more favorable, allowing 75% federal share and 25% state/local share (in the absence of a dedicated fund, some programs will only allow a 50% federal share and require a 50% local/state match).

For example, The Trust for Public Land and DLNR/DOFAW are currently working on an U.S. Fish & Wildlife Service application for funding the purchase of the Nā Wai 'Eha watershed on Maui. DLNR/DOFAW previously secured \$3 million of U.S. Forest Legacy funding for Nā Wai 'Eha. We need approximately \$2 million of state/local



match to complete an estimated over \$9 million purchase. We plan to apply for FY22 Legacy Land Conservation Program funding this year. DLNR/DOFAW has several other projects for which it is also applying for federal funding to take advantage of the \$900 million annually funding federal conservation programs, and the Legacy Land Conservation Fund provides additional federal leverage, and a source of matching state/local funds.

The COVID-19 crisis has proved that DLNR's mission to maintain and manage our natural and cultural resources is critical to our physical and mental well-being, our shrinking freshwater supplies threatened by climate change, our public shorelines and reefs, and our unique plant and animal species found nowhere else in the world. Current DLNR programs and staffing levels should continue for the reasons stated above to secure Hawai'i's optimum share of up to 75% federal funding for important projects.

We urge the Legislature to continue funding the State Legacy Land Conservation Program at its current/base level to pay for staff and the base program, and maintain the dedicated fund.

Me ke aloha,

Lea Hong State Director

Edmund C. Olson Trust Fellow



Testimony Before the Finance Committee

IN OPPOSITION TO HB 1298 and 1299 (Halting the Land Conservation Fund)

Tuesday, March, 2 2021, 11:00AM in House Conference Room 308

Aloha Chair Luke and Committee members,

We ask that you hold these drastic measures that halt one of the most successful and beneficial programs in the State. These bills would compound the suffering from COVID-19 that many communities are facing. Cutting off the lifeline to preserve Hawaii's most treasured lands and waters would do real harm. The Land Conservation fund directly benefits communities!

In 2017 the spring source feeding the Kanewai Fishpond and the Paiko Fishery was without protection and for sale. Our community felt helpless as our spring water source lay in critical danger of being destroyed. Since it lay on private land, there was little anyone could do. Without the Land Conservation Fund to purchase Kanewai Spring, the dependent fishery and fishpond would likely have been ruined by planned development at the spring.

Fortunately, Maunalua Fishpond Heritage Center and the Trust for Public Land secured funding from the Land Conservation Fund to purchase our community's spring water source. The Fund allowed the community to leverage one million dollars in City funding, and substantial donations from the community to purchase and preserve Kanewai Spring. We ask that you keep this critical fund alive for Hawaii's communities and families.

Mahalo for the opportunity to comment,

Chris Cramer

Executive Director,

Maunalua Fishpond Heritage Center



Airlines for America°

We Connect the World

March 1, 2021

Rep. Sylvia Luke, Chair Rep. Ty J.K. Cullen, Vice Chair Committee on Finance Hawai'i State Capitol Honolulu, HI 96813

Dear Rep. Luke and Rep. Cullen:

Airlines for America[®] (A4A) is the principal trade and service organization of the U.S. airline industry.¹ We write to express opposition to HB 1298, which we understand would transferring all unencumbered balances from state airports to the general fund, among a host of other transfers. Transferring funds from state airports to the general fund would constitute illegal revenue diversion in violation of federal law and grant assurance obligations.

Federal laws and policy expressly constrain the use of airport revenues. Specifically, 49 USC §47133(a) requires that airport revenues be used only for "the capital or operating costs of – (A) the airport; (B) the local airport system or (C) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property." In addition, the collection and use of Passenger Facility Charges (PFCs) is governed by 49 USC §40117. Last, an airport operator, in this case the State of Hawaii, must provide written assurance that it will comply with this restriction as part of the process under which it receives federal grants for airport improvement projects. See 49 USC §47107(b).

Any proposal that would divert airport revenues into the general fund is also contrary to the Congressional directive that "money raised at the airport will be spent on the airport." H.R. Rep. 104-714(I), 37 (1996). These legal requirements are further described in the Federal Aviation Administration's Policy and Procedures Concerning the Use of Airport Revenue (the "Revenue Use Policy").²

¹ The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

² 64 Fed. Reg. 7696 (February 16, 1999)

A4A and its members strongly oppose the diversion of airport revenues for non-airport purposes. Rents, landing fees, PFCs and other revenues raised at the airport have an express purpose – to offset the cost of those facilities and fund necessary airport infrastructure projects. Diverting funds away from airports for unrelated state services not only clearly violates federal law but is contrary to sound public policy. Such actions are particularly troubling because, as you know, Congress has provided federal grant funds to airports for COVID relief given the devastating impact of COVID-19 on the aviation industry.

As such, we respectfully request the Committee to reject any attempt to transfer airport funds to the general fund.

Please feel free to contact me directly to discuss further. Thank you for your consideration.

Sincerely,

Sean Williams Vice-President, State and Local Government Affairs swilliams@airlines.org



DATE: March 1, 2021

TO: Representative Sylvia Luke Chair, Committee on Finance

FROM: Mihoko Ito

RE: H.B. 1298 H.D.1, Relating to State Funds Hearing Date: Tuesday, March 02, 2021 at 1:00 p.m. Conference Room: 309, Via Videoconference

Dear Chair Luke, Vice Chair Cullen, and members of the Committee on Finance:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, and Enterprise Commute (Van Pool).

Enterprise respectfully **opposes** H.B. 1298, H.D.1, Relating to State Funds, to the extent that it transfers funds from the rental motor vehicle customer facility charge special fund into the general fund.

While Enterprise appreciates the State's current fiscal situation, we would note that the monies collected in the rental motor vehicle customer facility charge special fund are already encumbered in the agreements between the Department of Transportation Airports Division and the rental car lessees for the building of airport consolidated rental car facilities. Under the agreement, the funding collected from rental car consolidated facility charges is required for the bonding of the facilities. The proposal in H.B. 1298, H.D.1 to transfer the funds from the special fund into the general fund will create financial operating shortfalls and jeopardize the projects (particularly the facility currently being built at Honolulu International Airport) from moving forward.

For these reasons, Enterprise respectfully requests that the rental motor vehicle customer facility charge special fund be removed from this bill.

Thank you for the opportunity to submit this testimony.





Submitted to the House Committee on Finance Hearing: Tuesday, March 2, 2021 1:00pm Hawaii State Capitol Room 308, Video Conference HB 1298: Relating to State Funds and HB 1299: Relating to Non-General Funds

Conservation Council For Hawaii strongly opposes HB 1298 and HB 1299.

Base levels of funding for the Legacy Land Conservation Program of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects such as Nā Wai 'Eha on Maui. A designated special fund like the Legacy Land Conservation Fund qualifies the State for 75% match of federal funds – eliminating the funds would reduce federal matches to 50%.

The COVID-19 crisis has proved that DLNR's mission to maintain and manage our natural and cultural resources is critical to our physical and mental well-being, our shrinking freshwater supplies threatened by climate change, our public shorelines and reefs, and our unique plant and animal species found nowhere else in the world. Current DLNR programs and staffing levels should continue. As discussed below, base/core funding of \$5.1 million per year for the Legacy Land Conservation Program is critical for Hawai'i to secure its share of federal funding for important projects.

If deposits in the Legacy Land Conservation Fund are ended, Hawai'i will be unable to capitalize on millions of dollars of federal funding opportunities that can provide up to 75% of matching funding because Hawai'i has established a dedicated source of conservation funding via the Legacy Land Conservation Fund. In the Summer of 2020, Congress passed and the President signed the Great American Outdoors Act, which fully funded the Land and Water Conservation Fund (LWCF) at **\$900 million annually**. LWCF finances conservation programs like the U.S. Forest Legacy Program under the U.S. Department of Agriculture, the Outdoor Recreation Legacy Partnership under the National Park Service, and U.S. Fish & Wildlife Recovery Land Acquisition and Habitat Conservation Plan Acquisition Programs. As a result, federal funding has increased (in some cases, more than doubled) for these federal programs.

The Legacy Land Conservation Fund provides an important source of local/state match for these federal conservation programs. Because Hawai'i has a dedicated source of funding – the Legacy Land Conservation Fund – the match requirements for some federal programs are more favorable, allowing 75% federal share and 25% state/local share (in the absence of a dedicated fund, some programs will only allow a 50% federal share and require a 50% local/state match).

<u>HB-1298</u>

Submitted on: 3/1/2021 12:07:59 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Crawford	Ke Ao Hali'i	Oppose	No

Comments:

Ke Ao Hali'i is a land conservation and stewardship organization based in Hana, Maui.

We urge your opposition to HB1298.

We understand that during the fiscal challenges of the pandemic, it is tempting to raid special funds for general fund needs. However, when it comes to the Legacy Land Conservation Fund, we believe this is short-sighted and counter-productive.

The need to protect and conserve our important legacy lands in Hawaii continues regardless of the pandemic situation. The protection and stewardship of Hawaii's lands provides many benefits that have an economic aspect, including watershed functions for our forest lands, and tourism attraction for our coastal lands especially.

Having a dedicated source of land conservation funding in Hawaii affords us the opportunity to capitalize on the very advantageous 75%/25% federal/local match from that actually end up bringing in much more financial benefit to the state than would be gained by the simple transfer of the LLCP funds into the general fund.

Right now there are already more worthwhile projects that need funding than the current annual cap allows, and the urgency to take advantage of the opportunities that these projects bring to the long-term sustainability and econonomic recovery of the state do not diminish at all due to the pandemic, in fact that are even more important for our secure future.

Please opposed HB1298, and continue the LLCP funding at least at it's current level.

Thank you for your consideration,

Scott Crawford, Chair

Ke Ao Hali'i



Tuesday, March 2, 2021; 1:00 pm Via Video Conference

House Committee on Finance

- To: Representative Sylvia Luke, Chair Representative Ty Cullen, Vice Chair
- From: Martha Smith Executive Vice President, Oahu Operations

Re: **Testimony in Opposition to HB 1298** Relating to State Funds

My name is Martha Smith and I am the Executive Vice President of Operations for the Oahu Operations of Hawaii Pacific Health, which includes serving as CEO of both Kapi`olani Center for Women and Children (Kapi`olani) and Pali Momi Medical Center (Pali Momi). Both Kapi`olani and Pali Momi are affiliates of Hawaii Pacific Health.

Kapi'olani Medical Center is the state's only maternity, newborn and pediatric specialty hospital. It is also a tertiary care, medical teaching and research facility. Specialty services for patients throughout Hawai'i and the Pacific Region include intensive care for infants and children, 24-hour emergency pediatric care, air transport, maternal-fetal medicine and high-risk perinatal care.

Pali Momi is a not-for-profit hospital located in West O'ahu, and is dedicated to the health and well-being of all Hawai'i residents. With 118 beds and more than 400 physicians on its medical staff, Pali Momi offers a full range of services. Pali Momi Medical Center is one of only two adult trauma centers on the island of Oahu and the only Level III Trauma Center serving Central and West Oahu. Pali Momi is able to provide life-saving care sooner for those in our communities who are suffering from major traumatic injuries.

HPH writes in opposition to HB 1298 which proposes to transfer to the general fund the unencumbered balances of various non-general funds maintained by various state agencies, including the trauma system special fund.

While we are sensitive to the challenging budget circumstances the State is confronting, we are compelled to write in opposition to HB 1298 which would adversely impact the trauma system special fund and the hospitals' abilities to provide care to patients suffering from traumatic injuries. The trauma special fund was created in order to provide funds to support the continuing development and operation of a comprehensive statewide trauma system to ensure the availability of care for trauma patients. A reduction in the amount of funds available to support trauma care will have a significant negative impact on hospitals' abilities to provide care for patients whose injuries require immediate attention and intervention to prevent further complications or death.

Hawai'i's trauma system is a cooperative network of nine trauma centers (including Tripler Medical Center), critical access hospitals and aeromedical services. The funding and development of the state trauma system allows the health care systems of the state to overcome its unique geographical challenges and to coordinate services, resources and transports across our unique island chain to serve the community. The trauma centers of this state collaborate closely to overcome its unique geographical challenges, spanning nearly 300 miles, with individual counties separated by miles of open water and isolated by over 2000 miles from the mainland. The trauma centers and aeromedical partners work collaboratively to expedite transfers and deliver efficient care to Hawai'i's community, and the loss of trauma funds would be a great disservice to the community of Hawai'i.

The State trauma funds have been used collectively by Hawai'i's hospitals and individual health care systems to create a unified, collaborative state system which affords an injured individual the highest probability of survival and return to their pre-injury quality of life. The State of Hawai'i's Trauma System Plan has saved countless lives and returned loved-ones to their families as well as improved outcomes in decreasing the burden of disability for innumerable numbers of people across the state – visitors and kama`aina alike.

Impact upon Pediatric Trauma Care: Kapi'olani Medical Center's Level III Pediatric Trauma Program

Kapi'olani serves approximately 200 infant and children trauma patients annually. The needs of pediatric patients suffering from a traumatic injury differ greatly from those of adult trauma patients. Monies from the trauma system special fund help subsidize trauma program costs which are necessary to ensure quality and ideally reduce the number of trauma cases.

The COVID-19 pandemic and statewide surge plan which went into effect in August, 2019 resulted in the diversion of all pediatric trauma cases from the state's Level I Trauma Center to Kapi'olani. This brought high acuity severely injured children to our center that would have normally not been brought initially to our center, and has required additional training, education, implementation of new process and enhancement of our surgical supplies/equipment.

As the state's only designated Pediatric Trauma Center, the elimination of funding of our program would leave a service gap for the injured children in the state of Hawai'i. Traumatic injury remains the leading cause of death and disability in children in Hawai'i as well as across the nation. The loss of program funding will leave a service gap to Hawai'i's most vulnerable population.

Impact upon O'ahu Level III Trauma Care: Pali Momi's Level III Trauma Program:

Pali Momi Medical Center provides care for more than 400 trauma patients per year and is the only Level III Trauma Center serving Central and West Oahu. Funds from the Trauma special funds is used to help subsidize trauma program costs The trauma funds do not cover the entire trauma program costs which are necessary to ensure quality and ideally reduce the number of trauma cases.

A loss or reduction in the amount of trauma funding Pali Momi receives would severely hamper the hospital's ability to treat trauma patients, particularly those patients suffering from trauma related injuries in Central and West Oahu. In the absence of Pali Momi, the only other trauma center accepting patients is situated at Queen's Medical Center, necessitating a farther distance to travel before appropriate care can be administered to the patient. With trauma cases, immediate treatment can make a difference in how well a patient recovers from the injuries sustained.

Based on the above reasons, HPH respectfully opposes this measure. Thank you for the opportunity to testify.



- To: The Honorable Sylvia Luke, Chair The Honorable Ty J. K. Cullen, Vice Chair Members, House Committee on Finance
- From: Colette Masunaga, Director, Government Relations & External Affairs, The Queen's Health Systems

Date: March 2, 2021

Re: Opposition on HB1298: Relating to State Funds

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to testify in opposition to HB1298, which would impact the Hospital Sustainability Program Special Fund and the Nursing Facility Sustainability Program Special Fund, as well as the Trauma System and Neurotrauma Special Funds. While we appreciate the unprecedented economic challenges our state is facing as a result of the COVID-19 pandemic, we urge this Committee to consider exempting the transfer of unspent dollars in these funds which underpin critical programs in our hospital. We respectfully urge this Committee to consider amending HB1298 by exempting the Hospital and Nursing Sustainability Program special funds (lines 171 and 172) as well as the Neurotrauma and Trauma System Special Funds (lines 116 and 119).

The Trauma System Special Fund is important for the sustainability of the statewide trauma program and we are concerned about transferring credit from the Trauma System Special Fund to the general fund. Queen's is the only Level 1 trauma center for the state, providing services to 2,900 patients annually. Trauma services at Queen's must include 24/7 on-call specialist coverage, in-house trauma surgery, in-house anesthesia and operating room staff, as well as numerous other specialized services and equipment to deliver life-saving interventions on a moment's notice. Queen's houses the 24/7 Transfer Call Center which provides support to neighbor island trauma patients and is the only comprehensive specialty on-call schedule in the state. The call schedules represent greater than 20 specialties including all surgical subspecialties including, neuro surgery, microvascular surgery (limb salvage and re-implantation surgery), facial and reconstructive surgery.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

The Queen's Medical Center Punchbowl routinely receives trauma patients with severe injuries or sub-specialty needs from hospitals on every island and throughout the Pacific Basin. On the neighbor islands where access to Level I Trauma care is limited by geographic barriers, it may take several hours to reach Queen's; the State Trauma System ensures initial evaluation and resuscitation at Level III centers are accessible to the people of Hawai'i in every county. Underfunding or eliminating the State's Trauma System Special Fund may result in decreased access to trauma centers, reduction in services, higher complication rates, diminished functional outcomes, and higher death rates after injury. As death and disability after injury are a primary public health concern, especially in young adults, high quality trauma care remains essential to the reduce loss of productive life years and improve outcomes after injury. The Trauma Special Fund is a critical resource which offsets those losses and maintains vital infrastructure for the State trauma system.

In 2011, the Hawaiian Islands Regional Stroke Network was developed with The Queen's Medical Center (QMC) through a grant, supported by the Neurotrauma Special Fund. The Hawaiian Islands Regional Stroke Network provides residents with access to stroke-related health care in their respective communities through telemedicine. To date, Queen's has completed 1251 telestroke consults and treated 424 patients with IV Tissue Plasminogen Activator (tPA) by telemedicine, resulting in an estimated \$19.1 million in cost savings for Hawai'i. The Hawaiian Islands Regional Stroke Network successfully transitioned to a self-sustaining model after the Neurotrauma grant concluded in 2018.

Additionally, Queen's was recently awarded a grant in FY2019, supported by the Neurotrauma Special Fund, to implementation of the Statewide RAPID program. RAPID CT perfusion software can identify patients on neighbor islands who require transfer and would otherwise be disabled if they did not receive this treatment. The hospitals that currently utilize RAPID are Wahiawa General Hospital, Hilo Medical Center, Kona Community Hospital, Kauai Veterans Memorial Hospital, Adventist Castle Medical Center, and Kuakini Medical Center.

Through the support for the State Neurotrauma Progam and resources from the Neurotrauma Special Fund, Queen's has been able to leverage the initial grant funding to improve the statewide access to timely expert stroke evaluation and treatment, and build sustainable systems of care for our communities across the state.

Queen's concurs with and supports the testimony submitted by the Healthcare Association of Hawai'i. Thank you for your consideration of our testimony on this critical issue.



HIPHI Board

Date: March 1, 2021

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Garret Sugai Kaiser Permanente To: Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair Members of the Finance Committee

Re: Opposition to HB 1298, Relating to State Funds

Hrg: March 2, 2021 at 1:00 PM via Videoconference

The Obesity Prevention Task Force of the Hawai'i Public Health Instituteⁱ provides testimony in **opposition to HB 1298**, which transfers the balances of various special funds, including the Safe Routes to School (SRTS) Special Fund, to the general fund.

HIPHI appreciates the legislature for creating and preserving the SRTS special fund, recognizing the importance of these programs in making environments around schools safer for our keiki to walk or bike. By making walking and biking to school safer and more desirable, SRTS programs encourage a healthy and active lifestyle from an early age. It is critical that these programs have sustainable and reliable funding.

While we understand the difficult financial situation the state is facing, we are concerned that transferring the balance of the SRTS special fund may cause a disruption to current SRTS programs, which serve an important role in keeping our keiki safe as they travel to school.

Mahalo for the opportunity to submit testimony in **opposition to HB 1298**.

Mahalo,

jaylen Munakani

Jaylen Murakami Advocacy and Outreach Coordinator

ⁱ Created by the legislature in 2012, the Obesity Prevention Task Force is comprised of over 60 statewide organizations, and works to make recommendations to reshape Hawai'i's school, work, community, and health care environments, making healthier lifestyles obtainable for all Hawai'i residents. The Hawai'i Public Health Institute (HIPHI) convenes the Task Force and supports and promotes policy efforts to create a healthy Hawai'i.

Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.



Joseph Boivin, Jr. President, Board of Directors

M. Nalani Fujimori Kaina, Esq. Executive Director

TESTIMONY ON HB1298

Committee on Finance

Representative Sylvia Luke, Chair Representative Ty J. K. Cullen, Vice-Chair

March 2, 2021 at 1:00 p.m.

The Legal Aid Society of Hawaii submits testimony in opposition to HB1298 – Relating to State Funds, specifically with respect to the transfer of the unencumbered balance funds from the Indigent Legal Assistance Fund ("ILAF").

We realize that HB1298 aims to impact many of the various special funds of the state, however, the inclusion of the ILAF would further devastate civil legal services programs, including Legal Aid. Currently, we use funds from ILAF to provide direct civil legal assistance, including legal advice, assistance with completing court forms, representation in cases where domestic violence, language barriers or other barriers impact an individual's ability to represent themselves, and community education and outreach to low-income communities. The civil legal services that have been provided under these contracts reach populations and groups that have little access to legal advice or assistance.

As non-federal funds, ILAF is also used to help match and leverage federal dollars, including Legal Aid's AmeriCorps program which provides opportunities for recent college graduates and college students to explore public interest law, and Department of Justice Victim of Crime funding which is helping resolve legal issues for victims of crime.

We know that the pandemic has created an economic crisis for the state and as a result state funds are at a premium. Because of this, Legal Aid has already been impacted by a \$500,000 cut this fiscal year (which we also already anticipate for the upcoming fiscal year) and the transfer of the unencumbered balance from ILAF next year would cause even more hardship to the people of Hawai'i in need of safety net legal services.

During the pandemic, more people in Hawai'i became in need of our assistance to access legal information about evictions, to gain better understanding on how to access unemployment, and to get help to stabilize their families. Our help provide services to single moms like Kahea, who was homeless with her infant son in Waimanalo, but now is in college; and kupuna like Cynthia, who was at risk of eviction, but was able to connect with a Legal Aid attorney and learned about her rights under the moratoriums. In 2020, Legal Aid helped in over 1,000 pandemic related cases.

Again, we are very appreciative for the support from the legislature which has allowed us to provide a broad range of civil legal services to the low-income in your community and in the state of Hawai'i in the past. We ask though, that ILAF be removed from consideration for the transfer of the



unencumbered balance under this bill. The continuation of ILAF is critical to our ability to maintain civil legal services.

We are available for any questions that you might have.

Mahalo for the opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina Executive Director Angela Lovitt Deputy Director



Written Testimony Presented Before the House COMMITTEE ON FINANCE DATE: Tuesday, March 02, 2021 TIME: 1:00 PM. PLACE: VIA VIDEOCONFERENCE By Laura Reichhardt, APRN, AGPCNP-BC Director, Hawai'i State Center for Nursing University of Hawai'i at Mānoa

Comments with Concern for HB 1298

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, thank you for the opportunity for the Hawai'i State Center for Nursing to provide comments with concern for HB1298. This measure seeks transfer unencumbered balances of non-general funds to the general fund.

Funded by portion of nurse license fees placed in a special fund, the Hawaii State Center for Nursing (HSCN) was established by Act 198, SLH 2003 to collect and analyze data and prepare and disseminate written reports and recommendations regarding the current and future status and trends of the nursing workforce; conduct research on best practice and quality outcomes; develop a plan for implementing strategies to recruit and retain nurses; and research, analyze, and report data related to the retention of the nursing workforce. The Center has created statewide initiatives for nursing that addressed workforce needs to prevent predicted workforce shortages.¹ These include consistently providing workforce research on the nursing supply and education capacity for nurse education, creating statewide Evidence-Based Practice, Nurse Residency and Centralized Clinical Placement programs; each of these programs are notable for being the first statewide program in the nation and having broad partnerships with our nursing employers and schools of nursing.

In addition, HSCN has increased access to health care services in our rural and underserved communities through policy change that facilitated the doubling of the Advanced Practice Registered Nurse population in our state.

The Center continues to play a critical role in the response to COVID-19, including leading the call for nurses during the fall 2020 COVID hospital surge. In just two weeks, we received 1,900 responses from nurses; health care facilities and locally contracted staffing agencies continue

¹ "New UH center addresses nursing shortage". July 24, 2003 https://www.bizjournals.com/pacific/stories/2003/07/28/story5.html

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development; promotes a diverse workforce and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.

to contact these nurses to support COVID-19 surge staffing needs and support vaccination efforts. = The Center produced data reports that the Department of Health and HiEMA used for crisis response, vaccination planning, and other uses. The Center partnered with the University of Hawaii at Manoa and Healthcare Association of Hawaii to increase relevant, locally produced accredited nursing professional development on COVID-19 for nurses in all settings of care, and co-lead an initiative with state stakeholders to identify and tactically respond to provider shortages.

The nurse license fee and consequently, the HSCN fee revenue, has not been increased since 2003. Of the license fee revenue sources into the Center since 2003, this measure indicates that all but \$0.98 has been encumbered. The Center is using the funds as intended and to the fullest extent possible.

Any loss to the HSCN budget will result in job loss for the staff who have dedicated years of service. It will impact the ability of the state to have quantitative data on the nursing workforce demand and supply to guide state policy development. The Hawai'i State Center for Nursing is concerned that any loss of budget will revoke the functional capacity of the Center and our services to policymakers, employers, educators, and nurses.

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development; promotes a diverse workforce and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.

2528 McCarthy Mall, Webster 402 Honolulu, HI 96822 T 808.956.5211 F 808.956.0547 hscfn@hawaii.edu hawaiicenterfornursing.org



The Nature Conservancy, Hawaiʻi Program 923 Nuʻuanu Avenue Honolulu, HI 96817 Tel (808) 537-4508 Fax (808) 545-2019 nature.org/hawaii

Testimony of The Nature Conservancy of Hawai'i Opposing House Bill 1298 and House Bill 1299 Committee on FINANCE Tuesday, March 2, 2021, 1:00 PM, Room 308

The Nature Conservancy of Hawai'i is a non-profit conservation organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 preserves and work in over 30 coastal communities to help protect the near-shore reefs, waters and fisheries of the main Hawaiian Islands. We forge partnership with government, private parties and communities to protect forests and coral reefs for their ecological values and the many benefits they provide to people.

House Bills 1298 and 1299 propose to stop conveyance tax deposits into the Land Conservation Fund and transfer all Land Conservation Funds into the general fund. The Nature Conservancy opposes HB 1298 and HB 1299. Base levels of funding for the Legacy Land Conservation Program (LLCP), which is derived from the Land Conservation Fund, of \$5.1 million annually should continue in order to capitalize on \$900 million of federal conservation funding made available by the Great American Outdoors Act.

In the Summer of 2020, Congress passed, and the President signed, the Great American Outdoors Act, which fully funded the Land and Water Conservation Fund (LWCF) at \$900 million annually. LWCF finances conservation programs like the U.S. Forest Legacy Program under the U.S. Department of Agriculture, the Outdoor Recreation Legacy Partnership under the National Park Service, and U.S. Fish & Wildlife Recovery Land Acquisition and Habitat Conservation Plan Acquisition Programs. As a result, federal funding has increased (in some cases, more than doubled) for these federal programs.

The Land Conservation Fund provides an important source of local/state match for these federal conservation programs. Because Hawai'i has a dedicated source of funding – the Land Conservation Fund – the match requirements for some federal programs are more favorable, allowing 75 percent federal share and 25 percent state/local share (in the absence of a dedicated fund, some programs will only allow a 50 percent federal share and require a 50 percent local/state match). If deposits in the Land Conservation Fund are ended, Hawai'i will be unable to capitalize on millions of dollars of federal funding opportunities at arguably one of the most important times to capitalize on the long-term sustainability and economic recovery these projects provide.

Mahalo for the opportunity to testify.

BOARD OF TRUSTEES Mark E. Agne Duke E. Ah Moo Paul D. Alston (Chair) Dr. C. Tana Burkert Anne S. Carter Richard A. Cooke III Kaʻiulani de Silva Brian J. Doyle Dave Eadie Dr. Alan M. Friedlander Benjy Garfinkle James J.C. Haynes III Sean A. Hehir Brett MacNaughton Kathy M. Matsui Janet Montag Alicia Moy Dustin E. Sellers Peter K. Tomozawa Richard N. Zwern

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<u>HB-1298</u>

Submitted on: 3/1/2021 12:48:37 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph E Cardoza	Hawai`i Access To Justice Commission	Oppose	No

Comments:

- Chair: Hon. Sylvia Luke, Chair
- Vice Chair: Hon. Ty J.K. Cullen, Vice Chair
- Committee: House Committee on Finance
- Testimony of: Joseph E. Cardoza
- Organization: Hawai`i Access To Justice Commission
- Hearing Date: Tuesday, March 2, 2021
- Hearing Time: 1:00 p.m.
- Place: Via Videoconference

Conference Room 308

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 1298 and HB No. 1299

Position: Opposition Testimony re the Indigent Legal Assistance Fund

Dear Chair Luke and Members of the House Committee on Finance

I serve as Chair of the Hawai`i Access to Justice Commission (Commission). This testimony is submitted on behalf of the Commission and is intended to address the

Commission's grave concerns with respect to HB No. 1298 and HB No. 1299 and their impact on the Indigent Legal Assistance Fund (ILAF).

The Commission respectfully opposes transferring unencumbered ILAF funds to the general fund under HB No. 1298. The Commission also respectfully opposes repealing ILAF from its non-general fund status and transferring unencumbered ILAF funds to the general fund under HB No. 1299.

ILAF is a unique non-general fund that was prudently created by the Legislature nearly a quarter of a century ago to provide funds to address a critical shortage of legal services for persons of limited income in Hawai`i. The funds generated come from surcharges on selected private sector case filings and not from government sources. This program has been a success since its inception. Thousands of persons have been helped over the years through ILAF. The impact of transferring unencumbered funds to the general fund under HB No. 1298 and HB No. 1299 and repealing ILAF's non-general fund status under HB No. 1299 would be devastating for those receiving legal services made possible through ILAF.

The Commission appreciates the hard work the Legislature performs in addressing many challenging issues each session. However, for the reasons noted above, the Commission respectfully urges that the Legislature not transfer unencumbered ILAF funds to the general fund under HB No. 1298 and HB No. 1299. The Commission also respectfully urges that the Legislature not repeal ILAF's non-general fund status under HB No. 1299.

The Commission thanks the House Finance Committee for the opportunity to present this written testimony. I do not plan to testify during the videoconference hearings on these two Bills.

HB-1298 Submitted on: 3/1/2021 12:53:13 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James Stone	Airport Concessionaires Committee	Oppose	No

Comments:

Dear Chair Luke and Honorable Committee Members, we respectfully oppose this bill since concessions are seeking relief from our aiports and on behalf of airports and all tenatns we do not want to jeopardize the loss of Congressional/FAA/DOT critical support for our airports especially during this Covid crisis that will have lasting effects into the coming years. In the past it's our understanding that airports suffered financial losses whenever the federal government determined using funds for purposes other than supporting airports and their operations is a violation of federal rules and guidelines. Thus, please understand both our needs and our concerns. Thank you for considering our testimony.

HB-1298 Submitted on: 3/1/2021 12:56:49 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Alice	HOPE	Oppose	No

Comments:

Hope Services strongly opposes this bill.





TO: Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT) DATE/LOCATION: March 2, 2021; 1:00 p.m., Conference Room 306/Video Conference

RE: COMMENTS ON HB 1298– RELATING TO STATE FUNDS

We ask you to strongly consider the impacts of HB 1298 which transfers to the general fund the unencumbered balances of various non-general funds. We hope that you consider the potentially negative impacts that eliminating these funds could have on health and human services related programs, particularly the funds from the Department of Health, Department of Human Services and Judiciary. While we understand the budget needs of the State, we strongly urge you to consider that many of these funds may be supporting the essential and necessary services and programs that are helping to sustain and support the residents of Hawaii particularly during these tough social and economic times.

Our main concern is that critical services in the community need to be sustained, particularly when they are needed now more than ever. Services such as domestic violence services, behavioral and mental health services, child abuse and prevention services and essential services for children and families could be in jeopardy with the elimination of particular special funds. We defer to each Department for their identified priorities.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

Thank you for the opportunity to **provide comments on HB 1298**, please contact me at (808) 847-3285 or <u>rkusumoto@pacthawaii.org</u> if you have any questions.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 1:06:28 PM Testimony for FIN on 3/2/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Chelsey Stewart	Hawaii State Coalition Against Domestic Violence	Oppose	No

Comments:

HSCADV opposes sweeping special funds into the general funds.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.



UNIVERSITY OF HAWAI'I SYSTEM

Legislative Testimony



Testimony Presented Before the House Committee on Finance March 2, 2021 at 1:00 p.m. by Kalbert K. Young Vice President for Budget and Finance/Chief Financial Officer University of Hawai'i System

HB 1298 - RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to present testimony today. The University of Hawai'i (UH) opposes House Bill No. 1298, Relating to State Funds. This measure would transfer balances from various non-general funds to the State General Fund.

For the UH, this bill would transfer \$83,929,077.31 from various UH funds to the State General Fund. While we understand the dire fiscal condition faced by the State, a transfer of this magnitude would be very detrimental to the UH's operations. The amounts listed in the bill are presented below:

Listed Name	Amount
UH Community Colleges	\$ 38,187,977.10
University of Hawaii, Mānoa	\$ 108,918.28
Center for Nursing Special Fund	\$ 0.96
University of Hawai'i, Hilo	\$ 21,724,956.01
Grant for the Bridge-to-Hope Program	\$ 87,659.78
Nurse Training	\$ 2,730.45
UOH, System Wide Support	\$ 23,780,784.13
Hawai'i Educator Loan Program Special Fund	\$ 34,467.35
Legislative Relief for Claims - UH	\$ 1,583.25
Total	\$ 83,929,077.31

Specific funds are not identified, but the majority of any fund balances at the various campuses are the result of the Tuition and Fees Special Fund, the Research and Training Revolving Fund, or other auxiliary funds that operate at the UH. The revenues for these funds are generated by payments from our students, their families, and other users of UH facilities or operations, including the food services, bookstore, housing, and parking.

The global pandemic has resulted in a severe decline in on-campus presence by students, faculty, staff, and other visitors. The auxiliary functions listed above have also

experienced a significant decrease in revenues. While cost-cutting measures have been implemented, there are significant fixed costs that can not be eliminated. Our analysis predicts that these funds will have fiscal concerns for at least a couple of years as expenditures exceed revenues. However, there is hope that a return to significant on-campus presence in the future will eventually restore revenues to pre-COVID levels.

We recognize the State's financial situation and are ready to work with the Legislature in determining an appropriate amount of funds that might be transferred from UH's funds to the General Fund; but these transfers should be done judiciously and cooperatively to minimize the impact to the UH's operations.

UH has identified some funds that are no longer in use and may be transferred to the General Fund:

Listed Name		Amount	
Center for Nursing Special Fund	ursing Special Fund \$ 0.		
Grant for the Bridge-to-Hope Program	ne Bridge-to-Hope Program \$ 87,659.7		
Nurse Training		2,730.45	
Legislative Relief for Claims - UH		1,583.25	
Total	\$	91,974.44	

The Grant for Bridge-to-Hope and the amount for Nurse Training are from old appropriations from the Emergency Budget and Reserve Fund ("Rainy Day Fund") and are not currently used by UH. While it might be most appropriate to return those amounts to the Rainy Day Fund, given the age of the appropriation and the fact that the General Fund has made contributions to the Rainy Day Fund in recent years, it is probably justifiable for those funds to be transferred to the General Fund.

The Center for Nursing Special Fund and the Legislative Relief for Claims amounts are old funds that UH does not use and those may be transferred to the General Fund with no impact to UH.

Thank you for this opportunity to testify.

AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport 300 Rodgers Blvd., #62 Honolulu, Hawaii 96819-1832 Phone (808) 838-0011 Fax (808) 838-0231

March 2, 2021

Representative Sylvia Luke, Chair Representative Ty Cullen, Vice Chair Committee on Finance

Re: HB 1298 – RELATING TO STATE FUNDS - CONCERNS Via Videoconference; 1:00 p.m.; Agenda #3

Aloha Chair Luke, Vice Chair Cullen, and members of the committee:

The Airlines Committee of Hawaii (ACH), which is comprised of 19 signatory air carriers that underwrite the State of Hawaii Airports System, has concerns with HB 1298, which transfers to the general fund the unencumbered balances of various non-general funds of the Department of Transportation (DOT).

The transfer of any funds related to Hawaii airports, including but not limited to the airport revenue fund and/or the passenger facility charge special fund, would be in violation of federal law which requires that airport revenues be used only for airport purposes.

In addition, the DOT must provide written assurance that it will comply with this restriction as part of the process under which it receives federal grants for airport improvement projects.

These legal requirements are defined in the Federal Aviation Administration's Policy and Procedures Concerning the Use of Airport Revenue.

As diverting airport funds for non-airport purposes violates federal law and would jeopardize FAA grants, we respectfully request that the committee expressly exclude all airport-related funds from the bill. Thank you for the opportunity to express our concerns.

Sincerely,

Matthew Shelby ACH Co-chair

Brendan Baker ACH Co-chair Mark Berg ACH Co-chair

*ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, Southwest Airlines, United Airlines, United Parcel Service, and WestJet.



Testimony Before The House Committee on Finance <u>IN OPPOSITION TO HB 1298 .</u> Tuesday, March 2, 2021, 1:00PM, Room 308

My name is Kevin Chang and I am the Co-Director of Kua'āina Ulu 'Auamo (or KUA). KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups to celebrate their places and pass on their traditions to better Hawai'i and achieve 'āina momona— an abundant, productive ecological system that supports community well-being.

KUA opposes HB 1298. House Bills 1298 and 1299 propose to stop conveyance tax deposits into the Legacy Land Conservation Fund and transfer all Legacy Land Conservation Funds into the general fund.

KUA works to empower communities to improve their quality of life through caring for their environmental heritage together. We employ a community-driven approach that currently supports a network of more than 36 mālama 'āina community groups collectively referred to as E Alu Pū (moving forward together), 38 fishpond projects and practitioners called the Hui Mālama Loko I'a, and a growing hui of Limu practitioners all from across our state.

A primary function of KUA includes development of the 'auwai, a stream of resources tools, bridges and networks that help to cultivate and take our communities' work to greater levels of collective impact. A core source of the flow in this 'auwai includes the partnerships and programs within government that empower communities to care for and/or own land outright or in partnership with government. The Legacy Land's program is one of the most important programs helping see this through and as at home, national conversations look to broaden conservation capacity as part of our economic recovery. Base levels of funding for the Legacy Land Conservation Program of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects such as Nā Wai 'Eha on Maui. A designated special fund like the Legacy Land Conservation Fund qualifies the State for 75% match of federal funds – eliminating the funds would reduce federal matches to 50%.

It is important to shore up on some of our fiscal concerns but this proposal could stifle the pathways toward growth and resources important to Hawai'i's fiscal and environmental future.

Mahalo for this opportunity to testify.

Aloha 'Āina Momona.

<u>HB-1298</u>

Submitted on: 3/1/2021 9:22:09 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaleo	Ala Kahakai Trail Assoc.	Oppose	No

Comments:

We, the Ala Kahakai Trail Association Board, strongly oppose HB 1298. As a recipient of Legacy Land Conservation Program funds, we support the full finding of \$5.1 million annually to continue the protection and preservation of lands to ensure these iconic lands are there for future generations. Development is a very large issue in land protection and without resources, money, to acquire these lands the protection of cultural and natural resorces will be destroyed forever and cannot be replaced. It is not the time to raid this very important fund. There are other means to lessen the deficit caused by the pandemic while still keeping the funds intact for land preservation. Once developed, the lands would be altered beyond preservation or protection. We urge our elected officials to vote no on this bill.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 9:39:14 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kalani Matsuura	Hoi Mai Ka Lei I Mamo	Oppose	No

Comments:

Our organization strongly opposes this bill.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.





Häwea Heian Complex & Keawāwa Wetland cularat the cultural aboutcol of tota cohoma

A COMMUNITY DRIVEN, VOLUNTEER-BASED RESTORATION PROJECT



March 2, 2021

2021 BOARD OF DIRECTORS

House Finance Committee Tuesday March 2, 2021, 1:00pm. Conf. Rm. 308

Elizabeth Reilly President

RE: Livable Hawaii Kai Hui's Testimony Regarding HB 1298 and HB 1299

Allen Tateishi Vice President

> Dianne Glei Secretary

Marian Grey Treasurer

Dean Takebayashi Director

> Gary Weller Director

Kendrick Chang Community Outreach

> Dylan Ramos Communications

Website www.hawaiikaihui.org www.kaiwicoast.org

Like us on Facebook Livable Hawaii Kai Hui Aloha Aina O Kamilo Nui Ka Iwi Coast

Livable Hawaii Kai Hui is a 501c(3) non-profit, community organization serving East Honolulu since 2004. We strive to promote sensible growth, respect for cultural & natural resources and upholding the integrity of the East Honolulu Sustainable Communities Plan. Aloha Chair Luke, and Honorable Representatives,

Livable Hawaii Kai Hui **strongly opposes HB 1298 and HB 1299**, which would suspend deposits into the Legacy Land Conservation Fund for the next two fiscal years. We believe prudent efforts to address current economic impacts should not come at the expense of our conservation lands and the many communities that has benefited from the Legacy Land Conservation Program and those currently counting on the program

Our organization successfully acquired Hāwea Heiau & Keawāwa Wetlands (4.5 acres) and the Ka Iwi Mauka lands (182 acres) in east Honolulu because of grant contributions through the Legacy Land Conservation Fund. During the challenges brought by the COVID-19 pandemic in the past year, Livable Hawaii Kai Hui has experienced increased public interest through self-management mālama volunteer opportunities and people yearning to connect with their own communities.

The Legacy Land Conservation Program has been invaluable to our community, allowing our organization to preserve the last undeveloped parcels of a scenic shoreline, a Heiau, and a wetland preserve. We support other local communities throughout the State who want to conserve their own special places, and therefore believe that continued funding for the Legacy Land Conservation Fund serves an even larger purpose in this current environment.

We are extremely grateful to the Legislature for establishing this incredible program that has and will benefit so many generations. Suspending fund deposits will hurt our natural resources and the many communities that have come together to serve our lands. Please help our local communities and preserve current funding for the State Legacy Land Conservation Program.

Elizabeth Reilly Founder/President Livable Hawaii Kai Hui Kendrick S. Chang Community Outreach Livable Hawaii Kai Hui



To: Representative Sylvia Luke, Chair Representative Ty Cullen, Vice-Chair Members of the House Finance Committee

Fr: Randy Gonce, Executive Director of the Hawai'i Cannabis Industry Association

Re: Testimony offering comments of House Bill (HB) 1298 RELATING TO STATE FUNDS Transfers to the general fund the unencumbered balances of various non-general funds

Dear Chair, Vice-Chair and Members of the Committee:

The Hawai'i Cannabis Industry Association, represents all eight of the state's licensed medical cannabis dispensaries. HICIA **offers comments on HB1298** as we are concerned about the impact this will have on the already stretched personnel and limited resources of the Office of Medical Cannabis Control and Regulation (OMCCR).

The proposed transfer of funds out of the following special funds is extremely concerning:

(136) S-20-345 Medical cannabis registry special fund

(151) S-17-364 Medical marijuana registry special fund

We sincerely appreciate the hard-work, dedication, on-going communications with the OMCCR along with its leadership. While they take their regulatory role very seriously, they are also willing to engage and communicate about their positions and interpretations on issues, and their execution and implementation of the laws and regulations.

However, as a highly regulated and scrutinized industry, there is a high level of demand for skilled and knowledgeable OMCCR employees, willing to look at ongoing research and science, and evolving business and best-practices in an industry that is constantly changing, not just here, but world-wide.

Unfortunately, our experience is that the current OMCCR staff is stretched-thin and unable to keep up with the demands of the industry and its qualified patients. This is not to fault the OMCCR employees, or even its leadership, but there is just simply a need for more resources to be invested into this agency.

As such, we are concerned that this bill would redirect resources away from these important responsibilities and duties. Thank you for the opportunity to testify.

Hawai'i Cannabis Industry Association (HICIA) 220 S King St #1600, Honolulu, HI 96813 www.808hicia.com
<u>HB-1298</u>

Submitted on: 2/27/2021 8:50:34 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Ang	Individual	Oppose	No

Comments:

Dr. Madam Chair and members of the Finance Committee,

My name is Christopher Ang, I am the athletic trainer at Kapaa High School on Kauai. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic.

Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers. Some of the presenters have authored leading research in the field of mild Traumatic Brain Injury (mTBI).

Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

Dr. Madam Chair and members of the Finance Committee,

My name is Hajime Takashima, I am the athletic health care trainer at Kealakehe High School, Kailua-Kona, Big Island. I am writing testimony to oppose to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds.

The HCAMP (Hawaii Concussion Awareness & Management Program) has been a huge factor to increase awareness of concussion or head trauma not only among student-athletes but also coaches, parents, and school staff members. As an athletic health care trainer, HCAMP has been the best resource of most updated information regarding concussion and I would like it to be in the future as well. Coming from another state, I have learned that no organizations like the HCAMP has been playing this important role in those states I was in years ago. I can not emphasize enough how sophisticated and the importance of the organization. Student-athletes in the state of Hawaii have been very fortunate protected by those who have been educated from the HCAMP; namely athletic health care trainers, athletic directors, and coaches. This needs to be continued.

These funds have provided the HCAMP an opportunity to establish the computerized reporting system for incidences of concussion throughout an entire state of Hawaii since 2010. Since then, the HCAMP has evolved itself hosting annual summit by bringing experts to update the latest research and real-world application of concussion and head injury. Again, this needs to be continued. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

<u>HB-1298</u>

Submitted on: 2/28/2021 9:36:31 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Sallie S Lee	Individual	Oppose	No	

Comments:

While I am aware of the financial crisis our State is in, I strongly oppose passing Section 264 of the bill. Driver education plays an important part in reducting the number of fatalities and injuries; reducing the amount and frequency of property damage; and reducing the number of traffic law violations. This is done in great part to the Graduated Driver Licening requirement.

I ask that you repeal especially Section 264 of HB 1298. Thank you.

-- Sallie Lee+

<u>HB-1298</u>

Submitted on: 2/28/2021 1:43:15 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	rganization Testifier Prese Prosition Hear	
Jerris Hedges	Individual	Oppose	No

Comments:

Testimony in Opposition from

Jerris Hedges, MD, Dean, and

Lee Buenconsejo-Lum, MD, FAAFP

Associate Dean for Academic Affairs & DIO, UH JABSOM

John A. Burns School of Medicine

University of Hawai'i at MÄ• noa

HB1298 – RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to submit testimony related to this bill. The John A. Burns school of medicine (JABSOM) **opposes** House Bill 1298, relating to State Funds which transfers the unencumbered balances of various non-general funds of the state agencies, including the University of Hawaii, to the general fund. JABSOM's testimony relates to the transfer of the tobacco settlement funds that are allocated to JABSOM.

The state has long recognized the importance of JABSOM contributing to the health and well-being of the people of Hawai'i in regards to the health consequences of tobacco use. Consequently, the legislature directed a percentage of the Tobacco Settlement Special Fund to be applied to finance the cost of construction of a university health and wellness center, including a new medical school facility. For this reason, 26% of the Hawai'i Tobacco Settlement Special Fund was appropriated into the Revenue-Undertakings Fund for the sole purpose of paying debt service for JABSOM's facility in Kaka'ako. HB1298 would eliminate that source of funding and UH would default on the bonds that financed the construction of the JABSOM Kaka'ako campus.

In order to avoid defaulting on the bonds, UH and JABSOM would have to divert funds from other programs, threatening the viability of those programs. Both UH and JABSOM already face a reduction in state revenue. While we are taking steps to minimize the impact such a reduction would have on our programs, loss of the revenue from the tobacco settlement fund would have devastating implications. Loss of the Tobacco Settlement Funds would cost JABSOM and the University \$10 million annually, a cost that neither JABSOM nor the University can absorb.

As the only medical school in Hawai'i, JABSOM plays a pivotal role in educating and training future physicians for the state, particularly primary care physicians. The lack of funding from the Tobacco Settlement Funds would lead to cutting back on training opportunities meant to encourage more local medical students to practice in the areas of greatest need, such as the Neighbor Islands and in primary care. Over the years, JABSOM has proven that medical students who receive their medical education and complete their residency programs in Hawai'i largely remain in Hawai'i to practice. Faced with a physician shortage of over 1000 physicians in the state when compared to other Mainland jurisdictions, enabling JABSOM to continue to grow local doctors for Hawai'i is crucial to the health and wellbeing of our communities.

Physicians are at the forefront of the battle against smoking as they advise their patients to stop smoking and other tobacco use regularly. The investment that the State makes in the medical school helps not only deliver the tobacco cessation message and thus potentially prevent new chronic diseases made worse by tobacco use, but also helps provide the physicians who directly care for those injured by tobacco use.

Patients are more than 30% more likely to take the tobacco cessation advice of their physicians than other advocates.

The payback to the State for its investment is in helping to ensure there are practitioners in Hawai'i who can care for tobacco-related disease and deliver/reinforce tobacco cessation messages that last for the lifetime of each student's professional career, and touch the lives of tens of thousands of Hawai'i's citizens each year.

Citizens of Hawai'i will suffer the consequences of tobacco use for years after quitting, and no amount of prevention messaging will substitute for the care that our physicians will provide to those with tobacco-related illness.

The investment of the Tobacco Settlement Funds in the medical school is one of the best health bargains the State has today. JABSOM is training more students than ever before. We expanded our class size to help meet the worsening doctor shortage---and the tobacco monies allowed us to do that. Our third-year medical students now have the option of doing part of their training in Hilo, West Hawai'i and North Hawai'i, Maui and Kaua'i. First-year and fourth-year medical students have the opportunity for elective rotations on the islands of Hawai'i, Maui, Kaua'i and Moloka'i. These are bold steps taken to realize the dream of former Governor Burns to allow Hawai'i's children to

become some of Hawai'i's most valuable citizens, i.e., those who commit their lives to improve the health of others.

Without the Tobacco Settlement Fund, general funds must be applied annually to pay the debt service on the bonds used to finance construction of the medical school, adding to the State's fiscal burden. The loss of this support would necessarily result in a loss of neighbor island training opportunities, a reduction in library resources, and a loss of faculty positions – at a time when we are severely constrained in replacing those who have retired or left Hawaii.

The overall impact would likely be a reduction in JABSOM class size. These measures which would be needed to address the fiscal shortfall would have negative accreditation consequences - perhaps even leading to the closure of JABSOM. Allowing the Tobacco Settlement Fund to remain intact provides UH and other tobacco cessation initiatives with steady revenue needed to provide these valuable services.

While we are sensitive to the fiscal needs facing the state, for the above reasons, we respectfully oppose HB 1298.

Thank you for this opportunity to testify.

Testimony Presented Before the House Committee on Finance Tuesday, March 2, 2021 at 1:00 p.m. By : Darren T. Lerner, Kaneohe, HI

HB 1298 - RELATING TO STATE FUNDS

Chair Luke, Vice Chair Cullen, and members of the committee:

I respectfully submit this testimony in opposition to House Bill 1298. This legislation proposes to transfer to the general fund the unencumbered balances of various non-general funds of State departments including the Department of Land and Natural Resources, and the University of Hawai'i.

While the financial challenges that the COVID-19 pandemic has brought on for State government are well recognized, the special fund accounts are nonetheless vital for the ongoing management and conservation of Hawaii's natural and cultural resources. As one key example, the Department of Land and Natural Resource's Beach Restoration Special Fund, established in 1999 via Act 84, has been essential to combatting the loss of our beaches and public access to them, conducting beach restoration projects, and more recently developing guidance for sea level rise adaptation through the Department's Office of Conservation and Coastal Lands.

Unless the Legislature has a plan to maintain these functions through another means, eliminating this fund would revert us back to a day when beaches were taken for granted, seawalls flourished, and important visitor destination beaches eroded. The Department of Land and Natural Resources would no longer be able to engage in partnerships and leverage funds for beach restoration projects and would not be able to provide professional services to the coastal community regarding coastal erosion mitigation, as well as guidance on climate change adaptation efforts such as sea level rise adaptation. In sum, the effect would in fact be just the opoosite of what is intended, reducing tourism destinations and slowing economic recovery.

Funds administered through the Beach Restoration Special Fund are used in partial support of one full-time and one part-time University of Hawai'i Sea Grant Sea Grant College Program (Hawai'i Sea Grant) coastal geologist extension specialists dedicated to helping the Office of Conservation and Coastal Lands in applying the latest and best-available science to day-to-day management, including addressing coastal erosion emergencies, and longer-term planning and initiatives for beach conservation statewide. These extension specialists fill a gap in the Office of Conservation and Coastal Lands and State government for scientific and technical guidance, applied science, and serve as a direct link to the University of Hawai'i's research enterprise. Many of today's initiatives on climate change adaption and improved shoreline management and beach conservation are the result of partnerships the Office of Conservation and Coastal Lands developed with the University of Hawai'i, School and Ocean and Earth Science and Technology, and Hawai'i Sea Grant.

Thank you for the opportunity to testify on this measure.

Testimony for HB 1298 and 1299

Submitted By Peter Oshiro

In Support with proposed amendments.

Aloha Chairwoman Sylvia Luke and Members of the House Committee on Finance,

I am testifying in support of both HB 1298 and HB 1299 as I believe it is critical that the legislature review and carefully scrutinize the use and purpose of the many special funds in existence.

I respectfully request that the Sanitation and Environmental Health Education Fund balances be kept intact and that the fund not be repealed. The Food Safety Branch (FSB) personnel were responsible for creating the current special fund in 2010 and have created a near world-class food safety program due to the revenue generated through new HAR signed by the Governor in 2014 and amended in 2017. The program worked closely with the food industry (Hawaii Restaurant Association et. al.) to create the present high profil le Green-Yellow-Red placarding program and a public access web-site with real-time food safety inspection results with the revenue from the special fund. The fully electronic inspection, permitting and staff management program would not have been possible without the revenue generated by the special fund.

At present the fund supports 27 Food Safety Specialist FTE's that are essential front-line workers in fighting the COVID-19 pandemic. The FSS staff responds rapidly, usually within 24 hrs to all complaints regarding the regulated community employees and patrons not wearing masks and not enforcing social distancing. The HPD recently announced that they would be suspending COVID-19 complaint response regarding mask wearing and social distancing which leaves only the FSS staff from the Food Safety Branch as State government's response to violators of the Governors most recent proclamations.

These FSS positions are highly productive whose performance is metric based and directly linked to improving public health outcomes that prevent, mitigate, or stop potential and actual disease outbreaks including the current pandemic. FSS staff confront violators of COVID-19 proclamations, HRS and HAR to reduce the risk of the public being infected with communicable diseases which are occurring in the community from COVID 19. These FSS positions are the enforcement arm of the DOH that works directly with and assists DOCD in enforcing HAR to obtain contact tracing and other pertinent information needed to halt or mitigate disease outbreaks. These positions also protect the public from foodborne and waterborne diseases at restaurants and public swimming pools and even the practice of tattooing. The special fund ensures the continuity of operations and continued funding for the 27.00 FTE budgeted in HTH 610 that are supported by this fund.

The following Crumbine Award application (given to local world-class food safety regulatory programs) shows that the FSB is a model program that has used the special fund to directly affect and improve public health outcomes through voluntary compliance with the regulated community. This avoids antagonistic and costly litigation, fines and suspension of permits. Voluntary compliance is infinitely less costly than formal enforcement. We did not win the 2020 award, but the comprehensive program assessment si testament to the fact that the special fund improved public health outcomes and is critical to achieving a world-class food safety program which serve to reduce risk factors present in the regulated community that are known causes of food illness and disease transmission in the community.

It would serve both the regulated community and the DOH's FSB well if the legislature added language to HB 1299 that tightly restricts the use of the Sanitation and environmental health special fund whereby ALL expenditures from the fund SHALL be used solely for the benefit of the payers into the fund for the purpose of improving compliance with public health regulations that lowers the risk of contracting and transmitting communicable diseases in the community.

Please contact me at <u>djpo@hawaii.rr.com</u> if there are any questions on the testimony or the following Crumbine application.



Hawaii State Department of Health Oahu Food Safety Branch



Samuel J. Crumbine Consumer Protection Award Application 2020

EXECUTIVE SUMMARY

The island of Oahu Food Safety Branch is one of the core programs of public health in the State of Hawaii that affects the broadest range of health-related activities. In addition to retail food, food manufacturing, milk, shellfish and bottled water, the Oahu Food Safety Branch (OFSB) is also responsible for regulating tattoo shops, public swimming pools, embalmers, and have even recently dabbled in medical cannabis dispensaries and production of cannabis and cannabis products.

The OFSB has recognized that reducing the occurrence of and influencing the rapid correction of food illness risk factors is a common goal for all governmental food regulatory programs nationwide. Foodborne illness in the United States is a major cause of personal distress, preventable illnesses, and even death. To improve public health outcomes additional workforce was required due to long standing staffing shortages and was obtained through introduction of legislation that amended existing Hawaii Revised Statutes (HRS) governing the use of Food Establishment (FE) permit fees. In addition, the State of Hawaii's, Department of Health (DOH) consolidated two food safety programs, the Oahu Food Safety Branch (formerly known as the Sanitation Branch) and the Food and Drug Branch.

One of the key strategies and philosophy that the OFSB decided to employ was to use governmental transparency to influence industry behavior. This began with a multi-pronged approach that utilized a highly visible FE grading system that other jurisdictions (Crumbine Award Winner-Sacramento County) have used successfully in the past. The OFSB was able to convince our \$5-7 Billion-dollar food and beverage industry stakeholders (Hawaii Restaurant Association, Hawaii Hotel and Lodging Association, the Hawaii Food Industry Association and the Hawaii Food Manufacturing Association, et. al) that a three-placard system of green, yellow and red issued to a FE after their routine inspection, would benefit them by encouraging rapid correction of food illness risk factors which in turn would protect the public health of their customer base. Industry also understood that a green placard issued by the DOH would serve to ensure the consuming public that the FE had no pending food illness risk factors at the time of the last inspection. This doubled as free advertisement for the FE to inform the public that the food served at that particular FE was safe, as well as ensuring that a minimum standard was met by all FE's in their industry.

The second prong was an extensive use of the local media through press releases and resulting TV and radio interviews informing industry and the public about what we are trying to achieve with our new food rules that includes the restaurant grading system, adoption of the 2009 FDA Model Food Code, and what we plan to do with new revenue resulting from a 450% increase in permit fees.

The third prong was going live with our open, public access web-site which would reveal all routine and complaint inspection reports completely unredacted.

The placard system and the posting of unredacted inspections on a public web-site gave the Food Safety Specialists (FSS) that conduct the FE inspections for the OFSB a powerful set of tools that would "encourage" behavioral change in the industry.

Over the past 6 years from FY13 to FY19 the OFSB focused their energies on ensuring a sufficient workforce to allow timely inspections based on risk, governmental transparency and the use of new technologies to improve food safety for the public. Since going live with our digital inspection system in early FY 15, with DHD (now Tyler Technologies, Inc), the OFSB had reduced the issuance of Yellow placards (which reveled two or more FBI risk factors during a routine inspection) by over 50%. Routine inspections done during the first quarter of FY15 produced 32% Yellow placards. By the end of FY19, the Yellow placard issuance rate was below 15%. This represents a greater than 50% reduction in the number of food illness risk factors observed in the field by our FSS during routine inspections of FE's on Oahu over the past 5 years.

One important note regarding this application is that our program has recently undergone a reorganization that officially changed the name of our program from the Sanitation Branch to the present Food Safety Branch. The job titles for our field inspectional staff has also been changed from Sanitarians to Food Safety Specialists (FSS). You will see both programs and job titles throughout the document, but they are one and the same.

Part 1: Program Basics – Demographics Page 1

The State of Hawaii consists of the main islands of Hawaii, Maui, Molokai, Lanai, Kahoolawe, Oahu, Kauai, and Niihau. Kahoolawe has no permanent residents and the island of Niihau is privately owned and managed. Maui County includes Molokai and Lanai

The Oahu food safety programs regulatory authority are established by statutes and administrative rules as statewide programs. The four counties that make up the State's Environmental Health Programs are Oahu, Maui, Kauai, and Hawaii Island. All of the counties are staffed by employees of the State of Hawaii, Department of Health, but each county (island) is managed autonomously through District Health Offices on each of the main islands and are enrolled separately in the Voluntary National Retail Food Regulatory Program Standards (VNRFRPS).

Oahu is the most populated island in the State with approximately 980,000 people. This is about 69% of the total State population of 1.42 million. There were approximately 5.9 Million visitors to Oahu in 2018 that spent approximately \$8.16 Billion dollars that year.

Oahu households spent an average of \$62,357 per year which represents about 75.4 percent of their gross income (before tax). Approximately 43% of that expenditure is on housing and about 15% of their total income on food.

There are currently about 6,156 active Food Establishment permits on Oahu with the following establishment types shown on the attached Table 1. Of the total inventory of FE's 29% (1774) are classified as high risk, medium risk facilities comprise 42% (2577) of our inventory and 29% (1805) are considered the lowest risk. The desired inspection frequency is every 4 months, 6 months and annually for high, medium and low risk facilities respectively.

Oahu (Hawaii) is probably one of the most ethnically diverse States in the nation. Approximately 1 in 4 residents speak a language other than English at home. In addition to Caucasians and African-Americans, there are Filipinos, Japanese, Chinese, Hispanic, Hawaiian, Korean, Samoan, Vietnamese and other Pacific Islanders. Hawaii has the largest share of multi-racial residents in the Nation with 24% of our residents identifying themselves as multi-racial. The next closest State is Alaska with 8% followed by Oklahoma with 7%.

In Hawaii, the vast majority (70%) of multiracial residents say they are some combination of white, Asian and Native Hawaiian/Pacific Islander. For example, the largest biracial groups in Hawaii are white and Asian (18%), Asian and Native Hawaiian/Pacific Islander (18%), and white and Native Hawaiian/Pacific Islander (12%). Interestingly, Hawaii is the only state to have a tri-racial group as its largest multiracial group, one that includes white, Asian and Native Hawaiian/Pacific Islander (22%). (See Table 2)

There is also wide diversity within the Asian race subgroup, with people claiming roots in China, Japan and the Philippines – nations from which immigrants arrived with the growth of the sugar cane industry in the mid-1800s.

Approximately 1 in 4 persons in Hawaii also speak a language other than English at home. The extreme racial diversity led the OFSB to not adopt the portion of the FDA Model Code that requires a Managerial Food Safety level of certification to demonstrate food safety knowledge. The program felt that the requirement would place an undue burden on food establishment permit holders that were not highly proficient in the English language.

Table 1FOOD ESTABLISHMENT TYPES

Food Establishment Type	Number of Food Establishments	% of Total	
Restaurants	3238	52.6	
Markets	785	12.8	
Mobile Units	479	7.8	
Food Manufacturers	445	7.2	
Service Areas	330	5.4	
Institutional Kitchens	312	5.1	
High-Risk Institutional Kitchens	181	2.9	
Support Kitchens	132	2.1	
Food Warehouses	98	1.6	
Caterers	79	1.3	
Homeless Feeding Operations	40	0.6	
Hotel/Banquet Main Kitchens	37	0.6	
TOTAL	6156	100	

Hawaii's Multiracial Population Differs From U.S.

Share of the multiracial (2+ races) population



Note: Figures may not add to 100% because of rounding. Source: Pew Research Center tabulations of 2013 American Community Survey (IPUMS)

PEW RESEARCH CENTER

The Oahu Food Safety Branch (OFSB) has two major funding sources. Historically, only General Funds were available to support the food safety program. General Funds are monies received through State taxes used to fund all State government operations. This funding method placed the food safety program in constant competition with the myriad of other State non-discretionary funding sources for any revenue increase requested for program improvements. The program receives approximately \$2.7 million dollars annually from the State General Fund to support the program, this funding level has been extremely consistent and has not waivered (increased or decreased) in the past 10 years and there are no current plans to increase general fund revenues.

The second major source of revenue to the program are Special Funds. Hawaii Revised Statues (HRS) allows the program to charge food establishment (FE) and other regulated entity permit fees through the creation of Hawaii Administrative Rules (HAR) that must be approved through a public hearings process prior to Governors approval and enactment (See attached Table 3 - Revenue Sources). Due to a lack of General fund increases to provide additional resources for program enhancements the OFSB repealed and replaced the existing HAR that regulated FE's and passed HAR Title 11, Chapter 50, Food Safety Code, in February of 2014, which allowed for the overhaul of the existing permit fee structure at the time. FE permit fees were \$50, \$100, and \$150 respectively, for a biennial FE Permit depending on risk category (average annual fee in FY13 was \$48/year). This old fee structure generated approximately \$733,000 in revenue annually, but pre-2014 there was a \$300,000 spending ceiling on the special fund. This means that only \$300,000/year could be used for education purposes, and any excess funds would revert back into the State's General Fund. The new HAR passed in 2014 increased that average permit fee to around \$300 annually (see attached Table 4-FE permit fee schedule) We let the permits expire on their existing dates, which allowed revenue to increase from \$733,000 in FY 2014 to over \$3.1 Million annually as of FY2019 (see attached Graph 1). The spending ceiling has also been steadily increased over the past 5 years to the current \$3,000,000. This means that we have nearly 100% of the revenue generated available for program enhancements.

The new revenue generated by the special fund has allowed the program to increase our FTE position count from 12 to 22 in FY14. Staffing increased further to 30 FTE's available for FE inspections in FY18. In FY19, DOH Administration spun off a Food and Drug Branch from our program which leaves us with 22 FTE since January 2019 to the present (see attached Graph 3). The OFSB recently received approval (outside of the award period) for 7 additional FTE's to replace the 7 they "stole" from us and we should be filling them in the Summer of 2020.

Table 3 ANNUAL REVENUE SOURCES

Fee Source – FY19	Amount	
Embalmers	925	
Tattoo Shop Permit	15,620	
Food Establishment Permit Fees	2,713,960	
Temporary Food Permits	249,900	
Tattoo Artists licenses	33,655	
Food Establishment Plan Review Fee	134,900	
Swimming Pool Permit Fee	27,880	
TOTAL	3,176,840	

Graph 1 GENERAL AND SPECIAL FUND REVENUE



Table 4FE PERMIT FEE SCHEDULE

	FOOD ESTABLISHMENT TYPE	s.f. (size)	RISK CATEGORY	PERMIT FEE
1.	Catering	-	1	\$400
2.	Catering	-	2	\$300
3.	Catering	-	3	\$200
4.	Food Manufacturer – small	≤1,000	1	\$300
5.	Food Manufacturer – small	≤1,000	2	\$200
6.	Food Manufacturer – small	≤1.000	3	\$100
7.	Food Manufacturer – large	>1,000	1	\$400
8.	Food Manufacturer – large	>1,000	2	\$300
9.	Food Manufacturer – large	>1,000	3	\$200
10.	Food Warehouse – small	≤1,000	-	\$100
10.	Food Warehouse – large	>1,000	_	\$300
11.		/1,000	1	\$600
	Hotel Main Kitchen/Banquet/Convention	-		•
13.	Hotel Main Kitchen/Banquet/Convention	-	2	\$500
	High Risk Institutional Kitchen	-	1	\$400
14.	(pre-schools, elementary schools, hospitals, other high-risk populations)			
45	Institutional Kitchens	-	1	\$400
15.	(schools, adult/child day care facilities, prisons, etc.)			-
	Institutional Kitchens	-	2	\$300
16.	(schools, adult/child day care facilities, prisons, etc.)			•
	Institutional Kitchens	-	3	\$100
17.	(schools, adult/child day care facilities, prisons, etc.)		_	
18.	Market – small	≤1,000	1	\$300
19.	Market – small	≤1,000	2	\$200
20.	Market – small	≤1,000	3	\$100
21.	Market – large	>1,000	1	\$400
22.	Market – large	>1,000	2	\$300
23.	Market – large	>1,000	3	\$200
24.	Mobile Establishments	-	1	\$300
25.	Mobile Establishments	-	2	\$200
26.	Mobile Establishments	-	3	\$100
27.	Support Kitchen	-	1	\$300
28.	Support Kitchen	-	2	\$200
29.	Support Kitchen	-	3	\$100
30.	Restaurant – small	-	1	\$300
31.	Restaurant – small	-	2	\$200
32.	Restaurant – small	-	3	\$100
33.	Restaurant – large	_	1	\$400
34.	Restaurant – large	-	2	\$300
35.	Restaurant – large	-	3	\$200
36.	Service Area – limited food prep	-		\$100
37.	Service Area – no food prep	-	<u> </u>	\$100
38.	Any Food Establishment used only to prepare or serve food to the HOMELESS	_	_	J J0
50.	without compensations, consideration, or donation by the person or persons	1		\$0
	being served	L _		ΟÇ
39.	Any Food Establishment used only to prepare or serve food to the HOMELESS			
59.		_ _		ćo
	without compensations, consideration, or donation by the person or persons	2	-	\$0
40	being served		<u> </u>	
40.	Any Food Establishment used only to prepare or serve food to the HOMELESS	2		ćo
	without compensations, consideration, or donation by the person or persons	3	-	\$0
	being served			

42.	Special Event Food Establishment: 6 – 10 days	-	-	\$75
43.	Special Event Food Establishment: 11 – 20 days	-	-	\$100
44.	Special Event Food Establishment: 21 – 31 days	-	-	\$100 + \$5/day over 20 days
45.	Support Kitchen + Mobile Establishment	-	-	\$100
46.	Support Kitchen + Mobile Establishment	-	-	\$200
47.	Support Kitchen + Mobile Establishment	-	-	\$300
48.	Support Kitchen + Mobile Establishment	-	-	\$400
49.	Support Kitchen + Mobile Establishment	-	-	\$500
50.	Support Kitchen + Mobile Establishment	-	-	\$600

Part 1: Program Basics – Visions, Goals and Objectives – Page 3

The OFSB had the following visions, goals and objectives from FY13 to FY19:

1) Adoption of the most recent version of the FDA Model Food Code to regulate the food industry.

Prior to February 2014, the food safety program was using HAR Title 11, Chapter 12, Food Establishment Sanitation (HAR, 11-12) which was based loosely on the 1976 FDA Model Food Code. In February of 2014 we repealed HAR 11-12 and adopted HAR Title 11, Chapter 50, Food Safety Code, (HAR 11-50) which followed the 2009 FDA Model Food Code nearly verbatim. The OFSB met Standard 1 for HAR 11-50. In September of 2017 we amended HAR 11-50 through the public hearings process to adopt the 2013 FDA Model Food Code. The OFSB met 10 of the 11 critical criteria to comply with Standard 1 of the VNRFRPS. It was critical that the food safety program increase staffing levels.

2) It was critical that the food safety program increase staffing levels.

This was to ensure that the FE's in our inventory were inspected at the desired frequency of at least 3 times a year, 2 times a year and at least annually for our high, medium and least risk facilities, respectively. Adoption of HAR 11-50 in February 2014 included increased fees for FE permit holders to fund increased staffing levels. From FY13 to FY18 we were able to increase staffing from 12 FTE's to 30 FTE's. This represented a 150% increase in staffing levels

3) Introduce a comprehensive electronic food safety inspection system.

The OFSB contracted with Digital Health Department (DHD), now Tyler Technologies, Inc. (TT) and went live with the e-inspection system in July of 2014. This enabled the program to accurately track inspection data to gauge the effectiveness of program enhancements designed to reduce the occurrence of food illness risk factors. This would also enable the program to utilize national standards so we can also gauge the effectiveness of our program as compared to other food safety jurisdictions.

4) Introduce a highly visible food inspection grading system coupled with a public access website at <u>http://hi.healthinspections.us/hawaii/</u> to post unredacted food safety inspection results in near real time. A QR (Quick Response) code was also printed on the placards so the viewing public can scan the QR code with reader that takes them directly to the public website. (Exhibit A-Placards)

One of the main goals or vision of the food safety program was to influence industry behavior using governmental transparency. The program felt strongly that the unique ethnic diversity in Hawaii which was culturally based on the tenets of obligation to do the right thing, even though you may not be highly proficient in the English language, coupled with a strong cultural desire to never ruin your family name, or reputation, would lead to behavioral change in the industry to reduce the occurrences of critical violations or food illness risk factors. The placarding system was introduced with the electronic inspection system in July of 2014 with the public website going live soon after. From FY14 to FY19 the program conducted over 33,000 routine inspections and issued over 6.000 Yellow placards which represents over 12,000 food illness risk factor violations. All items were corrected in a timely manner except for 6 FE's that we took formal Administrative enforcement action to impose fines and/or a permit suspension This has resulted in phenomenal voluntary compliance rates approaching 99.98%.

Part II: Baseline and Program Assessment – Regulatory Foundation – Page 4

Prior to FY14, the OFSB was regulating the industry using Hawaii Administrative Rules (HAR), Title 11, Chapter 12, Food Establishment Sanitation. This HAR was based loosely on the 1976 FDA Model Food Code so it was very dated and lacked much of the regulatory foundation that the rest of the nation was using. The OFSB felt that proper regulatory foundation would be necessary to improve food safety in Hawaii by reducing the occurrence of food illness risk factors in the food industry identified during routine inspections.

The proper regulatory foundation would also allow for increased revenue through food establishment (FE) permit fees, a highly visible restaurant grading system to enhance enforcement through governmental transparency, and adoption of a national food code that utilizes the most advanced science based principles to control food illness risk factors.

In February of 2014, the OFSB enacted HAR, Title 11, Chapter 50, Food Safety Code, which was based substantially on the 2009 FDA Model Food Code. Upon audit, the OFSB met the criteria for Standard 1 of the VNRFRPS as we met 10 of the 11 FDA Food Code intervention and risk factor controls. This rule change also allowed for:

- An increase in FE permit fees by over 400%. The increased revenue was needed for increased staffing, funding for an electronic inspection Software-As-A Service system, and touch screen laptops for signature capture.
- The codifying of a restaurant grading system with highly visible placards to be posted after routine inspections. (Exhibit B)
- Gave the authority for Food Safety Specialists (FSS) to close FE's immediately for out-of-control risk factors. (Exhibit B)

In 2017 the OFSB went back to public hearings and amended HAR 11-50 (Exhibit C). The main purpose of this rule change was to:

- Adopt, nearly verbatim, the 2013 FDA Model Food Code.
- Clean up definitions and enforcement procedures which created the ability to deny permit renewals if there were any unpaid fines.
- Require that a PIC have a valid Food Handler Education certificate at each FE during hours of normal operation. In September of 2017 the new HAR was enacted and we gave industry one year to comply with the Food Handlers certificate requirement, which we began formally enforcing in September of 2018. The amended HAR, Title 11, Chapter 50, Food Safety Code program still meets 10 of the 11 food code interventions and risk factor controls to qualify as meeting Standard 1- Regulatory Foundation of the VNRFRPS.

Adoption of HAR, Title 11, Chapter 50, Food Safety Code in February 2014, and the amended version in September of 2017 was instrumental in reducing the occurrence of food illness risk factors on Oahu by providing additional resources through FE permit fee increases, that allowed for staffing increases that increased inspection frequency. The rule codified our highly visible restaurant grading system which had a positive impact on reducing the occurrence of, and the rapid correction of food illness risk factors identified during routine inspections. Active managerial control was also rewarded and encouraged by the issuance of a Green "PASS" Placard. The fee increases also funded an electronic inspection system that gauges compliance, enforcement and tracks metrics such as the % of Yellow placards issued during routine inspections which are directly related to the occurrence of food illness risk factors. The amended rule in September 2017 also introduced the concept of mandatory food safety education. Even though the managerial level of food safety education is not required, this had a big impact on the many FE business operators that were not proficient in the English language. The OFSB offers free food handlers' education and student enrollment increased nearly ten-fold from FY15 to FY19. The program also accepts on-line vendors that have ANSI/CFP approved Food Handlers Education courses available in many different languages. We are hoping that this helps to further reduce the occurrence of food illness risk factors in the future.

PART II: Baseline and Program Assessment – Training Program Page 5

Prior to FY 2014 the training program at the Oahu Food Safety Branch (OFSB) could be simply described as follows:

After initial hire, Food Safety Specialists (FSS) will spend the next 3-4 months reading through the myriad of rules and regulations, including the food rules, that are assigned to the program.

- The FSS then spend the next 1-2 months "shadowing" with more senior staff.
- Then it's OTJ (On-The-Job) training with your immediate supervisors providing input if staff inquires, or if there are reasons to question staff's findings and actions correlating with the proper violations cited on the inspection report.
- The immediate supervisor may, or may not, do side by side inspections with new staff to compare results to ascertain inspectional skills of new staff.

This would formally end the FSS's training program.

In February of 2014, the OFSB began following the requirements of Standard 2 -Trained Regulatory Staff to improve staff training and instituted the following training procedures:

- In addition to having trainee staff read through the same myriad of rules and regulations, the Training Officer FSS will sit down and read through the entire Hawaii Administrative Rule (HAR), Chapter 50, Food Safety Code, line by line with the trainees. The OFSB has a dedicated FTE at the supervisory level who is an FDA Standardized Training Officer. The duties of this position in the OFSB is dedicated 100% to quality control and serves as the State Milk Ratings Officer and directly supervises only the Milk and Seafood Specialist, and the Food Safety Educator. The incumbent typically does not directly supervise any field staff FSS.
- FSS trainees are required to complete all courses listed in Appendix B-1 of Standard 2.
- After completion of all courses, the FSS Trainee will shadow with Senior Staff (15 Senior Staff with at least 3+ Years of experience) for approximately 30 days. 2 days are spent with each Senior Staff, this represents approximately 60-70 inspections of varied risk category types.
- The FSS Supervisor will then evaluate the inspectional skills of the Trainee FSS using the Attachment A-CFP TRAINING PLAN and LOG (Exhibit D) who must demonstrate acceptable performances for all competencies listed in Sections I through VI.
- The above is repeated with the Training Officer and the FSS is assigned a permanent district if the performance in the field is deemed to be satisfactory.
- Smart phones purchased in FY2014 also allow for facetime contact directly with Supervisors during inspections, which is a powerful training tool whereby the Supervisor can assist the FSS in making proper decisions based on observation presented live and in real time.

The OFSB also provides at least annual continuing education & training for the Statewide food safety program by sponsoring FDA and other third-party instructors to conduct classes in Hawaii.

In FY15 OFSB sponsored the FDA 215/218 Combo Class, in FY16 we had the FD207 Plan Review Class, and also brought in Dr. Brian Nummer for a ROP HACCP Class, In FY17 the OFSB sponsored an in-house communications and food safety educational workshop as well as the FD312 Special Processes in Retail course.

Since 2014, to the present, the OFSB sends at least 3 FSS to the NEHA Conference annually, we participate and attend in every CFP Conference as a voting member, the OFSB Program Manager and at least 2 supervisors attend every Pacific Regional Food Seminar, and also attend every WAFDO and most AFDO Conferences.

Having properly trained regulatory staff was paramount to reducing the occurrence of food illness risk factors due to our FSS's ability to recognize violations of the code and being trained to properly communicate the public health interventions necessary back to the owners/operators of Oahu's food facilities. One of our standing motto's is to "Enforce through Education". It is constantly stressed to our FSS that if industry understands how their behavior directly impacts the health and lives of their customers, it is much easier to get the owners/operators to engage more closely in the practice of active managerial controls to eliminate all possible risk factors inherent to their specific food operations.

PART II: Baseline and Program Assessment – HACCP Principles Page 6

Prior to FY14 the OFSB used a two Part, two color inspection report that was split into a red section and a blue section. The first page was PART I: Red Critical Items which were the food illness risk factors at the time and page 2 were the Blue items which were the common GRP violations (see Exhibit E).

The OFSB currently utilizes HACCP principles in conducting its food safety program as the program has met the requirements of Standard 3 in FY15.

The program currently uses the 2009 Version of the FDA Model Food Code Inspection report form as shown in the 2009 Annex, Appendix 7 (see Exhibit F) which utilizes IN, OUT (compliance), N/O (not observed) and N/A (Not Applicable) to identify risk factor observations.

Since FY14, we introduced the concept of classifying FE's into specific risk categories based upon eight possible food operations. If the FE engages in six to eight of the possible operations, they are considered to be a high risk Category 1, if the FE has three to five operations they are a medium risk Category 2, and if the FE engages in zero to two of the operations it is a low risk category 3. In Hawaii we reversed the order as we look at the risk categories as priorities, so the highest priority is Risk Category 1, and the lowest is Risk Category 3 (Hawaiian Style). The eight operations identified are 1) Receiving, 2) Cold Storage/holding/prep, 3) Hot Storage/holding/prep, 4) Thermal processing, 5) Transportation, 6) Cooling, 7) Re-Heating, 8) Display of TCS foods (See Exhibit G). The program included zero operations to cover those facilities that only do ware-washing to support other FE's.

The OFSB has been utilizing a comprehensive electronic inspection system known as the Digital Health Department (DHD) provided by Tyler Technologies, which went live in July of 2014. When files are created in the system for each FE permit holder, the assigned risk factor will be noted for the FE and inspections are automatically scheduled based on the assigned risk factor. Each of our FSS staff receives a daily inspection schedule automatically through the system. Category 1 FE's are inspected every 4 months, Category 2 facilities are inspected every 6 months, and Category 3 facilities are scheduled for inspection at least annually.

The placard system that the OFSB created calls for issuance of color-coded placards at the conclusion of each routine or complaint inspection. A **green PASS** placard is issued if no more than one food illness risk factor is observed AND corrected on site (COS) prior to the conclusion of the inspection. If the single item is not COS a **Yellow CONDITIONAL PASS** placard is issued. The **Yellow CONDITIONAL PASS** is also issued after a routine or complaint inspection, if two or more food illness risk factors are observed regardless if they are COS. The fact that there were two or more risk factor violations may indicate that the FE is losing active managerial control and requires a follow-up inspection within 48 hours to ensure that COS violations stay corrected and that any violations not COS are corrected within the 48 hours. If the FSS determines that the FE is operating with imminent health hazards, then a red CLOSED placard may be issued, and the owners/operators must close the establishment immediately (see Exhibit H).

The OFSB also has specific variance request rules (see Exhibit J) policies as well as the ability to require FE's to submit HACCP plans on demand if operations warrant (see Exhibit K). Employing the HACCP principles in line with FDA Standard 3 invariably helped the OFSB to reduce the occurrence of food illness risk factors by giving our FSS an electronic inspection system that automatically schedules workload based on risk which allows staff to focus the majority of their time on inspection of higher risk facilities, and the ability to post placards after inspections to influence industry behavior to take greater care in exercising active managerial control in controlling food illness risk factors within their food facility.

From FY12 to FY13 the OFSB struggled with setting up an ongoing QA program. Part of the programs vision back then was to secure a comprehensive, electronic inspection system that would create an electronic record and report capabilities to evaluate FSS findings and observations during food safety inspections. FSS were doing hand-written inspection reports which our clerical staff would attempt to input into a poorly designed data system. After 2 years of hair-pulling (which is why I have very little left at present), we decided to terminate our IT vendor and put out an RFQ in a fashion that assured we would get at least an upper tier of IT service providers that have a well-functioning, properly scaled software-as-a-service to handle an account with over 10,000 food establishments Statewide.

In FY14 we finally went live with Digital Health Departments (DHD) food safety inspection system that provided us with concise, legible and structured document that the regulated community can easily understand. The computer-generated reports were a great improvement over hand-written ones whereby each FSS had their own "style" of presenting their observations and findings on a report. The reports generated by DHD are very structured and provide the same template for every report which industry greatly appreciates.

Our Deputy Attorney General was also very pleased with the final product as consistency and QA are keystones when trying to prosecute flagrant violators. If the program has documented QA procedures in place, it assists greatly with convincing hearings officers and the courts that the regulatory program is consistent and fair to all.

The DHD system allows the FSS Supervisors to review FE inspection reports digitally and to review each FSS's marking trends over time. In FY16 Supervisors in the OFSB were able to ascertain that some FSS were above one standard deviation of the Branch average in % of Yellow placards being issued. There were 2 FSS that were counseled and admitted that they were not always marking 100% of the food illness risk-factor violations. The DHD system allows management to compare marking trends of all staff side-by-side to ensure consistency.

The OFSB organizational structure (see Exhibit L) has a dedicated Standards Office Supervisor and a Food Quality Assurance Specialist who is our FDA Standard Training Officer as well as the Milk Ratings Officer. The food safety program has historically viewed a uniform inspection program as critical which is directly evident by having employees dedicated full time to QA issues within the regulatory program.

Monthly staff meetings also play a role in quality assurance. FSS are encouraged to bring up any regulatory issues encountered in the field so that all staff can benefit from the experience and be given the same expectation by management and/or interpretation of the rule. Minutes are kept in a one-drive account for all staff to access. Supervisors may also see inspection trends or anomalies of actions taken in the field by other FSS that can be discussed at the staff meetings. The meetings are conducted with the attitude that all actions are sone with the best intentions and if no mistakes are made in the field, then no learning or growth takes place by staff.

The QA program has allowed the OFSB to reduce food illness risk factors by ensuring that food safety staff uniformly interprets our HAR which helps industry to develop active managerial control strategies that are transparent and open to all. Clear regulatory expectations and a clear path to corrections and compliance assists industry in behavioral change through active managerial controls.

PART II: Baseline and Program Assessment – Food Illness Preparedness and Response Page 8

The OFSB has always had good relations with our epidemiologists with regards to Food Illness Preparedness and response. The program has historically had good and close relations with our epidemiologists at the State DOH's Disease Investigation Branch (DIB). The DIB employs a dedicated foodborne illness coordinator position who serves as the lead epidemiologist in any outbreak or illness. The same basic Food Illness Complaint Response Flow Chart has been in place since the mid 1990's and still serves us well (see Exhibit M).

In Hawaii, all food illness complaints are referred to DIB, and based on the epidemiological evaluation of a 72 hour food history, reported symptoms, and onset time, they will decide whether or not the illness may be related to a regulated facility. The DIB will refer the case to OFSB to investigate if they suspect it may be from a food establishment. The OFSB investigates ALL referrals within 24-48 hours after receipt of possible illness report from DIB in an attempt to determine the etiology of the disease, or if there are any food illness risk factors observed during the investigation. All food injury reports allegedly from foreign objects in food are investigated directly by the OFSB within 24-48 hours of receiving the complaint. (see Exhibit N).

Since FY14, the DIB has been sending weekly enterics reports to OFSB (see Exhibit O). These reports are very informative and timely and fosters great communication between DIB and the OFSB. The two programs have worked together on many food outbreaks over the years, most notably was a major Hepatitis A outbreak in the fall of 2016 that involved imported scallops that were served raw at a local sushi restaurant chain. The ICS is activated for large outbreaks and both DIB and OFSB drive the investigation. As you may know, Hep A outbreaks are very difficult to track down a definitive source but the State DOH was able to solve this through extreme diligence and a little luck.

All illness investigation reports are also posted on the public website noting that they are "alleged illness" reports until confirmed. This is done in near real time, so DIB has access to all inspectional findings without the need to contact us.

The DIB and the OFSB has begun regular, annual joint staff workshops/meetings beginning in FY18 (see Exhibit P). We started with just DIB and OFSB and in 2019 we included the Laboratory Branch also. These very open and honest meetings were extremely helpful in ironing out expectations and empathy towards each professions trials and tribulations when investigating food illnesses. Prior to these meetings there was a lot of assumptions being made on both sides as to how we approach illness investigations. The meetings provided much clarity as to roles that each program plays such as... Who is responsible for environmental sampling? Who is supposed to call the market to get invoices for suspected food sources? Who contacts the complainant about investigation status? Who goes to pick up the body fluid samples from the complainant? The collaborative meetings helped to clarify all these questions and all programs involved feel that we really need to meet at least annually to foster collaboration.

The OFSB is also working on having the DIB tracking system communicate directly with our electronic inspection scheduler to notify OFSB of any illness complaints.

The food illness response at OFSB has allowed us to reduce food illness risk factors by communicating closely with those FE's that are involved in outbreaks and educating them on how they can prevent any recurrences of illnesses through active managerial control.

Prior to FY14 compliance and enforcement at the OFSB was akin to chasing your tail. Much of the problem had to do with staffing shortages which resulted in inspection frequencies of one inspection every 2 to 2½ years. There were risk categories for permit fee purposes, but because there were only 9 FTE's available out of 12 allotted positions, the ratio of food establishments per FSS was approximately 644:1 as there were approx. 5,800 FE's on Oahu at the time. It was impossible to prioritize inspections as you could barely make even one inspection of facilities in your inventory every 3 years.

Fee increases and program consolidations allowed for staffing increases from 12 FTE's in FY13 to 22 FTE's in FY14 and then we were able to hire 7 more FSS in FY15 to bring staffing levels to 29 FTE's, and then to 30 FTE's from FY16-FY18. The increased staffing levels brought the FE to FSS ratio down from 644:1 to about 210:1 in FY18.

This allowed staff to make inspections frequencies commensurate with the risk categories assigned to each FE. By FY 18, most inspectors were able to keep up with the about 76% of the required inspection frequencies of every 4 months for High risk, 6 months for medium and at least annually for the lower risk FE.

In May of 2018 we updated our formal enforcement policy (see Exhibit Q) which has strategies for dealing with out of compliance FE's

Transparency equals food safety for the public.

Our team of FSS now issue placards at the conclusion of each inspection

The system has worked well because we enforce through education, a green "pass" placard means no more than one major food safety violation was found and corrected on site. If a yellow "conditional pass" is issued, it means that two or more major food safety violations were found, or a single violation could not be corrected at the time of the inspection. The FSS work with the establishment to correct risk factor violations but if an imminent health hazard is revealed, this may result in a restaurant's being issued a Red CLOSED placard which immediately suspends their permit to operate. FE's are also informed that he OFSB uses the media regularly to announce FE closures, fines, suspensions or tampering with the placards, which is a very serious offense. (see Exhibit R)

It is a real tribute to the OFSB staff that we were able to make this paradigm shift to a completely new system of compliance and enforcement. It is not easy for staff to post a Yellow Card for risk factors such as poor hygiene by workers, food temperature controls, unclean or contaminated equipment or improper food sources as it may become highly confrontational and staff has been trained to focus on education and why governmental transparency is important in influencing rapid correction of food illness risk factors rather than punishment and fines to diffuse confrontational behavior.

To date, over 6000 Yellow placards have been issued, with only 6 leading to a RED placard. This represents an astounding 99.998% **voluntary compliance** rate that keeps the DOH from having to engage in extremely counter-productive litigation and enforcement by assessing fines or suspending permits. This again results from the efforts of a highly trained and motivated staff that is able to convince industry to correct violations through public health education, as no one wants to intentionally or accidently cause an illness.

The launching of our public online portal in early 2016 which gives the public access to inspection reports for Hawaii's restaurants is another powerful tool to influence compliance and enforcement. Transparency through the placards and the public website is there for the whole world to see, which has a powerful effect in influencing industry behavior.

The combination of the placarding program, OFSB Enforcement policy, the DHD public website, and frequent engagement with the local media had all helped to reduce food illness risk factors. The large % of part Asians in Hawaii also reflected in FE ownership and operations in Hawaii. Family reputation, honor, and word of mouth are extremely powerful influential factors in our local culture in Hawaii. This same culture exists in our local food service industry as the great majority of FE owners and operators take great pride in obtaining a Green PASS Placard and this has definitely been very positive in reducing the occurrence of food illness risk factors in Oahu's food establishment.

PART II: Baseline and Program Assessment – Industry and Community Relations - Page 10

Prior to FY14 this was one of our strong points for the OFSB. We met Standard 7 of the VNRFRPS in FY14 based on activities from FY11 to FY13 (see Exhibit S). The OFSB continues to provide the same type and breadth of Industry and Community relations since meeting this Standard.

Industry and Community Relations activities were critical in getting our new Hawaii Administrative Rules (HAR) Chapter 50, Food Safety Code food rules passed in February of 2014 and then amended again in September of 2017. The State of Hawaii requires all Departments to go through a public hearing process when creating, amending or repealing any HAR. If the new rules or amendments affect small businesses in any way, the program creating the rule must also appear before the Small Business Regulatory Review Board (SBRRB) to move the rules forward (see Exhibit T). The SBRRB is made up of the gubernatorial appointees that are all small business owners that report directly to the Governor of the State of Hawaii. If the SBRRB provides negative comments to the Governor, the rule is DOA (Dead-On-Arrival) at the Governors' desk and will not get an opportunity to go to public hearings. If the program by chance, gets SBRRB approval (see Exhibit U), it then must go through a typical public hearings process on Oahu and each of the main islands of Kauai. Maui, and Hawaii (Kona and Hilo) due to it being a Statewide rule. For those of us in Government service who have ever been responsible for conducting public hearings on any subject affecting public health, we all know that public hearings can quickly turn into an out-of-control spectacle if the agency is unprepared.

At the conclusion of the public hearings, the agency proposing the rule change must compile ALL comments received at the hearings and address each comment to the satisfaction of the Governor's office (see Exhibit V). If there is opposition to the rule by industry, the public, lawmakers, or other influential special interests, the chances that the Governor will sign the rule into law would be slim to none. Depending on the outcome of public hearings, the rule is then approved, rejected or sent back to public hearings to clarify or amend the proposed rule to satisfy the constituency.

The OFSB's proposal to adopt a new 165 pg. rule based substantially on an FDA Model Food Code (Not more bureaucracy!!, previous rule was only 76 pgs. in length), a 400% + increase in permit fees to fund the food safety program enhancements, a highly visible restaurant grading system to be posted outside of the FE immediately after inspection, unredacted inspection results posted on a public web-site in near real-time, unfettered ability for our FSS to close facilities immediately for out-of-control risk factors or other imminent health hazards (e.g., active FBI outbreak implicating facility), and increased inspections based on risk was fraught with potential landmines at the SBRRB if we could even get to public hearings and face the rest of industry. The OFSB used its industry and community relations skills to head off any opposition by appearing at the executive board meetings of the Hawaii Restaurant Association (affiliate of the NRA, no not that one, the restaurant one), the Hawaii Hotel and Lodging Association, the Hawaii Food Manufacturers Association and the Hawaii Food Industry Association to pitch our proposals and to make sure that they were all convinced that reducing the occurrence of food illness risk factors would be a win-win for all. The DOH really appreciates our State's food industry for a complete buy-in to protect the health of Hawaii's citizenry and visitors through our highly visible food safety program. I am convinced that one of the tools that made this happen was the OFSB testimony in front of the SBRRB. We presented one of the FDA's first Oral Culture Learning Project videos about the tragedy that occurred with the matriarch (Grandma) of the Ploghoft family that perished due to a terrible and painful Salmonella illness contracted at a local restaurant during Thanksgiving that was totally preventable if basic food safety practices such as proper cooking temperatures were being adhered to.

After showing the heart wrenching video to the SBRRB there was not a dry eye on any of the board members, and they immediately passed out the memo to the Governor to have our rule go to public hearings. We then thoroughly proceeded to flood print and TV media both pre and post public hearings to garner community support (see Exhibits M1-M9 and Exhibit TV). A peer reviewed article published in the Hawaii Journal of Medicine and Public Health (see Exhibit P1) in August of 2015 and an article published by the Pacific Business News in March of 2018 (see Exhibit M10) shows how much the program has improved through the local food and business industries on Oahu and the State of Hawaii as a whole.

Hawaii's food industry realized that the increased transparency would improve public confidence in the safety of the food being sold which would in turn increase their bottom line. The increased profits and public

confidence would be the positive collateral effects of this new paradigm shift that is a win-win-win for industry, local regulatory, and public health.

The OFSB's hard work in industry and community relations shepherding the rules through public hearings with virtually no opposition and continued heavy use of the media on the OFSB's food safety and regulatory actions have gone a long way to reducing food illness risk factors observed during routine inspections on Oahu.

PART II: Baseline and Program Assessment – Resources Page 11

Prior to FY14 the OFSB received approximately \$2.7 million annually from the State of Hawaii's General Fund subject to legislative budget approval. This amount has been very stable year over year and has not changed in the past 8 years as we are identified as a core program that is usually immune from budgetary downturns in the economy based mostly on tourism and the military.

A second source of revenue was created by the legislature in 1999 (Hawaii Revised Statutes (HRS), Section §321-27) which was a special fund known as the Environmental Health Education Fund. Food Establishment permits and plan review fees account for 96% of the revenue for the special fund. This special fund had two critical restrictions attached to its use, one was an annual spending ceiling of \$300,000 and the second, the fund could only be used for educating governmental staff and industry on public health education (see Exhibit W). In 2010 the OFSB endeavored to change the use of the special fund by introducing a legislative bill (HB2688, HD1, SD2, CD1) that would expand the restrictions on the allowed use of the funds to include operating costs, additional food safety personnel, and to increase the ceiling to \$1.5 million (see Exhibit X). Hawaii law provides that only the legislature can approve the creation of or amendments to a "special fund" through changed to HRS. The State legislature gives the authority to the DOH to create Hawaii Administrative Rules (HAR) to govern the food industry, but the DOH must use the public hearings process to make ANY changes to existing HAR which includes our FE permit fee schedule. Therefore, the OFSB needed this funding mechanism approved by the legislature as a Statute prior to any changes to HAR which would allow the program to increase permit fees to generate any additional revenue for program enhancements. Both HRS and HAR require the Governors' approval to enact the legislation or the rule. As a note, the same Governor that passed HB2688 in 2010, vetoed the identical bill in 2009 (HB36), that we introduced just the year before. Between the vetoing of HB36 and the signing ceremony for the identical bill HB2688 in 2010, there was a "You Tube" video that went "viral" showing rats running around the interior of a closed Chinatown food market feasting on produce in full view of passers-by that could be viewed from the display window. When interviewed by the media as to why the Food Safety program allows this type of conditions to happen, we publicly stated that everyone needs to get used to it because we only have 9 food safety staff available due to previous budget cuts, and we inspect food facilities only once every 2 to 21/2 years. This led to the signing ceremony in 2010 by the same Governor who shall remain unnamed (Linda Lingle), that vetoed the identical bill out of fear that we would raise permit fees on her precious constituent business owners. How ironic.

Due to the passage of HB2688 and the resulting creation of HAR 11-50, Food Safety Code, in February of 2014 the program was able to increase revenue from around \$733,000 in FY14 to over \$3 million by FY 17 and has remained stable through FY19 (see attached Graph 1). The raising of the ceiling cap from \$1.5 million in 2010 to the present cap of \$3 million has allowed the OFSB to fund a 150% increase in the hiring AND filling of vacant positions from 12 FTE's in FY13 to 22 FTE's in FY14 and 30 FTE's in FY16 to FY18. The position count went down to 23 in FY19 because the revenue generation of our program did not go unnoticed as the DOH decided to revive a defunct Food and Drug Branch by removing 7 positions from the OFSB (see attached Graph 4). Not to fret, as the OFSB recently received approval to replace 5 of the 7 field staff and 2 new FSS Supervisory positions which were sorely needed.

The increased revenue has allowed the OFSB to contract with IT vendors to move to an e-inspection system as well as the necessary hardware for the field staff. The FSS are also issued smart phones and hot spots to enhance communications with their supervisors and to provide near real time uploading of inspection results to a public website. Due to our revenue source, training opportunities are extensive for our field staff and supervisors as we typically send 3-4 staff to NEHA, CFP, AFDO, WAFDO, Pacific Region Food Seminars and other out-of-state events. We also host annual FDA or third-party instructors for courses in Hawaii.

Significant reduction in food illness risk factors in the regulated community would have been unattainable without available resources. If the program were not able to succeed in garnering additional resources through the special fund, the OFSB would not have enacted any of the program enhancements delivered from FY14 to FY19 and the present.

Graph 1 GENERAL AND SPECIAL FUND REVENUE



Method for Evaluating the Progress of Reducing the Occurrence of Food Illness Risk Factors from July 23, 2014 to June 30, 2019

The OFSB introduced the concept of a restaurant grading system or placarding, as a critical component to help reduce the occurrence of food illness risk factors in the regulated community. The 3 color-coded placarding system that we adopted was directly linked to the occurrence of these risk factors.

The following criteria was used in generating the data to show a reduction in risk factors:

- 1) The metric used is the % of Yellow Placards issued by the OFSB FSS during Routine Inspections.
- 2) Only Routine Inspections were used. No general or FBI complaint inspections were included.
- 3) A Green or PASS placard is issued if no more than one Risk Factor is observed during a routine inspection AND corrected-on-site prior to the conclusion of the inspection.
- 4) A Yellow or CONDITIONAL PASS placard is issued if there are any Risk Factors that were not corrected by the conclusion of a Routine Inspection, or if there were two or more Risk Factors observed during a Routine Inspection. Two or more risk factors observed is an automatic issuance of a Yellow Placard even if all Risk Factors are COS. The rationale for this is that if a FE has two or more Risk Factor violations, the facility is losing active managerial control (AMC) and a Follow-up Inspection is required to assure that AMC are kept in place.
- 5) The OFSB tabulated the amount of Green and Yellow issued during Routine Inspections in each fiscal year.
- 6) The % of Yellow placards issued was calculated by taking the amount of Yellow placards issued during routine inspections and then dividing that by the total amount of routine inspections done (# of Yellow ÷ # of Green + # of Yellow) at the end of the first quarter of FY15 and the end of each of the subsequent fiscal years.
- 7) Raw Data is taken from the DHD electronic inspection system (see Exhibit Y)

In the first quarter of FY15 the OFSB issued Yellow placards 32% of the time during Routine Inspections. At the end of FY15 the % of yellow placards issued was down to 25.1% and saw further reductions year over year at 21%, 17.6%. and 14.6% in FY16, FY 17 and FY18, respectively. There was a slight uptick of 0.3% in FY19, but the % appears to be stable at around 15%.

The OFSB was able to reduce the year over year % of Yellow Placards issued during Routine Inspections by over 50% from July 2014 to June 30, 2019, which we believe is a noteworthy achievement as the % of Yellow placards issued is in direct relation to the occurrence of food illness risk factors in the regulated community.

See Attached Graph 2



The highest priority challenge that the program sought to improve was the adopting of a Regulatory Foundation that would allow for the most current scientific thought in preventing food illnesses, codifying a high profile placard system and increasing revenue through increased permit fees that would result in increased staffing levels, and the ability to procure the latest IT systems and hardware technology to influence industry behavior by increasing governmental transparency.

In addition to providing the necessary resources through FE permit fee increases to fund any program enhancements, it was critical that the OFSB adopt a firm regulatory foundation to assist the staff in reducing the occurrence of food illness risk factors observed during routine inspections.

The OFSB felt it was necessary to adopt the most recent version of the FDA Model Food Code. The Hawaii Restaurant Association and Hawaii Hotel and Lodging Association which is comprised of the major hotel chains such as Hyatt, Sheraton, Marriott, Four Seasons, etc. actually appreciated that the DOH would adopt the FDA Model Food Code which most of the industry had already adopted as part of their internal QC and Active Managerial Control criteria. The large chain restaurants also appreciated that Hawaii now uses the same code that their outlets in New York or Nevada must also follow. This allows industry to employ economies of scale when designing their risk control plans and SOP's. The adoption of the most recent FDA Model Food Code at the time (2009 Version) in early 2014 and the subsequent adoption of an amended rule in September 2017 to adopt the 2013 Version of the Model Food Code was an easy sell to the public and industry despite of the breadth and length of the rule as it was based on the most scientific thought to date to reduce the risk of contracting foodborne illnesses. Industry was given a one page document entitled "How To Get A Green Placard" that ensured compliance if diligently followed and used as their daily checklist (see Exhibit Z).

Codifying a restaurant grading system was a cornerstone in our plans to reduce food illness risk factors. Hawaii has very strong cultural ties to all aspects of local industry. Reputation, honesty, and by all means, do not bring dishonor to the owners' family name is a very strong driver of behavior in Hawaii. Being on an island State means that the "world" is very small here in the sense that almost everyone knows about everyone. Many of our relatives, close friends and "friends of a friends" are all business owners, operators, managers, or employees of food establishments. No one wants to be "outed" as a public health threat or being issued a Yellow - CONDITIONAL PASS placard indicating that there was some violation at the facility that may make our residents or visitors ill.

In February of 2014 the program enacted Hawaii Administrative Rule, Title 11, Chapter 50 Food Safety Code, that resulted in food establishment permit fee increases that resulted in a 450% increase in revenue from \$733,000 in FY14 to over \$3.3 million in FY17.

The fund has remained stable at \$3.2 million in revenue in FY18 and FY19.

The OFSB also mandated Food Handlers Education Certificates for PIC's in September of 2017. This resulted in a ten-fold increase in the # of persons attending Food Handler Education Classes. Scheduling of students went from manual phone calls to using technologies such as Event Brite so PIC could easily sign up and attend the required classes (see Attached Graph 5).

The OFSB met the objective of increasing Resources and the reduction in food illness risk factors observed during Routine Inspections from FY14 to FY19 (see attached Graph 1).



Graph 1 GENERAL AND SPECIAL FUND REVENUE



RESOURCES

The second challenge of highest priority that the program sought to improve was the availability of Resources. The OFSB truly believed that there are unlimited amounts of amazing ideas and strategies to reduce the occurrence of food illness risk factors. The OFSB program was inspired by past Crumbine Award winners - notably the 2008 winner, Sacramento County. We strongly felt that the program that Sacramento County put together was achievable only if we had the resources to do so.

For many years prior to FY14, annual requests to restore position counts lost during the mid-1990's that continued until 2013 were met with constant rejection due to competing priorities throughout the State government. The food safety program was constantly told that "Your program is a top priority, but maybe next year". "Try to think outside of the box". The OFSB decided that the only future that we could control would be food establishment permit fee increases. The current administration at the time also refused to introduce any measures through the line Departments if it led to fee or tax increases. This forced the OFSB to introduce legislation outside of the DOH's annual "Legislative Package" which includes only those proposed bills approved by the Governors Office through the Department Heads. The OFSB decided to use the Supervisor of the Standards Office to introduce the legislation as a private citizen. As you can imagine, this did not go over very well with the Administration at the time and the Governor ended up vetoing our bill in 2009 after the DOH Administration testified AGAINST the bill. The OFSB was able to pass the legislation the following year due to an ironic set of circumstances explained earlier on pg. 11 of this application. The OFSB gambled on the fact that the Governor was "lame duck" and would be gone in a year, and we would have eventually passed the same legislation with a more progressive Administration that valued public health over industry profits A lot of time was invested in lobbying key legislators such as the Chairs of the Senate and House Health Committees as well as the Finance Chair in the House and the Ways and means Chair in the Senate (see Exhibit Z1).

Even though these events described were outside of the application period being applied for, it was a necessary pre-cursor to be able to legally have the authority to introduce Administrative Rules that would give the OFSB desperately needed resources to increase staffing, procure an e-inspection system, and provide all the necessary tools to reduce the occurrence of food illness risk factors.

In February of 2014 the program enacted Hawaii Administrative Rule, Title 11, Chapter 50 Food Safety Code, that resulted in food establishment permit fee increases of 450% and increased Special Fund revenue from \$733,000 in FY14 to over \$3.3 million in FY17.

The fund has remained stable at \$3.2 million in revenue in FY18 and FY19, and our spending ceiling has been raised incrementally from \$1.5 million in FY14 to \$3.0 million in FY19, which enables the Statewide Food Safety program to use the Lion's share of all revenue generated for enhancements to the food safety program.

The main use of the increase in Special fund revenue was the hiring of additional staff. Just prior to FY14 the OFSB had only 12 FTE's allotted with only 9 FTE's allowed to be filled. A reorganization in August of 2013 allowed the consolidation of the OFSB with what was previously the Food and Drug Branch which immediately increased the general funded position count from 12 FTE's to 22 FTE's, and then in early 2014 the legislature approved 18 additional FTE's to bring the total count to 30 FTE's. There were 29 FTE's working in FY15, and 30 in FY16 to FY18. In January of 2019 the DOH resurrected the Food and Drug Branch and took the 7 field staff obtained during the consolidation of 2013 which reduced the # of FTE's to 23 at present.

The OFSB met the objective of increasing revenue and staffing (Resources) which resulted in the reduction in food illness risk factors observed during Routine Inspections from FY14 to FY19 (see attached Graphs 1, 3 and 2).



Graph 1 GENERAL AND SPECIAL FUND REVENUE






OVERALL COMPLIANCE

Overall Compliance by industry was the third priority challenge that the OFSB sought to overcome. "Changing industry behavior through governmental transparency" became the mantra of our food safety program. One of the main goals of any food safety program is to have industry understand the importance of implementing and exercising active managerial control over their facility to prevent the occurrence and recurrence of food illness risk factors instead of being compelled by law to do so by the local regulatory authority.

The program instinctively knew that if your inspection frequency was once every 2 to 2¹/₂ years, then the program would not be able to influence any behavioral change within a FE. This was our reality pre-FY14. Part of the goal was to obtain a desired inspection frequency of at least three times annually for high risk, twice annually for medium risk and at least annually for the power risk facilities. Based on our inventory of 6156 FE's, this means that the OFSB would need to conduct over 12,200 inspections annually to meet the "Gold Standard" inspection frequency for all FE in our inventory. The OFSB conducted only 4,393 routine in FY15 and 4,125 in FY16. This number took off in FY17 with 7,260 routine inspections and then to 9,302 in FY18. The reduced number of routine inspections in FY19 was directly related to our loss of 7 FTE in January of 2019 due to the State DOH resurrecting another food regulatory program. The OFSB believes that the 100% increase in the number of routine inspections had a large impact on reducing the occurrence of food illness risk factors on Oahu. The transparency and visibility of the placarding program doubled between FY15 and FY18 with regards to the number of placards issued with every routine inspection conducted. The increase in inspections doubled approximately 2 years after our mass hiring of FSS where we went from 12 FTE in FY 13 to 29 in FY15. After the new staff was trained and acquired field experience, they became more comfortable and thus more productive in the field which resulted in a doubling of routine inspections conducted by the OFSB in FY18 where we completed 76% (9,302) of the 12,200 inspections required, a far, far, cry from the 34% of inspections done (4,125) in FY16 (see attached graph 4).

The due diligence of the OFSB just prior to, and especially between FY14 to FY19 resulted in a significant reduction of food illness risk factors. These activities were also coupled with a very liberal use of both print and television media to publicize the key components to our new rule change in February of 2014 as well as with all formal enforcement actions taken by the OFSB during the past 6 years (see Exhibits W-Z).

In addition to the highly visible placard program, another powerful tool for compliance was the posting of all routine, follow-up, food illness complaint, and general complaint inspections on a public website in near real time. At the conclusion of every inspection, FSS direct the FE's PIC to our public website using the facilities PC or smart phone to show the PIC what the public sees when they look-up the inspection results. The realization and sometimes shock, that their un-redacted inspection reports are available for the whole world to see in an instant, has a very strong influence on industry behavior and compliance.

The OFSB currently does not have any data at present to show if our mandated Food Handlers Education Certificate required in September of 2017, and formally enforced from September 2018, had any impact of the reduction of food safety risk factors.

However, the OFSB has shown a significant drop in the occurrence of food illness risk factors as evidenced by the 50% reduction in issuance of Yellow placards (see attached Graph 2) over the past 5 years which we attribute to increased inspections and increased governmental transparency.

Graph 4 # OF ROUTINE INSPECTIONS COMPLETED



Graph 3 STAFFING - NUMBER OF FTE'S FOR FOOD INSPECTIONS





PART IV: Program Longevity

The Oahu Food Safety Branch is committed to stay on the never-ending road of program improvement. These are the following goals and objectives in the coming years:

1) Increase position count to 35 FTE in order to complete 12,200 Routine inspections annually. In early FY2020, the OFSB completed a re-organization plan that will assist us in this endeavor. We have streamlined our operations by eliminating specialist positions that were no longer needed as those duties were absorbed by each of the FSS staff. The previous specialist positions, Data Info. Specialist, Case Prep and Rules Specialist, Hospital/Institutional Specialist, and Housing Specialist were eliminated and used as generic FSS to the existing staff of 18 to bring the pos count to 22 FTE. The OFSB also received approval in early FY2020 to establish 5 field staff and 3 additional FSS supervisors to bring our FTE field staff count back to 27. The OFSB also has assurances that another 8 FTE's will be approved in FY21 to increase our FTE count to 35 (see Exhibit L).

2) Enhanced use of technology during inspections.

The OFSB is currently in the process of switching out our inspection hardware to better accomplish this. The field staff uses Microsoft Surface Pro 3's and iPhones 5S at present and we have just received our order of Apple iPad Airs w/ touch screens to replace the Surface Pros. The iPads are being loaded up with various FDA Oral Culture Learning project videos, and a plethora of other FDA and third-party food safety videos. We are also poised to upgrade all smart phones with the iPhone 8 (free!). The reason for the platform change is to have the PIC's and/or food preparation staff of the FE watch short food safety videos (If time permits during off peak inspections, to address food safety risk factors observed in the past or during the inspection. Because of the very high percentage of Non-English readers who usually can understand English, but have difficulty reading technical rules and regulations, the OFSB felt that videos would be a tremendous way of transferring basic food safety knowledge to FE operators and employees whether or not they are highly proficient in the English language.

3) Continue the philosophy of influencing industry behavior through governmental transparency. This approach must be constantly maintained as an open relationship with industry and the media must not waiver. Any future changes to food safety regulations must first be thoroughly explained to the food industry as to why the change is necessary and how it relates to their bottom line as any change for industry must be in line with a definitive return on investment (ROI). The Hawaii food industry has come to realize that compliance with food safety rules improves their ROI by increasing public confidence that when a Green PASS placard is displayed, that the food at their favorite restaurant is safe to eat!

4) Continued learning and attendance at NEHA, AFDO, WAFDO, Regional Food, Milk and Shellfish Conferences to see what other food safety or public health jurisdictions are doing to improve their public health outcomes, and to steal everyone's great ideas.

The OFSB would like to personally thank Alicia (Enriquez) Collins formerly with Sacramento County, and now with Steritech, for the Kokua (Hawaiian word for – heartfelt assistance) she provided in assisting the Hawaii State Department of Health with our restaurant grading system. The OFSB saw what Sacramento County did in 2008 to win the Crumbine Award, and the OFSB felt that the same approach would work very to reduce food illness risk factors in Hawaii, and we feel that we have accomplished that.

5) Introducing the concept of encouraging Certified Food Protection Managers in food establishments through some type of awards program to increase food safety knowledge in the regulated community.

PART V: Contact Information and Permission

Application Submitted by:

Peter S. Oshiro Environmental Health Program Manager Food Safety Branch Environmental Health Services Division State of Hawaii-Department of Health

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HB-1298 Submitted on: 3/1/2021 8:03:35 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Rogers	Individual	Oppose	No

Comments:

Aloha Chair Rep. Sylvia Luke, Vice Chair Rep. Ty J.K. Cullen & members of the committee,

I am opposed to HB1298 which transfers to the general fund the unencumbered balances of various non-general funds including the Safe Routes to School (SRTS) Program Special Fund account code S-19-326. The Safe Route to School Programs use a variety of education, engineering and enforcement strategies that help make routes safer for children to walk and bicycle to school and encouragement strategies to entice more children to walk and bike. Please do not strip this especially important program of it funding. If a full accounting of the SRTS program objectives, performance and results are required, ask the SRTS Coordinators to submit reports.

Thank You,

John Rogers

Ewa NB #23 Transportation Committee Chair

31st Legislature State of Hawaii Hawaii State Capitol 415 S Beretania St Honolulu, HI 96813



Paradise Medical Services O Ke Mee Mai Ke Mue

David Mendonsa Paradise Medical Services, LLC 640 Komo Ohia Wailuku, HI 96793

March 1, 2021

Dear Chair and Representatives,

I appreciate the opportunity to express the importance for Dispatch and Communication Centers regarding the dispatching of 911 calls. Dispatch personnel operate the control center of the EMS systems. Their task is no simple feat as they operate in unique call centers and geographic areas of operations (Honolulu City & County EMSD, Maui Police Dispatch, Hawaii County Fire Department Dispatch, and Kauai County).

Please allow commend these individuals, for their guidance and professionalism. I have depended and relied on dispatch centers for Kauai, Maui, Honolulu, and Big Island. You can get the sense of the EMS system by sitting in the dispatch center. In addition, they provide prearrival instructions to worried bystanders, organize response, and track our movements. Dispatchers provide a safety measures when we do not check in. They have provided me with accurate addresses and cross streets, language interpretation, inter-agency communications, communication updates during hazardous conditions, and sent law enforcement to pull security and provide safety on precarious calls.

Thank you again for allowing me to share my experiences. I humbly ask that you support our Dispatch and Communication Centers. Please consider Dispatchers as critical EMS/Public Safety personnel. Please **Support** HB73,HD1 "Emergency Workers" and **Strongly Oppose** HB1298 -Relating to State Funds and HB 1299 – Relating to Non-General Funds.

Respectfully,

David Mendonsa, PA-C, MCHS, MPA EMS Provider, Healthcare Provider Prior- Service Member, UH EMS Faculty, Aeromedical Provider

Submitted on: 3/1/2021 8:49:25 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Travis Ing	Individual	Oppose	No

Comments:

Aloha,

I am not in support of HB1298. While it may seem like a "good idea" to roll all of various funding into one general fund, it almost assuredly ensures that the monies that are collected for such purpose may never be used as intended. This is particularly dangerous for the 911 fund. Money for that fund, collected for each user and *only* from those users help ensure that they can be applied when needed for the ever increasing cost of 911 equipment and technology across the state.

When the time comes and the money is needed, only to have been spent on some other cause puts the public's lives at risk. The fact that this is being considered only shows that the 911 board is needed to manage these funds. I strongly oppose rolling enhanced and wirelesss 911 funding into a general account that may not be there when needed.

HB-1298 Submitted on: 3/1/2

Submitted on: 3/1/2021 9:43:09 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Agnes S Yamauchi	Individual	Oppose	No

Comments:

Aloha,

I am writing to all of you in regards to HB1298 and HB1299, that was introduced by Rep. Luke, Finance Committee Chairperson. These two bills, and specifically these sections:

Section 264 - repealing of Driver Education underwriter's fees special funds for DOE public high school and traffic safety programs, and

Section 257 - funding a state traffic safety specialist with DE underwriter's special funds

These bills will take away all funding, destroying a vital program that has been developed to serve ALL students, not just those that can afford it! I would like to encourage you to repeal these bills and specific sections as they would eliminate Driver Education in the public schools. This would be devastating!

1. The Driver Ed Program at 40 public high schools statewide would be shut down.

2. Between 2,000 (COVID times due to reduced classroom size) and 4,000+ students who enroll in driver education programs annually will be affected

3. The financial effect on parents for the cost of driver education - \$10 for the high school program versus \$500+ for private driver education programs, would be unbearable

4. The Hawaii Driver Licensing laws that require mandatory driver education courses for all teen drivers under the age of 18, will not be supported

5. If parents can't afford the private driver education courses, they will their teen drivers wait until 18 years of age to get their license, resulting in more teen drivers without the preventive education provided in driver education courses aimed at reducing risky behaviors, such as underage drinking and driving, impaired driving, distracted driving, sleep deprivation, speeding, and other risky patterns (following distance, lane positions, etc.)

6. Nearly 100 certified DOT and Department of Education license driver education instructors will be affected

7. Without preventive driver education to reduce injuries and fatalities, these statistics may rise and cause higher economic costs to the State. It would reverse all the efforts of the Department of Transportation (DOT) in reducing injuries and fatalities over the

decades.

8. The National Highway Safety Administration (NHTSA) has national standards for novice drivers that call for a parent component as part of the driver education course. The Hawaii public high school course meets this national standard.

9. The NHTSA standards also recommend a 45-hour classroom curriculum. The Hawaii public high school after school classroom program is a 38-hour course—going beyond the Hawaii DOT curriculum minimum requirement of 30 hours.

10. The Hawaii State DOT has a state "Vision Zero" plan that calls for traffic safety education to begin at the elementary school level. HB1299 does not support this Vision Zero plan.

11. Over 60,000 elementary school students on Oahu will be affected by this bill as it will discontinue pedestrian safety education materials to be distributed in partnership with the City and County of Honolulu's Department of Transportation Services

12. Between 1,000 and 2,000+ students in grades 5-12 will be affected with the discontinuance of traffic safety advocacy activities/campaigns and education on highway safety issues they conduct for their peers and their school community that sometimes reach 30,000 students, in addition to the teachers, parents, and community members

13. The Driver Education Program funds trained thousands of parents on Project Graduation events which prevented fatalities on our highways due to underage drinking and driving since the program was started in 1989. The events were still being held at some public high schools until the COVID pandemic. This was a strong community prevention program that could be revived in 2022.

One alternative to eliminating this program, is to increase the amount paid, \$10, to possibly \$20 or \$25. The cost to the student has been \$10 since the 1970's. Our current student's parents and a few grandparents paid the same amount for Driver Ed!

Does it make sense to take these funds from the Driver Education program that affects so many students and parents, and works contrary to the goals of the Hawaii DOT, and reverses all the safety prevention invested in the past by the Hawaii DOT, MADD Hawaii, City and County of Honolulu Transportation Services and the Department of Education? How much is a life worth?

Thank you for your attention. I hope that you will not support these bills and the specific sections for the sake of all of your families and their children that voted for you.

Respectfully,

Agnes Yamauchi

<u>HB-1298</u> Submitted on: 3/1/2021 9:51:00 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle K. Moorhead	Individual	Oppose	No

Comments:

I am an attorney who practices family law and works day-to-day with children who have suffered abuse or neglect and survivors of domestic violence. I write in opposition to House Bill 1298 and 1299 and strongly oppose any action by the committee to advance either of these bills.

House Bill 1298 and 1299 could cause significant damage to basic services needed to facilitate access to justice in all of our communities. By denying non-general funds set aside for specific tasks, the legislature risks undermining key functions necessary for ongoing and future access to justice. More specifically, I am concerned about the following proposed non-general funds:

- Judiciary Computer System Special Fund Family Court has not yet transitioned to an electronic filing system. The funds set aside for this transition are crucial for reasonably filing and accessing documents and are vital to allowing access to justice in Family Court. This benefits not only individuals who are impacted due to concerns over exposure to COVID 19, but also benefits those who are unable to access the courthouse due to safety concerns, a disability, lack of transportation, lack of child care, or inability to take off work during normal business hours.
- Parent Education Special Fund The funds used to facilitate the Kids First
 program are established for the purpose of helping parenting and children at the
 start of litigation of child-related issues and are specifically aimed at assisting
 children during what is often an exceptionally traumatic event with the separation
 of parents. The program provides both short and long term benefits to Hawaii's
 children and considering the primary financial support received from fees paid by
 participants, terminating this program would undermine basic initial services that
 may assist children in avoiding more serious emotional harm.
- Spouse and Child Abuse Special Account Funds allocated for programs and grants or purchases of services that support survivors of domestic violence or provide spouse or child abuse intervention and prevision should continue. The shifting of these funds could creates a serious threat at a time when domestic violence incidents are reported to have sharply increased. Moreover, an increase in reports of child abuse is expected as children return to school, sports and after school programs (whereas abuse may have been "hidden" during the pandemic if the children did not have access to trusted adults).

Thus, as a member of the Hawaii State Bar Association Family Law Section and concerned citizen, I strongly oppose House Bills 1298 and 1299 as detrimental to these fundamental needs of our community.

Submitted on: 3/1/2021 10:24:10 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Laliberte	Individual	Oppose	No

Comments:

Aloha kakou,

This is a blanket bill that could potentially eliminate special funds for programs that matter and make a difference in our lives. For example, the indigent legal defense fund could be eliminated. Please oppose this BAD bill that offers no transparency and no limit on what programs and funds might be cut.

Thank you.

TESTIMONY House Committee on Finance Hearing: Tuesday, March 2, 2021 (1:00 p.m.)

TO: The Honorable Sylvia Luke, Chair The Honorable Ty J.K. Cullen, Vice Chair

FROM: Noah H. Gibson

RE: House Bill No. 1298 Relating to State Funds & House Bill No. 1299 Relating to Non-General Funds

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance, I write in <u>strong opposition</u> to the <u>sweeping of the Computer System Special Fund (CSSF)</u> as it would have a disproportionally large impact on Hawaii's Family Courts, and thus, Hawaii's family's.

Most cases filed in all courts impose a \$50.00 Computer System Surcharge fee as part of the fee to file the case with the court. These fees have been used to pay for the Judiciary Electronic Filing System. The Judiciary Electronic Filing System has been on a multi-year implementation schedule to automate documents and filing. Appellate, criminal, civil and traffic documents have been automated. Family Court is the <u>last</u> court to transition to E-Filing, and the Computer Special fund is the money that was set aside for this to happen. Users of the Family Courts are on the verge of seeing these funds fulfill their purpose.

De-funding, or abolishing, the Computer System Special Fund (CSSF) would devastate the operations of the Family Court...but also, the whole Judiciary, private litigators and staff, and members of the public who have matters before the courts, or have some interest in matters before the courts (e.g., media), and law enforcement and other government agencies. It would result in a system with dramatically reduced public access; significant inefficiencies including timing of delivery and review of time-sensitive matters (such as TRO filings); increased costs; and reduced resiliency, flexibility, and continuity during crises such as the COVID-19 pandemic.

For these reasons and others, I strongly urge you not to sweep the Computer System Special Fund.

With Aloha, Noah H. Gibson

<u>HB-1298</u> Submitted on: 3/1/2021 11:00:55 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joell Kerr	Individual	Oppose	No

Comments:

I am opposed to HB 1298 for taking away money from the fund that supports the public driver's education courses. I am a single, widow, mother of 3 and all 3 of my children attended Driver's Education at the local public school. The fee was only \$10 which was affordable for me on a teachers salary raising all 3 children. I would not have been able to afford the \$500+ fee of the privale driver's education programs. If you take these funds away, many students on Hawaii Island will not be able to afford the private fees. Families are already struggling due to COVID-19, with the reduction of workforce and the increase cost of supplies at local stores. The result will be an increase of traffic collisions due to lack of first hand knowledge in driver's education classes and students driving without a valid license. In 2005, the State Legislature enacted ACT 72, the Graduated Licensing Law. In order for students to obtain their full license before 18, they will need to attend a driver's education course. By taking away the funds, the State Legislature will be discriminating against low income families. Families that could not afford the private fees could not attend Driver's Education. This is an unjust and prejudicial treatment of a group of people based on their income. Keep our streets safe by rejecting HB 1298.

Joell Kerr

Registered voter (Hawaii Island)

Submitted on: 3/1/2021 11:34:12 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chien-Wen Tseng	Individual	Oppose	No

Comments:

Dear House Finance Committee,

I respectly oppose bills the actions of HB1298 and HB1299 which would potentially jeopardize the funds for the public Drivers Education Program by placing it into the State general fund. I am the parent of two teenagers, ages 15 and 17, who are learning how to drive. I have seen first-hand that the public Drivers Education Program is crucial to the safety of my teenagers when they start driving, as well as the safety of other people when my teenagers become new drivers on the road.

My 17 year old daugther learned through the Kalani Drivers Education Program and became a markedly better driver because of the rigorous curriculum and the hours she spent behind the wheel with her instructor. The fact that the cost was \$10 instead of over \$300 with private instructors made it possible for our family to enroll (especially during the financial strains associated with the COVID-19 pandemic) and for her to meet the state requirements to obtain a drivers license.

As recently as a few weeks ago, there were over 100 applicants for 17 spots for Kalani Drivers Education class. My 15 year old son is currently on the waiting list for 2021 courses. While I am helping both him and my daughter practice driving, the formal course is key to making sure that each of them have covered all the necessary skills with an experienced teacher. It would be a disaster for traffic safety and for our children if the funding for the public Drivers Education Program was in anyway unstable or reduced.

Mahalo for any support that you can provide for the public Drivers Education Program and please protect its funding.

HB-1298 Submitted on: 3/1/2021 12:11:56 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leilani Bronson-Crelly	Individual	Oppose	No

Comments:

Kindly OPPOSE this bill for its lack of clarity on its monetary impacts.

Submitted on: 3/1/2021 12:18:40 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
C K Matteson	Individual	Comments	No

Comments:

Dear legislators,

My testimony regarding HB1299 / stripping of funding for the DOE Drivers Education program applies to HB1298 as well. Below is my testimony concerning that issue, cut & pasted below.

Do the right thing. Make sure that direct funding for the Drivers Education program continues.

thank you.

CK Matteson

Dear legislators:

I write to express my alarm and dismay at the proposed changes in Sections 262, 263, and 264 of HB1299, which will strip away the funds earmarked for the Drivers Education program of the Department of Education and allocates the monies to general funds instead.

The stripping of funds also appears in HB1298. I oppose the changes in both of these bills and urge you instead to restore and assure funding for the Drivers Education program.

Educated drivers are safe drivers. Untrained, novice, inexperienced drivers are lethal to themselves and others.

The savings you hope to incur by diverting funds from this vital, low cost, public safety program is miniscule compared with the increased mortality and mayhem of unleashing untrained, novice teen drivers on the road. Do you really want to be part of a legislative decision that leads to increased traffic fatalities? Do you want your loved ones, kids, and kupuna sharing the road with an 18 year old who never had any systematic driver's education?

My child is one of the lucky few who was able to get a spot in the Kalani High School Driver's Ed program this year. (The wait list is long even in a normal year, but the pandemic caused a backlog, and courses were on hold for most of last year.) For the low cost of \$10, she received 36 hours of classroom training and a dozen hours of behind-the-wheel instruction with an experienced teacher. If she had not been able to get a spot in the program, I would have had to pay \$550 (!!) -- the going rate for private driving schools -- or wait until she turned 18 and have her skip the requirement of Drivers Ed altogether.

Shelling \$550 out of pocket for a private driver school is simply not an option for most of Hawaii's underpaid, overburdened wage-earners. Thus, if you eliminate funding for the state's Drivers Ed program in the public schools, you will guarantee an entire generation of inexperienced, dangerous 18 and 19 year old drivers on the road.

Decades of research has demonstrated that teenage drivers who have formal Drivers Education training have better outcomes and are involved in fewer accidents. They are able to secure lower insurance rates, as well.

See, for example, the conclusions of a study by the University of Nebraska Prevention Center for Alcohol and Drug Abuse, which examined seven years of accident data from 2003 to 2010: "Teens taking driver education are less likely to be involved in crashes or to receive a traffic violation during their first two years of driving," the researchers concluded. "Because teen crashes and fatality rates are highest at ages 16-18, these reductions are especially meaningful. Driver education appears to make a difference in teen traffic outcomes at a time when risk is highest."

Whether we are drivers or pedestrians, having well-trained, responsible individuals behind the wheel is vitally important to all of Hawai'i's residents. The safety of our entire community is at stake.

Please do the right thing -- take care of your constituents by ensuring that Hawai'i's drivers are trained and that our roadways are safer as a result.

Thank you.

C. K. Matteson

TOBY K.M.S. WILSON P.O. BOX 240208 HONOLULU, HI 96824 (808) 728-5548

TESTIMONY ON HB 1298 RELATING TO STATE FUNDS By Toby Wilson, Survivor

House Committee on Finance Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair

Tuesday, March 2, 2021; 1:00 PM Via Teleconference

Good morning/afternoon Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance. House Bill (HB) 1298, proposes to authorize the director of finance to transfer the following amounts or so much thereof as may be necessary for fiscal year 2020-2021 from the Department of Public Safety (PSD) Special Funds to the general funds, including the Automated Victim Information and Notification System Special Fund.

The Hawaii SAVIN program provides victims, survivors and concerned citizens free, anonymous, and confidential access to timely information and notification 24/7 365 days a year on the custody and parole status of offenders under the jurisdiction of the State of Hawaii's Department of Public Safety. It is an invaluable resource for victims and survivors such as me. It is the only system in Hawaii providing automated notifications that are important to the safety and security of victims and survivors.

The SAVIN Governance Committee (SGC) was created to establish guidelines and standards for planning, managing, and operating a successful SAVIN Program. The SGC works closely with the Department of Public Safety by ensuring victims are given timely and accurate information that both enhances their ability to protect themselves and ensures full participation in the criminal justice process if they so choose.

HRS §353-136(d) requires that the Statewide Automated Victim Information and Notification (SAVIN) Special Fund be used only for the SAVIN program, including operating expenses and salary of the SAVIN Coordinator. At the current level of annual revenue, the SAVIN program is sustainable and the fund can support the new contract and the SAVIN Coordinator position. The fund needs to be sustainable in the succeeding years to allow for a dedicated coordinator to monitor the system 24/7, ensuring that victims of crime are promptly notified of any changes in their perpetrator's custody. Without continuous funding, a disruption in the notifications, communication and connection to community service providers, system queries, follow-up on victim/survivor's inquiries and other related services will likely result in additional victimization of victims and survivors.

Thank you for providing me, a Survivor, the opportunity to testify in opposition to House Bill 1298.

Submitted on: 3/1/2021 12:52:38 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sione Naeata	Individual	Oppose	No

Comments:

Aloha,

My name is Sione Ford Naeata and I am the Executive Director for the Bobby Benson Center. Bobby Benson Center has been serving our state for 30 years and has sacrificed much more during this pandemic. We have served thousands of kids and want to continue doing so. Removing these funds from the DOH particularly CAMHD will cripple our services and leave our most vulnerable children without the necessary services they need. Our children are definitely our future. Do not remove these funds.

Mahalo

HB-1298 Submitted on: 3/1/2021 12:53:57 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Ono	Individual	Comments	No

Comments:

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, thank you for the opportunity to provide comments with concern for HB1298. This measure seeks transfer unencumbered balances of non-general funds to the general fund.

Funded by a portion of nurse license fees placed into a special fund, the Hawai'i State Center for Nursing (HSCN) was established by Act 198, SLH 2003 to: collect and analyze data and prepare and disseminate written reports and recommendations regarding the current and future status and trends of the nursing workforce; conduct research on best practice and quality outcomes; develop a plan for implementing strategies to recruit and retain nurses; and research, analyze, and report data related to the retention of the nursing workforce. HSCN has created statewide initiatives for nursing that address workforce needs to prevent predicted workforce shortages.[1] These initiatives include consistently providing workforce research on the nursing supply and education capacity for nurse education as well as creating statewide Evidence-Based Practice, Nurse Residency, and Centralized Clinical Placement programs. Each of these programs are notable for being the first statewide program in the nation and having broad partnerships with our nursing employers and schools of nursing.

In addition, HSCN has increased access to health care services in our rural and underserved communities through policy change that facilitated the doubling of the Advanced Practice Registered Nurse population in our state. Further, HSCN's role with the Preceptor Credit Assurance Committee contributes to the engagement of preceptors within our healthcare community.

HSCN continues to play a critical role in the response to COVID-19, including leading the call for nurses during the fall 2020 COVID hospital surge. In just two weeks, we received 1,900 responses from nurses, health care facilities, and locally contracted staffing agencies. Organizations participating in this initiative continue to contact these nurses to support COVID-19 surge staffing needs and support vaccination efforts. The Center produced data reports that the Department of Health and HiEMA used for crisis response, vaccination planning, and other uses. The Center partnered with the University of Hawai`i at MÄ• noa and Healthcare Association of Hawai`i to increase relevant, locally produced accredited nursing professional development on COVID-19

for nurses in all settings of care, and co-led an initiative with state stakeholders to identify and tactically respond to provider shortages.

The nurse license fee and consequently, the HSCN fee revenue, has not been increased since 2003. Of the license fee revenue sources into the Center since 2003, this measure indicates that all but \$0.98 has been encumbered. The Center is using the funds as intended and to the fullest extent possible.

Any loss to the HSCN budget will result in job loss for the staff who have dedicated years of service. It will impact the ability of the state to have quantitative data on the nursing workforce demand and supply to guide state policy development. I am very concerend that any loss of budget will revoke the functional capacity of the Center and our services to policymakers, employers, educators, and nurses as well as our community.

[1] "New UH center addresses nursing shortage". July 24, 2003 https://www.bizjournals.com/pacific/stories/2003/07/28/story5.html Dear Madam Chair and Members of the Finance Committee,



My name is Susan Ward, and I am an athletic health care trainer at Kalaheo High School. I am writing testimony in opposition to HB1298 and HB1299, relating to State Funds and relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological testing and concussion education for students, parents, coaches, school faculty and staff, officials, and athletic health care trainers throughout the state.

As an athletic health care trainer, I spend almost as much time trying to prevent injuries as I do treating them - and a large part of prevention is education. Concussion education is critical to raise awareness not only about how a concussion injury may present, but the also the consequences of an untreated concussion – potentially even death. The Hawaii Concussion Awareness and Management Program (HCAMP) provides high-quality, easily-shareable education material to provide this education to everyone involved in Hawaii high school athletics. There were 424 reported concussions in 2010; in comparison, 1,262 were reported by HCAMP in 2013. Since concussions are a very difficult injury to prevent, our main prevention goal of concussion injuries is to prevent athletes from continuing to participate in athletics with a concussion until their injury has resolved. This helps to prevent long-term complications, such as persistent headaches, memory issues, or troubles with cognitive processing. The increase in reporting shows that the education has been effective in raising awareness and the reporting of concussion injuries. Every time a concussion is reported, the athlete must be cleared by a physician and have their computerized neuropsychological test results cleared by a neuropsychologist, and then complete a supervised return to play protocol with their athletic health care trainer. This thorough process helps ensure athletes have the best recovery possible and significantly decreases the chances of long-term complications, so that their high school injury does not become a lifelong burden.

Currently these funds support HCAMP's annual Concussion Summit, which provides the latest concussion assessments and management techniques for Hawaii's health care providers, including athletic health care trainers. In other words, education for those who provide education to the rest. Concussion management is a field with constantly emerging research; a few years ago, someone with a concussion might be advised to stay in a dark room with no stimulation for their recovery – nowadays, they may actually be advised to do low-threshold activity and cognitive activity as tolerated for their recover. Without these funds, HCAMP may not be able to provide Hawaii's health care providers with the most up-to-date concussion research and clinical application to ensure we are treating their concussion injury in the most effective manner for their best possible recovery. And personally, I believe my athletes deserve nothing less than the best possible treatment I can offer. Therefore, I am in opposition to HB1298, line 119, account # s-18-314, Neurotrauma Special Fund and HB 1299 relating to the Neurotrauma Special Fund.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 1:25:39 PM Testimony for FIN on 3/2/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Individual	Oppose	No

Comments:

Hawai'i has one of the most regressive tax systems in the nation. Please tax the wealthy appropriately so our state and county systems are not continuously forced to pit education, healthcare, environmental and social service budgets against one another. A better world is possible. The poorest and most historically underfunded departments in our community should not be stripped while our state continues to allow a regressive tax system to remain unchanged. Tax those who can afford it and please stop removing funds from programs important to the health of our communities. Our communities deserve more, not less, in essential program funding especially during crisis. Any initiative that removes funding to social programs without addressing regressive tax systems in Hawai'i is doing a disservice to all of our citizens.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

HB-1298 Submitted on: 3/1/2021 1:41:39 PM Testimony for FIN on 3/2/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Yokouchi	Individual	Oppose	No

Comments:

Against

Dr. Madam Chair and members of the Finance Committee,



My name is <u>Rachel Loo</u>, I am the athletic trainer at <u>Mililani High School</u>. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic. Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers. Some of the presenters have authored leading research in the field of mild Traumatic Brain Injury (mTBI).

Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 1:54:48 PM Testimony for FIN on 3/2/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Liana Finer	Individual	Oppose	No

Comments:

Dr. Madam Chair and members of the Finance Committee,

My name is Liana Finer, I am the athletic trainer at Kailua High School. I am writing testimony in opposition to HB1298 & HB 1299, relating to State Funds & relating to Non General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. These funds have enabled HCAMP to create online concussion education program which has reduce the need for in person presentations which has and will be a tremendous help during this pandemic.

Currently these funds support HCAMP annual Concussion Summit which provides the latest concussion assessments and management for Hawaii's health care providers. Some of the presenters have authored leading research in the field of mild Traumatic Brain Injury (mTBI).

Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up to date mTBI research and clinical applications. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

Submitted on: 3/1/2021 3:04:02 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Angela M Britten	Individual	Oppose	No

Comments:

I strongly oppose House Bills 1298 and 1299. Base levels of funding for the Legacy Land Conservation Program of \$5.1 million annually (staff/operating and land acquisition capital/grants) should continue in order to capitalize on \$900 million of federal conservation funding made available by the 2020 Great American Outdoors Act, and secure federal funding for important Hawai'i projects such as NÄ• Wai 'Eha on Maui. A designated special fund like the Legacy Land Conservation Fund qualifies the State for 75% match of federal funds – eliminating the funds would reduce federal matches to 50%.

The COVID-19 crisis has proved that DLNR's mission to maintain and manage our natural and cultural resources is critical to our physical and mental well-being, our shrinking freshwater supplies threatened by climate change, our public shorelines and reefs, and our unique plant and animal species found nowhere else in the world. Current DLNR programs and staffing levels should continue. Base/core funding of \$5.1 million per year for the Legacy Land Conservation Program is critical for Hawai'i to secure its share of federal funding for important projects.

Submitted on: 3/1/2021 3:26:16 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaori Tamura	Individual	Oppose	No

Comments:

My name is Kaori Tamura, I am the director of the Professional Athletic Training Program at the University of Hawaii, Manoa. I am writing testimony in opposition to HB1298 & HB1299, relating to State Funds & relating to Non-General Funds. Since 2010, the Department of Health's Neurotrauma Special Fund has provided funds to support high school athletics by providing computerized neuropsychological test and concussion education for students, parents, coaches, faculty & staff, officials and athletic trainers throughout the state. The neuropsychological testing as well as concussion education are vital components for identifying concussions and safely returning the concussed athletes back to sports and physical activities. Concussion awareness has increased since the inception of HCAMP in 2010 which has led to an increase in the number of reported concussions. In 2010 there were a reported 424 concussions and at the peak in 2013 there were 1262 concussions reported by the Hawaii Concussion Awareness & Management Program. This indicates that the HCAMP's public education program improved concussion awareness and reduced the number of untreated and/or unrecognized concussions. Since concussion is an invisible injury, it is vital that not only athletic trainers, but also parents, coaches, teachers, staffs, officials, and student athletes understand the mechanism of injury as well as signs and symptoms associated with concussion to recognize a potential concussion and seek appropriate medical attention. These funds not only have enabled HCAMP to drastically improve public awareness of concussion but also to create online concussion education program further improving the accessibility and efficiency of the education program.

Currently these funds support HCAMP Annual Concussion Summit which provides the most up-t-date information regarding concussion assessments and management for Hawaii's health care providers. With an advancement of concussion research, the clinical assessment and treatment of concussion have evolved drastically. What I had learned as concussion assessment and treatment are now considered "not to do" based on the new evidence. While the concussion research continues to produce scientific evidence to improve the concussion management, we still do not know a lot about concussion. For example, concussion diagnoses and treatment/rehabilitation are the areas that need further research. Therefore, it is expected that the clinical diagnosis and rehabilitation protocols to keep evolving at a very fast pace. The Concussion Summit provides one of the best opportunities for the local health care providers to learn the ever-evolving evidence-based concussion assessment and treatment from the

nationally recognized leaders and researchers in the field of mild Traumatic Brain Injury (mTBI). This summit is vital for health care providers to maintain the highest standard of care for the concussion patients. The HCAMP has made tremendous improvements toward protecting the brains of adolescent athletes, and has become a vital unit that supports local health care providers. Without these funds HCAMP may not be able to provide Hawaii's health care providers with the most up-to-date mTBI research and clinical applications, which may adversely affect the quality of patient care. Therefore, I am in opposition to HB1298, line 119, account # S-18-314, Neurotrauma Special Fund & HB1299 relating to the Neurotrauma Special Fund.

Submitted on: 3/1/2021 4:00:36 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Minami	Individual	Oppose	No

Comments:

Good afternoon. I am a Judiciary team member available to support our testifier (Rodney Maile) in the event there are any questions on HB1298. Thank you.

Submitted on: 3/1/2021 4:06:57 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Santoki	Individual	Oppose	No

Comments:

I am a Judiciary team member available to support our testifier (Rodney Maile) in the event there are any questions on HB1298 and HB1299.

Submitted on: 3/1/2021 4:06:17 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Meier	Individual	Oppose	No

Comments:

I am submitting testimony against HB 1298.

I am against this bill because it would remove critical funding from the Department of Land and Natural Resources. Specifically, I am against reducing the funds for Legacy Land Conservation and funds used to maintain and protect our state forests and watersheds.

-John Meier, Maui

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/1/2021 4:38:52 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Burns	Individual	Oppose	No

Comments:

I do not support this bill.
Submitted on: 3/1/2021 4:53:19 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Ann Botelho	Individual	Oppose	No

Comments:

I strongly oppose HB 1298 & 1299

Section 264 - repealing of Driver Education underwriter's fees special funds for DOE public high school and traffic safety programs

Section 257 - funding a state traffic safety specialist with DE underwriter's special funds

I oppose these bills as written because it will destroy the nationally recognized Hawaii Driver Education Program. Much of the success of the driver education program in Hawaii is due to the strong leadership from the State Resource Teacher/Traffic Safety Specialist. Without a strong leader, (Jan Meeker), at the helm, much of what was built will be lost.

I am a recently retired teacher who has worked in the DOE for over 30 years. I have seen quite a few programs in the schools, that HAD the support of resource teachers, do excellent things in our schools and communities. I've also seen time-after-time how those Resource Teacher positions get cut for budgetary reasons and programs are left to shrivel and die. It will be a huge disservice to abandon the award-winning Driver Ed program that has done so much for our students, teachers and community.

If these bills pass, it will kill all after school driver ed programs and all traffic safety programs that we do for students k-12.

Additional reasons I oppose these bills are:

1. repealing the funds for the DOE programs does not support the Hawaii Graduated Driver Licensing program, which makes driver ed mandatory for 18 and under. The driver ed underwriter's fee was increased at the time this law took effect to support the goals of GDL, which was to get as many teens 18 years and under to get driver ed before licensure.

2. repealing the funds for the DOE programs will affect parents and students who cannot afford the private/commercial school rates. The fee is \$10 for public school program versus \$500+ from a commercial school. If a student and parent can't afford the fee, then they may choose not to take driver ed and wait until the teen is 18 to get a

license. Avoiding driver ed is not a goal of Hawaii's GDL. The DOE program provided driver ed to an average of 4,000+ teens previous to COVID 19.

3. In non-COVID years, there were always teens on a wait-list to take driver ed. Due to COVID, that wait list is even longer. Eliminating the driver ed underwriter's fee for driver ed will add to the financial hardships of parents. Must the need for money to meet the shortfall of the state be taken from funds for students? The DOE state funds are being reduced for the next 3 years due to COVID. There is no way the DOE could retain the current driver ed programs (100 teachers at 40 public high schools) with the budget they have to work with.

4. If more teens avoid driver ed, there will be more drivers on the roads without the knowledge of risky behaviors such as impaired driving, following distances, sleep deprivation - all leading towards more dangerous drivers on the roads. GDL was found to be working in reducing injuries and crashes a few years after it was implemented.

5. Traffic safety education is preventive education for students K-12. The DOE traffic safety program reaches 60,000+ elementary with traffic safety messages. It also works with high school teens who become advocates and spread the traffic safety prevention messages with peer programs.

Please spare the HI Driver Education Program from funding cuts and instead provide them the support to keep doing the good work they are doing for our students and community.

Submitted on: 3/1/2021 7:09:02 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Oppose	No

Comments:

This bill is short-sighted. The Legacy Land Conservation Program saves wahi pana in all of our communities. Sometimes the government agencies take longer than a year to pass legislation, pass attorneys, and then execute contracts, despite the good faith efforts of non-profits and others who just want to preserve and conserve agricultural, cultural, and natural resource lands for the public. Timing can sometimes take two years and funding must be available to complete these important transactions. That's why I oppose HB1298 and ask that you do too.

Submitted on: 3/1/2021 7:09:08 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Henry boothe	Individual	Oppose	No

Comments:

Aloha,

My name is Henry Boothe and I am writing to strongly OPPOSE hb1298. The land and waters of Hawai'i need to be protected and preserved in a time of increasing sea levels and temperatures that result in coral loss and then fish loss. Especially so in the economically fragile time of new pandemics.

Mahalo for your time,

Henry Boothe

Submitted on: 3/1/2021 9:04:30 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennie Nguyen	Individual	Oppose	No

Comments:

There are high schooL students that need these funds for driver education classes. With these driver Ed classes teenagers will have the right driving skills they need.

Submitted on: 3/1/2021 9:15:45 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Phung	Individual	Oppose	No

Comments:

The HI DOE Driver Education Program is an important component for 15 1/2-18 yearold students to learn how to drive. The program helps to encourage safer driving and prevent accidents at an affordable price. With Hawaii's ever-increasing population and congested roads, proper driving is needed now more than ever. Please do not take away funding for this much needed class. Our future generation needs and depends on this course for the safety of our island.

Submitted on: 3/1/2021 10:06:57 PM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joanne Swearingen	Individual	Oppose	No

Comments:

I am submitting testimony **in opposition** to HB1298, Relating to State Funds. I strongly oppose transferring to the State General Funds the unencumbered balance of the Department of Education special funds for **Driver Education**. The Department of Education's Driver Education program has specially certified driver education teachers who provide driver education to high school students after school in cars that are specially equipped with brakes to safely teach novice drivers how to drive skillfully and safely on Hawaii's streets, highways and freeways. The teacher certification program was specially developed with the assistance of the National American Driver and Traffic Safety Education Association after the University of Hawaii dropped their driver education teacher are required to go through the DOE driver education teacher certification program.

The unencumbered balance for the Driver Education program is used to accumulate adequate funding to request bids for new driver education cars **statewide**. Again, these are specially equipped cars with extra brakes for the instructors. In addition to funding driver education teacher pay, funds are also used for traffic safety education for students. Prior to the Corona virus pandemic, the Department's driver education resource teacher regularly coordinated Project Graduation training for high schools in the state. My two sons (one at Kalani High School and the second at Kaimuki High School) participated in Project Graduation with their friends and had a good time; I was a parent volunteer at both schools and saw firsthand what a great program it is so that graduates could enjoy themselves in a safe environment.

Please help keep our Department of Education Driver Education and traffic safety education intact. The lives that the Department of Education Driver Education program protects and saves may be that of your child or grandchild.

91-251 Puahiohio Way Kapolei, HI 96707 March 2, 2021 Email: <u>sas20151@hotmail.com</u>

House Finance Committee Hon. Rep. Sylvia Luke, Chair Hawaii State Legislature State Capitol Honolulu, HI 96813

Dear Rep. Luke and members of the House Finance Committee:

This is testimony in opposition to passage of HB1299 and HB1298 in regards to de-funding driver education in the Dept. of Education (among the de-funding of many other programs in the DOE and other State departments).

I am a driver education instructor and coordinator at Kalani High School, and have been in this position since 2013. Under the State of Hawaii's Graduated Driver Licensing law (Act 72 of the 2005 Legislature), students under 18 are required to pass a driver education course and receive certificates for classroom and behind-the-wheel instruction in order to take the road test for their provisional driver licenses. The provisional license is an intermediate step to obtaining a full driver license to give the licensee time to gain more experience driving, especially by him- or herself, before becoming fully licensed drivers. Under the provisional license, teens still have restrictions on driving during curfew hours (past 11 p.m. and before 5 a.m.) and the number of passengers in their vehicle. Once past the provisional stage, which is a minimum of six months and no later than the teen's 19th birthday, the licensee with a clean record can then convert to a full license.

In my seven and two-thirds years of actively teaching driver education at Kalani, I have had 642 students in driver ed classes, and of those 499 received their driver ed certificates, or a certification rate of over 77 percent.

Some students choose simply to wait until they are age 18, when certificates are no longer needed to take the road test. Also, in the DOE, driver ed students must pass both the classroom and the behind-the-wheel lessons plus complete 50 hours of practice driving with a licensed driver over 21 (usually their parents) before they can receive their certificates. There are some private driver education instructors who may teach only classroom or only behind-the-wheel, but the student will need both the classroom and the behind-the behind-the-wheel certificates in order to take the driver license road test.

The DOE requires each driver ed student to take 38 classroom hours (eight more than required by the Graduated Licensing Law, and soon to be 40), plus seven hours of behind-the-wheel lessons plus the 50 hours of practice driving. DOE driver ed instructors are also required to undergo annual and quinquennial certification including continuing education credits and background checks.

I have been averaging about 92 students per year, but many more than that submit applications for driver education. Currently, I have over 60 applicants for future classes, and under the current covid-19 restrictions since late August of 2020, we are restricted in class size to 14. DOE driver ed is also

somewhat unique among DOE programs in that we accept all qualified students whether they attend public or private school, or are homeschooled.

From my numbers alone, and I am one of about 90 active DOE driver ed instructors, you can see the DOE driver ed program affects many thousands of teen students across the state. DOE driver ed is also the only alternative to pricey private driver education, which students would be forced to turn to if DOE driver ed is de-funded. DOE driver ed currently charges only \$10 per student, compared to private driver ed fees of \$200-300 a student (and the student taking private driver ed could be charged separately for classroom and behind-the-wheel lessons). De-funding DOE driver education would also mean possible elimination of a trained workforce providing something of a public service at a more-than-reasonable fee.

Furthermore, with the current and ongoing impact of covid-19 on the State economy, it would probably be more financially difficult for a typical family to have their teen enroll in a private driver ed course. And don't we want more safer drivers on our roads, which is what driver education hopes to achieve?

Also important to keep in mind is that DOE driver ed funding comes from a fee assessed to car insurance policies in the State of Hawaii, and does not come directly from tax revenues. Those monies were intended to support driver education, and the Legislature should not "grab" these funds under HB1299 to place into the State General Fund.

These are my main reasons and explanations why I feel the House Finance Committee should not approve HB 1299 and HB1298 overall, and more specifically at the minimum to exclude driver education funding from the provisions of these measures.

Respectfully submitted,

Kaymond yuen

Raymond Yuen Attached: supporting email from parents

Mr. Yuen,

My family and I are so disappointed to think that Driver's Education through the public school system might be in jeopardy of losing funding due to the COVID 19 pandemic, or otherwise. The affordable program reduces disparities that's so many of our children face. Without this program disparities would grow and our youth would be negatively impacted in additional ways. As it stands, our children have been robbed of their education, social life and general well-being by the pandemic. Taking away opportunities like drivers education and the opportunity to gain autonomy and meet a major life marker would be devastating.

I certainly hope that our representatives will consider alternative mechanisms for recovering funding due to losses of the pandemic. The expense of our children's lives cannot be the place for it. Having a license means the ability to seek employment, something that many of our children need in order to help their family thrive in Hawaii.

Please send this testimonial as you see fit. We stand by you 100% and hope that this absurd proposition will quickly be put to rest.

Regards, The Canlas Family

(Family of Michael Canlas, whose daughter Kahokunani was a driver ed student. This email was sent to me on Feb. 23, 2021)

Dear House Finance Committee,

I respectly oppose bills the actions of HB1298 and HB1299 which would potentially jeopardize the funds for the public Drivers Education Program by placing it into the State general fund. I am the parent of two teenagers, ages 15 and 17, who are learning how to drive. I have seen first-hand that the public Drivers Education Program is crucial to the safety of my teenagers when they start driving, as well as the safety of other people when my teenagers become new drivers on the road.

My 17 year old daugther learned through the Kalani Drivers Education Program and became a markedly better driver because of the rigorous curriculum and the hours she spent behind the wheel with her instructor. The fact that the cost was \$10 instead of over \$300 with private instructors made it possible for our family to enroll (especially during the financial strains associated with the COVID-19 pandemic) and for her to meet the state requirements to obtain a drivers license.

As recently as a few weeks ago, there were over 100 applicants for 17 spots for Kalani Drivers Education class. My 15 year old son is currently on the waiting list for 2021 courses. While I am helping both him and my daughter practice driving, the formal course is key to making sure that each of them have covered all the necessary skills with an experienced teacher. It would be a disaster for traffic safety and for our children if the funding for the public Drivers Education Program was in anyway unstable or reduced.

Mahalo for any support that you can provide for the public Drivers Education Program and please protect its funding.

Chien-Wen Tseng, MD, MS, MPH

Professor, Department of Family Medicine and Community Health John A. Burns School of Medicine University of Hawaii

(sent March 1, 2021, whose daughter Tai-Li is in driver education, and also submitted directly to your committee as testimony)

Dear legislators:

I write to express my alarm and dismay at the proposed changes in Sections 262, 263, and 264 of HB1299, which will strip away the funds earmarked for the Drivers Education program of the Department of Education and allocates the monies to general funds instead.

The stripping of funds also appears in HB1298. I oppose the changes in both of these bills and urge you instead to restore and assure funding for the Drivers Education program.

Educated drivers are safe drivers. Untrained, novice, inexperienced drivers are lethal to themselves and others.

The savings you hope to incur by diverting funds from this vital, low cost, public safety program is miniscule compared with the increased mortality and mayhem of unleashing untrained, novice teen drivers on the road. Do you really want to be part of a legislative decision that leads to increased traffic fatalities? Do you want your loved ones, kids, and kupuna sharing the road with an 18 year old who never had any systematic driver's education?

My child is one of the lucky few who was able to get a spot in the Kalani High School Driver's Ed program this year. (The wait list is long even in a normal year, but the pandemic caused a backlog, and courses were on hold for most of last year.) For the low cost of \$10, she received 36 hours of classroom training and a dozen hours of behind-the-wheel instruction with an experienced teacher. If she had not been able to get a spot in the program, I would have had to pay \$550 (!!) -- the going rate for private driving schools -- or wait until she turned 18 and have her skip the requirement of Drivers Ed altogether.

Shelling \$550 out of pocket for a private driver school is simply not an option for most of Hawaii's underpaid, overburdened wage-earners. Thus, if you eliminate funding for the state's Drivers Ed program in the public schools, you will guarantee an entire generation of inexperienced, dangerous 18 and 19 year old drivers on the road.

Decades of research has demonstrated that teenage drivers who have formal Drivers Education training have better outcomes and are involved in fewer accidents. They are able to secure lower insurance rates, as well.

See, for example, the conclusions of a study by the University of Nebraska Prevention Center for Alcohol and Drug Abuse, which examined seven years of accident data from 2003 to 2010: "Teens taking driver education are less likely to be involved in crashes or to receive a traffic violation during their first two years of driving," the researchers concluded. "Because teen crashes and fatality rates are highest at ages 16-18, these reductions are especially meaningful. Driver education appears to make a difference in teen traffic outcomes at a time when risk is highest."

Whether we are drivers or pedestrians, having well-trained, responsible individuals behind the wheel is vitally important to all of Hawai'i's residents. The safety of our entire community is at stake.

Please do the right thing -- take care of your constituents by ensuring that Hawai'i's drivers are trained and that our roadways are safer as a result.

Thank you.

C. K. Matteson

(submitted March 1, 2021, from parent Kieko Matteson, whose daughter Amika is currently taking driver education, and also submitted directly to the committee as testimony)

Submitted on: 3/2/2021 5:26:10 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James Lee	Individual	Oppose	No

Comments:

The drivers education program for teens are important and help teens make appropriate decision and reduce teen driving deaths. It is important for the community and that we continue to support this in our schools.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/2/2021 8:11:58 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brant Hi'ikua Chillingworth	Individual	Oppose	No

Comments:

Aloha,

I strongly oppose House Bills 1298 and 1299. The Legacy Lands program has supported critically important projects across the state benefitting our agricultural, natural and cultural / wahi pana. The ag projects supported have expanded job creation (e.g. Ma'o expansion, Waipa, others).

The program brings in additional Federal and philanthropic grant dollars which have completed projects and benefitted communities. Please maintain this critically important program.

Mahalo nui,

Brant Hi'ikua Chillingworth

Submitted on: 3/2/2021 8:19:52 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mai Nguyen Van	Individual	Oppose	No

Comments:

I am a Judiciary team member available to support our testifier (Rodney Maile) in the event there are any questions on HB1298 and HB1299

Talofa,

My name is Faaumuumu Lefiti and I am in Peer Education class at Aiea Highschool. This program benefits students by giving us opportunities to become leaders. Two issues are pedestrian and traffic safety, I am writing against HB 1298. As a citizen in this community, I would like to see less cases of accidents including drivers under the age of 18. A program that can help reduce this is a Graduated License Program, If this bill was to pass nothing will be resolved and just add more to the problem. March 1, 2021

Committee on Finance Sylvia Luke, Chair Ty J.K. Cullen, Vice Chair Kyle Yamashita Representatives

Honorable representatives:

My name is Diane Omura, a retired health educator and Peer Education coordinator from the island of Maui, urging for the rejection of HB1298, the bill which would terminate the statewide Driver's Education program. Reducing teen risks while promoting safety was a focal point of my 39 year career. May I provide you with insights regarding the value of this program. Contrary to belief, driver's ed programs benefit not only those who take the class. The funds are needed because the beneficiaries are all students, K-12, who are our future drivers.

Repealing the funds counters the present Hawaii Graduated Driver Licensing program which makes driver's ed mandatory for 18 years and younger. This would The DOE driver's ed program serviced over 4000 teens prior to the pandemic.

The DOE is already experiencing a shortfall due to drastic budgetary cuts. The DOE fund reductions are expected to continue the next 3 years. This move would exacerbate the current fiscal situation. We are in dire need to retain the monies appropriated to pay for over a hundred instructors at 40 schools.

Without these funds, there will no longer be the affordable \$10 option charged by public schools. Because the DOE offers such a bargain, there's always long wait list to take driver's ed. Parents will have no choice but to either pay high private rates (\$400-\$500), forego driver's ed until the driver is 18, or worse yet, allow their child to drive illegally.

Please do the right thing and do not support HB 1298 to preserve a vital program which positively impacts our community. Thank you for your time and consideration.

Sincerely, Diane Omura

Submitted on: 3/2/2021 9:17:26 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Spurrier	Individual	Oppose	No

Comments:

I strongly oppose! With the growing emotional and mental effects of COVID-19 to decrease funding to Behavioral health services would be a big mistake for our young people, families and the future of our communities.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

<u>HB-1298</u>

Submitted on: 3/2/2021 9:54:51 AM Testimony for FIN on 3/2/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kerry moeai	Individual	Oppose	No

Comments:

strong opposition

Testimony in **OPPOSITION** of H.B. NO. 1298 and H.B. NO. 1299 RELATING TO SPECIAL FUNDS BEING REMOVED AND DIVERTED TO GENERAL FUND

Aloha Representatives,

I am writing to you as a Licensed Mental Health Counselor and Qualified Mental Health Professional in the State of Hawaii (MHC-372). Currently, I'm the Clinical Director at the Bobby Benson Center in Kahuku, Hawaii. We are a Community-Based Residential that have been in Operation for almost 31 years serving the state of Hawaii, to help high-risk youth ages 13-17 years old, and have recently expanded a Continuum of Care for Outpatient Services, to include youth and adults.

We have been in contract with Department of Health, Child and Adolescent Mental Health Division (CAMHD) for many years and currently serves as our biggest referral platform and funding. To remove special funds from DOH/CAMHD, will force CAMHD to reduce their contracts for services.

I strongly oppose and ask that substance abuse and mental health special funds be removed from this bill, such that these special funds would continue to support DOH contracts.

In February 2021, in a Hawaii News Now article, "a recent survey commissioned by the Hawaii Department of Health found that COVID-19 is affecting the mental health of a majority of Hawaii residents. Of 445 Hawaii adult residents surveyed, 82% said that they have experienced a mental health condition at some point over the last six months, and about 50% of those say their symptoms began during the pandemic. Of those who experienced a mental health condition before the pandemic, 35% felt that their symptoms became worse during the pandemic. Survey results also showed that 68% of participants experienced feelings of anxiety over the past six months, 61% have felt loneliness, 57% have felt depressed at some point and 33% have suffered a panic attack. The survey also found that the pandemic has especially affected the mental health of young adults, with 93% of those under the age of 35 experiencing a mental health condition in the last six months. This is compared to 65% of seniors who had the same experience. Those whose household income is less than \$50,000 were also found to be most vulnerable. Among those who live in households that earn less than \$50,000, 91% have experienced one or more mental health issues over the last six months, which is in contrast to 75% of those who live in households with combined incomes exceeding \$100,000."

In a 2018 study, cited by Hawaii News Now, Hawaii's prevalence of Mental Illness is among the lowest in the nation, thousands of Hawaii adults and youth with mental illnesses and substance abuse issues do not get adequate treatment – 68%. This compares to 56% nationally and 42% in the top-ranked state: Maine. This picture isn't any better for our youth... 67.5% of Hawaii youth with major depression don't get any mental health treatment, that puts Hawaii 47^{th} worse in the nation for the measure. Hawaii also ranks, again, among the bottom of states when it comes to the percentage of youth with severe depression who get consistent treatment, with our rates at 19%.

In reference to Hawaii Teens and across the Nation, Emergency Rooms are seeing an increased number of young people ages 12-17, experiencing mental health crises are up 31%. The need and services for Mental Health and Substance Abuse Services for our youth are on the rise. Many of our children and youth do not have access to their typical coping skills: being with extended family or with friends, due to COVID-19.

If this bill were to pass – that would further drive Hawaii into the lowest in the nation for mental health and substance abuse treatment in terms of access and treatment. Where Hawaii's drug and homeless problem are at an all-time high, we cannot let this happen.

Mahalo nui loa, UHCQUIHP

Jennifer Cabe, MHC ØMHP Clinical Director Bobby Benson Center



BOBBY BENSON CENTER