THE SENATE THIRTY-SECOND LEGISLATURE, 2023 STATE OF HAWAII

S.B. NO. 582 S.D. 2 H.D. 1

A BILL FOR AN ACT

RELATING TO STATE BUDGET.

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

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

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PART I

SECTION 2. The legislature finds that the devastating
wildfires brought on by winds from Hurricane Dora on August 8,
2023, resulted in one of the worst natural disasters in the
State's history. The wildfires caused loss of life and
displacement of thousands on the island of Maui. The disaster
also destroyed nearly all of Lahaina.

11 The legislature further finds that the constitutional 12 responsibility and power to appropriate rests solely with the 13 legislature. Chapter 127A, Hawaii Revised Statutes, was enacted 14 to provide the administration with sufficient ability, during 15 disasters or emergencies of unprecedented size and 16 destructiveness, to ensure the safety of the public and recovery 17 of the State.

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The legislature further finds that transparency,
 communication, coordination, and collaboration between all
 branches of government is necessary to develop and implement
 solutions for survivors. In total, more than \$1,000,000,000, or
 ten per cent, of the general fund budget may be necessary to
 respond to this disaster.

7 The legislature further finds that to support response and 8 recovery efforts and address immediate 2023 wildfire funding 9 needs, the governor, through the seventh emergency proclamation 10 relating to wildfires, dated September 8, 2023, and executive memorandum no. 23-08, redirected \$172,800,000 from selected 11 12 general fund operating appropriations from Act 164, Session Laws of Hawaii 2023, originally intended for specific purposes and 13 14 capital improvement projects, to the department of budget and 15 finance. The department of budget and finance subsequently 16 transferred the \$172,800,000 to the major disaster fund and 17 other purposes, along with another \$30,000,000 that the governor 18 authorized pursuant to section 5 of Act 164, Session Laws of 19 Hawaii 2023. With the existing \$5,000,000 major disaster fund 20 appropriation, a total of \$199,100,000 has been allocated to the 21 major disaster fund for initial wildfire response and recovery,

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including the expected State's share of noncongregate housing
and debris clean-up costs initially being paid by the Federal
Emergency Management Agency. These steps provided what was
thought to be sufficient funding for the State to address the
expected fiscal year 2023-2024 response and recovery expenses as
of the beginning of January 2024.

7 The legislature additionally finds that the federal 8 government has allocated \$2,000,000,000 to address recovery 9 efforts in Hawaii. This allocation requires Federal Emergency 10 Management Agency approval before it can be spent. As of 11 April 1, 2024, the Federal Emergency Management Agency has 12 approved the expenditure of \$205,470,522 on noncongregate 13 housing.

14 The legislature further finds that the Federal Emergency 15 Management Agency executed the contract for debris clean-up costs, and the State executed the contracts for noncongregate 16 17 housing and related expenses for room and board of wildfire victims displaced from their homes. The State's expenses for 18 19 noncongregate housing and other expenses, including expenses for 20 individuals impacted by the wildfires who have been classified 21 as not eligible for Federal Emergency Management Agency

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1	assistance, are expected to exceed the amounts previously
2	transferred to the major disaster fund. Because the State
3	executed these contracts, the State is responsible for making
4	payment and will seek reimbursement from the Federal Emergency
5	Management Agency for eligible costs. Issues have recently
6	arisen over what costs are deemed eligible, and the timeline
7	under which the State will be reimbursed for eligible costs is
8	not clear. The State will require additional funds to cover
9	these immediate expenses in the current fiscal year 2023-2024.
10	The legislature further finds that the immediate expenses
11	in fiscal year 2023-2024 that the State may be obligated to
12	provide totals \$1,018,967,788, including:
13	(1) \$500,000,000 for noncongregate Federal Emergency
14	Management Agency eligible and Federal Emergency
15	Management Agency ineligible housing;
16	(2) \$135,512,492 for the State's share of mission
17	assignment and federal assistance expenses;
18	(3) \$123,680,797 for Federal Emergency Management Agency
19	ineligible transitional housing and rental assistance;

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1 (4) \$194,774,499 for potential Federal Emergency Management Agency ineligible state expenses made by 2 3 various state agencies; and 4 (5) \$65,000,000 for a victim relief fund. 5 The legislature further finds that uncertainty with the status of Federal Emergency Management Agency eligible and 6 ineligible expenses remain, making accurate appropriation an 7 8 extreme challenge. 9 The purpose of this part is to make an emergency 10 appropriation to cover the State's immediate expenses incurred 11 in the Hawaii wildfires disaster response efforts, ensuring that 12 critical state programs retain their funding, appropriated by the legislature, necessary for their continued operation. 13 14 SECTION 3. There is appropriated out of the general 15 revenues of the State of Hawaii the sum of \$292,400,000 or so 16 much thereof as may be necessary for fiscal year 2023-2024 to 17 the department of budget and finance, departmental 18 administration and budget division (BUF101), for expenses 19 related to Federal Emergency Management Agency ineligible 20 noncongregate housing and other costs relating to the provision of food, housing, or other assistance for individuals affected 21

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1 by the Hawaii wildfires disaster that began on August 8, 2023; 2 provided that \$72,500,000 or so much thereof as may be necessary 3 may be transferred to the department of human services for 4 Federal Emergency Management Agency ineligible housing and other 5 costs relating to the provision of food, housing, or other 6 assistance for individuals affected by the Hawaii wildfires 7 disaster that began on August 8, 2023; provided that any unexpended or unencumbered balance shall lapse to the general 8 9 fund on June 30, 2024.

10 The sum appropriated shall be expended by the department of11 budget and finance for the purposes of this part.

12 SECTION 4. There is appropriated out of the general 13 revenues of the State of Hawaii the sum of \$28,000,000 or so 14 much thereof as may be necessary for fiscal year 2023-2024 to 15 the department of budget and finance, departmental 16 administration and budget division (BUF101), for services, 17 goods, or construction that are eligible for partial federal 18 reimbursement to a state, local, territorial, or tribal (SLTT) 19 government via the Federal Emergency Management Agency public 20 assistance program or individual assistance program for 21 individuals affected by the Hawaii wildfires disaster that began

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1 on August 8, 2023. For the purposes of this section, "eligible" 2 means that the services, goods, or construction for which funds 3 are used are delineated as eligible for reimbursement to SLTT 4 governments in the public assistance program and policy guide or 5 successor document, or the individual assistance program and 6 policy guide or successor document; provided that any unexpended 7 or unencumbered balance shall lapse to the general fund on 8 June 30, 2024. 9 The sum appropriated shall be expended by the department of 10 budget and finance for the purposes of this Act. 11 SECTION 5. Any law to the contrary notwithstanding, the 12 department of budget and finance and department of human 13 services shall submit the following information associated with 14 the Hawaii wildfires disaster that began on August 8, 2023, to 15 the legislature on the seventh day of each month: 16 (1) The date of expenditures;

17 (2) The amount of expenditures made, separately for
18 Federal Emergency Management Agency eligible and
19 Federal Emergency Management Agency ineligible
20 expenses;

21 (3) The purpose of expenditures;

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1 (4) Any contracts executed for the expenditure of funds; 2 (5)The liquidation date for all contracts or liabilities; 3 and 4 (6) A detailed explanation of the public purposes served 5 by the expenditure of resources; provided that the 6 governor shall submit to the legislature a summary 7 report containing the aforementioned information for 8 the previous twelve month period from December 1 to 9 November 30 no later than thirty days prior to the 10 convening of the regular session of 2025. 11 PART II 12 SECTION 6. The legislature finds that the State's 13 contribution of public funds to the one ohana bank trust account 14 is for the compromise and settlement of claims to compensate 15 individuals or their personal representatives affected by 16 serious physical injury or death caused by the Maui wildfires 17 and serves a public purpose. 18 The purpose of this part is to make an emergency 19 appropriation to fund the State's contribution to the one ohana bank trust account for the compromise and settlement of claims 20

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caused by the Maui wildfires.

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1	SECT	ION 7. The legislature finds and declares that the	
2	contribution of state moneys to the one ohana bank trust account		
3	under this Act for the compromise and settlement of claims is in		
4	the publi	c interest and for the public health, safety, and	
5	general w	elfare of the State for the following reasons:	
6	(1)	The State recognizes the devastating impact of the	
7		Maui wildfires on its residents, resulting in physical	
8		injury and loss of life;	
9	(2)	It is imperative for the State to respond with	
10		compassion and support for those affected by the Maui	
11		wildfires, ensuring that victims or their personal	
12		representatives are provided with fair and just	
13		compensation on a timely basis;	
14	(3)	The State's contribution to the one ohana bank trust	
15		account is for the compromise and settlement of claims	
16		for those who have lost loved ones or suffered serious	
17		physical injuries in the Maui wildfires; provided that	
18		participation in seeking compensation from the one	
19		ohana bank trust account is purely voluntary;	
20	(4)	The legislature recognizes that contributors to the	
21		one ohana bank trust account besides the State	

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1		include, among others, the county of Maui, Hawaiian
2		Electric Company, the Kamehameha Schools, Charter
3		Communications/Spectrum, Hawaiian Telcom, and the West
4		Maui Land Company;
5	(5)	The legislature recognizes the one ohana bank trust
6		account as an efficient mechanism to address this
7		urgent and exceptional situation and understands the
8		one ohana bank trust account's unique ability to
9		provide assistance to those in need;
10	(6)	The legislature recognizes the complexity and
11		challenges of tort litigation and finds it prudent to
12		provide an alternative through the one ohana bank
13		trust account of streamlining the compensation process
14		for those impacted by the Maui wildfires;
15	(7)	The legislature finds that it is in the public
16		interest to encourage swift and fair resolution to
17		claims arising from the Maui wildfires, thus
18		alleviating the burden on the judicial system and
19		fostering community support, unity, and recovery in
20		the aftermath of the Maui wildfires; and

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1 (8) The legislature recognizes that individuals seeking 2 compensation from the one ohana bank trust account 3 will be required to release the contributing parties 4 to the fund from further liability and are willingly 5 waiving their rights to pursue damages through tort 6 litigation for wrongful death or personal injury 7 claims, contributing to a more efficient resolution 8 process.

9 Consequently, the legislature finds and declares that the public purpose is served by authorizing the expenditure of 10 11 public moneys as the State's contribution to the one ohana bank 12 trust account for the compromise and settlement of claims to 13 provide an alternative for compensation to any individual who was physically injured, or personal representative of a deceased 14 individual who suffered serious physical injury or died, as a 15 16 result of the Maui wildfires, thus offering a timely and 17 compassionate resolution to those affected by the Maui wildfires 18 while relieving the burden on the judicial system and 19 contributing to the rebuilding of lives and community. 20 SECTION 8. Any individual who receives compensation from

21 the one ohana bank trust account under this Act shall waive the

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1 right to sue for damages related to physical injury or death resulting from the Maui wildfires, recognizing the one ohana 2 3 bank trust account as an alternative to tort litigation. 4 SECTION 9. The department of the attorney general shall 5 submit a report to the legislature no later than twenty days 6 prior to the convening of each regular session on: 7 A listing of claims and the amounts paid by the one (1)8 ohana bank trust account for the calendar year; 9 A listing of the administrative costs incurred by the (2) 10 one ohana bank trust account for the calendar year; 11 and A listing of contributors and their contribution 12 (3) 13 amounts to the one ohana bank trust account received 14 during the calendar year. SECTION 10. There is appropriated out of the general 15 16 revenues of the State of Hawaii the sum of \$65,000,000 or so 17 much thereof as may be necessary for fiscal year 2023-2024 to 18 fund the State's contribution to the one ohana bank trust 19 account for the compromise and settlement of claims to 20 compensate individuals or personal representatives affected by 21 serious physical injury or death caused by the Maui wildfires;

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provided that the moneys appropriated in this section shall not 1 2 lapse at the end of the fiscal year for which the appropriation 3 is made; provided further that any moneys that remain unencumbered on June 30, 2025, shall lapse on that date; 4 5 provided further that upon closure of the one ohana bank trust 6 account, the remaining balance after the settlement of all 7 administrative costs shall be returned to the contributors to 8 the one ohana bank trust account in proportion to their 9 contributions with the State's proportionate contribution being 10 returned to the general fund. 11 SECTION 11. The sum appropriated shall be expended by the 12 department of the attorney general for the purposes of this 13 part. 14 PART III 15 SECTION 12. Act 247, Session Laws of Hawaii 2022, is 16 amended by amending section 1 to read as follow: 17 "[SECTION 1. The director of finance is authorized to 18 issue general obligation bonds in the sum of \$300,000,000 or so

- 19 much thereof as may be necessary and the same sum or so-much
- 20 thereof as may be necessary is appropriated for fiscal year
- 21 2022-2023 for the other post-employment benefits trust fund

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1	governed by section 87A-42, Hawaii Revised Statutes, to pay or		
2	prepay the State's other post-employment benefits liability;		
3	provided that:		
4	.(1) -	The appropriation made for this transaction as	
5		authorized by this section shall not lapse at the end	
6		of the fiscal year for which the appropriation is	
7		made;	
8	-(2) -	All moneys from the appropriation unencumbered as of	
9		June 30, 2024, shall lapse as of that date; and	
10	(3)	The general obligation bonds authorized by this	
11		section shall be issued in the sole discretion of the	
12		director of finance; provided that:	
13		(A) To determine the annual required contribution, a	
14		preliminary annual required contribution to the	
15		trust fund shall be developed that treats the	
16		outstanding bond balance as part of the trust	
17		fund's unfunded actuarial accrued liability. The	
18		net cash contribution required to be contributed	
19		to the trust fund shall be the greater of:	

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1		(i) The preliminary annual required contribution
2		less the related general obligation bond
3		payment for the respective year; or
4		(ii) The annual required contribution amount
5		calculated under section 87A-42(f)(2), Hawaii
6		Revised Statutes, without any special
7		consideration given to the outstanding
8		balance of the general obligation bonds or
9 .		any related general obligation bond
10		payments, for the respective year;
11	-(B) -	Entities shall only be permitted to issue general
12		obligation bonds if the all-in true interest cost
13		of-the bonds is at least three hundred basis
14		points less than the assumed rate of return of
15		the trust fund, to which the proceeds will be
16		contributed;
17	-(C)-	General obligation bonds shall not be issued as a
18		means for addressing budget shortfalls related to
19		contributions required by law; and
20	(D)	General obligation bonds shall only be issued as
21		a means to produce long-term savings.] Repealed."

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1 SECTION 13. Act 115, Session Laws of Hawaii 2022, section 4, as amended by Act 35, Session Laws of Hawaii 2023, section 5, 2 3 in the amount of \$300,000,000, or balance thereof, general funds 4 unallotted, allotted, encumbered, and unrequired, is hereby 5 lapsed. 6 PART IV 7 SECTION 14. The legislature finds that under existing law, 8 federal reimbursement moneys, such as funds to be provided by 9 the Federal Emergency Management Agency for the wildfire 10 disaster, are generally deposited into a trust account of the 11 major disaster fund and reimbursed to the originating fund of the expending agency incurring the cost. If the originating 12 13 funds have lapsed by the time reimbursement is received, then 14 they are reimbursed to the general fund. Only a small amount is allowed to roll over to the next fiscal year and remain 15 16 available in the major disaster fund. 17 Due to the size and scope of the wildfire disaster, disaster recovery efforts are expected to continue for several 18

19 years. However, the State has been informed that Federal 20 Emergency Management Agency reimbursements of amounts outlaid by 21 the State via the major disaster fund are not expected to be

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1 paid on a predictable schedule during any given fiscal year, 2 regardless of when the State incurs the expense. 3 The purpose of this part is to facilitate the continued 4 provision of assistance to wildfire victims and ongoing wildfire 5 recovery efforts by temporarily lifting various restrictions on the use of funds for these purposes and extending the lapse date 6 7 of certain funds set aside for wildfire response. 8 SECTION 15. Section 127A-16, Hawaii Revised Statutes, is 9 amended to read as follows: 10 "§127A-16 Major disaster fund. (a) The administrator 11 shall submit requests to the legislature to appropriate from the 12 general revenues of the State sufficient moneys as may be 13 necessary for expenditure by or under the direction of the 14 governor for immediate relief in response to an emergency or 15 disaster in any part of the State; provided that: 16 (1)The governor has issued a proclamation of a state of 17 emergency; The governor shall not expend in excess of \$10,000,000 18 (2) 19 for immediate relief as a result of any single 20 emergency or disaster; and

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1 (3) In addition to the funds in paragraph (2), an 2 additional \$5,000,000 may be made available solely for 3 the purpose of matching federal disaster relief funds 4 when these funds become available to the State 5 following a presidential disaster declaration. In expending the moneys, the governor may allot any portion 6 7 thereof to any agency, office, or employee of the State or a 8 county for the most efficient relief for the population. 9 Notwithstanding this subsection, the only exception to 10 paragraphs (1), (2), and (3) is that the administrator may use up to \$250,000 per year to support the emergency management 11 12 reserve corps. 13 (b) No later than sixty days after any allotment by the

14 governor or the expenditure of any fund moneys, the 15 administrator shall report to the legislature on the purpose of 16 the allotment or expenditure.

(c) Except as provided in [subsection (d),] subsections
(d) and (e), federal reimbursement moneys for disaster relief
shall be deemed to be trust moneys and shall be deposited into a
trust account with and under the control of the Hawaii emergency
management agency. Upon receipt by the Hawaii emergency

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1 management agency, these moneys shall be reimbursed to the 2 originating fund of the expending agency; provided that if the 3 original appropriation has lapsed, the funds shall be returned 4 to the general fund.

5 (d) Federal reimbursement moneys for disaster relief for the Hawaii wildfires disaster that began on August 8, 2023, 6 7 shall be deemed to be trust moneys and shall be deposited into 8 the Maui wildfire recovery trust fund, a trust account with and 9 under the control of the Hawaii emergency management agency. 10 These moneys and any interest earned thereon shall be used 11 solely for the state share of services, goods, or construction 12 that are eligible for partial federal_reimbursement to a state, 13 local, territorial, or tribal (SLTT) government via the Federal 14 Emergency Management Agency public assistance program or 15 individual assistance program for individuals affected by the 16 Hawaii wildfires disaster that began on August 8, 2023, and 17 shall not lapse to the general fund. 18 For the purposes of this subsection, "eligible" means that 19 the services, goods, or construction for which funds are used 20 are delineated as eligible for reimbursement to SLTT governments

21 in the public assistance program and policy guide or successor

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1 document, or the individual assistance program and policy guide 2 or successor document.

3 $\left[\frac{d}{d}\right]$ (e) In cases in which the department of education 4 expends the funds appropriated to the department for purposes 5 deemed to be reimbursable by federal reimbursement moneys for 6 disaster relief, the federal reimbursement moneys shall not 7 lapse to the general fund and shall be credited directly to the 8 department of education without regard to whether the original 9 appropriation has lapsed. Such funds shall carry over in 10 accordance with section 37-41.5(c).

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

14 [(f)] (g) Each state department and agency shall submit to 15 the administrator no later than August 1 of each year a report 16 of all funds expended, if any, for the prior fiscal year by the 17 state department and agency for disaster response. The report 18 shall include:

- 19 (1) The source of funds, including the name and account
 20 number of the funding source;
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(2) The amount and purpose of each expenditure; and

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1 (3) Whether any programs, activities, or contracts were 2 reduced as a result of disaster response spending by 3 the state department and agency. 4 $\left[\frac{1}{2}\right]$ (h) The administrator shall submit an annual report 5 to the legislature no later than September 1 of each year on: 6 (1)The amount of federal reimbursement moneys for 7 disaster response that the State could have applied for during the prior fiscal year. The report shall 8 9 indicate the amount of federal reimbursement moneys 10 for disaster response broken down by department and 11 agency; 12 (2) The amount of federal reimbursement moneys for disaster response that the State applied for and the 13 14 amount received during the prior fiscal year. The 15 report shall indicate the amount of federal 16 reimbursement moneys for disaster response broken down 17 by department and agency; 18 (3) The justification for any difference in the amount of 19 federal reimbursement moneys for disaster response 20 that the State was eligible for and the amount the 21 State applied for;

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1	(4)	The average amount of time between the submittal of an
2		application for a Federal Emergency Management Agency
3		reimbursement and receipt of the funds;
4	(5)	The number of disaster accounts opened for the prior
5		fiscal year; and
6	(6)	The information relating to the expenditure of funds
7		that is reported by each state department and agency
8		pursuant to subsection [(f).] <u>(g).</u> "
9	SECT	ION 16. Any law to the contrary notwithstanding, the
10	departmen	t of defense shall submit the following information
11	associate	d with the Hawaii wildfires disaster that began on
12	August 8,	2023, to the legislature on the seventh day of each
13	month:	
14	(1)	Date of federal reimbursements;
15	(2)	Amount of federal reimbursements;
16	(3)	Date of expenditures;
17	(4)	Amount of expenditures made;
18	(5)	Purpose of expenditures;
19	(6)	Any contracts executed for the expenditure of funds;
20		and

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1 (7) Detailed explanation of the public purposes served by 2 the expenditure of resources. 3 Any law to the contrary notwithstanding, the governor shall 4 submit to the legislature a summary report containing the 5 aforementioned information for the previous twelve month period 6 from December 1 to November 30 no later than thirty days prior 7 to the convening of the regular session of 2025. 8 SECTION 17. Section 37-41.5, Hawaii Revised Statutes, is 9 amended by amending subsection (c) to read as follows: "(c) In addition to the five per cent retainage under 10 subsection (a), the department of education may retain any 11 12 appropriation received pursuant to section 127A-16(a) or as 13 reimbursement for disaster relief pursuant to section [127A-14 $\frac{16(d)}{127A-16(e)}$ at the close of the fiscal year in which the 15 appropriation or reimbursement was received and the funds 16 retained shall not lapse until June 30 of the first fiscal year 17 of the next fiscal biennium. Such funds shall be considered as 18 separate and distinct from the funds the department of education 19 is authorized to retain pursuant to subsection (a)."

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PART V

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the Constitution of the State of Hawaii and sections 37-91 and
37-93, Hawaii Revised Statutes, the legislature has determined
that the general fund expenditure ceiling for fiscal year 2023-
2024 has already been exceeded by \$1,052,793,893 or 9.8 per
cent. The appropriations contained in this Act will cause the
state general fund expenditure ceiling for fiscal year 2023-2024
to be further exceeded by \$385,400,000 or 13.0 per cent. This
declaration takes into account the additional general fund
appropriations authorized for fiscal year 2023-2024 in this Act
only. The reasons for exceeding the general fund expenditure
ceiling are that:
(1) The appropriations made in this Act are necessary to
serve the public interest; and
(2) The appropriations made in this Act meet the needs
addressed by this Act.
SECTION 19. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 20. This Act shall take effect on July 1, 3000;
SECTION 20. This Act shall take effect on July 1, 3000; provided that on July 1, 2029, sections 15 and 16 of this Act

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Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act; provided further that on July 1, 2029, any unencumbered trust account moneys retained in the account to be used for the recovery efforts from the Hawaii wildfires disaster that began on August 8, 2023, pursuant to this Act, shall lapse to the general fund on that date.

Report Title:

Maui Wildfires; Major Disaster Fund; Emergency Appropriations; Expenditure Ceiling

Description:

Makes emergency appropriations for certain FEMA-ineligible and FEMA-eligible costs related to the State's response to the August 2023 wildfires and to fund the One Ohana Bank Trust Account to compensate victims of the Maui wildfires. Repeals general obligation bond appropriation for the Other Post-Employment Benefits Trust Fund and Pension Accumulation Fund. Temporarily lifts various restrictions on the use of Major Disaster Relief moneys for Hawaii wildfire response and extends the lapse date of certain funds set aside for this purpose. Requires the department of defense and governor to submit reports on expenditures and federal reimbursements. Effective 7/1/3000. (HD1)

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