

ACT 9

H.B. NO. 1299

A Bill for an Act Relating to Non-General Funds.

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

PART I. INTRODUCTION

SECTION 1. The coronavirus disease 2019 pandemic has swept across the nation and many parts of the world with unanticipated force and brought with it enormous challenges for governments at all levels. These challenges provide opportunities to restructure.

The legislature finds that, fundamentally, non-general funds must be reviewed and scrutinized just as much as general funds to determine if resources are being deployed effectively and efficiently.

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 and transferring any unencumbered balances to the general fund.

PART II. DEPARTMENT OF AGRICULTURE

SECTION 2. Section 145-38, Hawaii Revised Statutes, is amended to read as follows:

~~“§145-38~~ **Civil penalty.** Any person who violates any provision of this part or rule adopted pursuant to section 145-39 shall be subject to a civil penalty in an amount not to exceed \$1,000 per violation. In determining the amount of any civil penalty, the board of agriculture shall give due consideration to:

- (1) The history of the person's previous violations;
- (2) The seriousness of the violation; and
- (3) The demonstrated good faith of the person charged in attempting to achieve compliance with this part after being notified of the violation.

The penalty shall be collected by the department, and the proceeds shall be deposited into the ~~[agricultural development and food security special fund established pursuant to section 141-10.]~~ general fund.”

SECTION 3. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

§155-4 Powers and duties of the department. The department of agriculture shall have the following powers:

- (1) Employ a secretary, who may be exempt from chapter 76, and other full-time and part-time employees, subject to chapter 76, as are necessary to effectuate the purposes of this chapter~~[-subject further to the limitation of funds in the agricultural loan reserve fund];~~

- (2) Designate agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at rates the department in its discretion may fix;
- (3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers;
- (4) Cooperate with private and federal government farm loan sources to increase the amount of loan funds available to qualified farmers in the State;
- (5) Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes;
- (6) Insure loans made to qualified farmers and food manufacturers by private lenders under section 155-5;
- (7) Participate in loans made to qualified farmers and food manufacturers by private lenders under section 155-6;
- (8) Make direct loans to qualified farmers and food manufacturers under section 155-8;
- (9) Borrow money for loan purposes;
- (10) Assign and sell mortgages;
- (11) Hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of personal and real property acquired by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned;
- (12) Sue and be sued in the name of the "State of Hawaii";
- (13) Exercise incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter;
- (14) Delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds; and
- (15) Adopt rules pursuant to chapter 91 necessary for the purpose of this chapter."

SECTION 4. Section 155-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

~~"(b) [All interest and fees collected by the department shall be deposited in the agricultural loan reserve fund to the extent needed to carry on the operations of the department including payments for consultative services that would strengthen the agriculture loan program; any moneys surplus to these needs shall be transferred to the agricultural loan revolving fund at the discretion of the department.] All payments received on account of principal shall be credited to the agricultural loan revolving fund."~~

SECTION 5. Section 155-31, Hawaii Revised Statutes, is amended by deleting the definition of "water infrastructure special fund".

~~[""Water infrastructure special fund" means the special fund created pursuant to section 155-34."]~~

SECTION 6. Section 155-33, Hawaii Revised Statutes, is amended to read as follows:

“**§155-33 Powers of the department.** The department shall have the following powers:

- (1) Make loans and expend funds to finance the purchase or installation of water infrastructure equipment for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, water distribution systems, and water tanks;
- ~~[(2) Hold and invest moneys in the water infrastructure special fund in investments as permitted by law;~~
- ~~(3)~~ (2) Hire employees necessary to perform its duties;
- ~~[(4)~~ (3) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;
- ~~[(5)~~ (4) Enter into contracts for the administration of the loan program, in accordance with chapter 103D;
- ~~[(6)~~ (5) Establish loan program guidelines to carry out the purposes of this part;
- ~~[(7)~~ (6) Perform all functions necessary to effectuate the purposes of this part;
- ~~[(8)~~ (7) Delegate authority to the chairperson of the board of agriculture to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed \$25,000 of state funds; and
- ~~[(9)~~ (8) Adopt rules pursuant to chapter 91 necessary for the purpose of this part.”

SECTION 7. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user of petroleum product, other than a refiner. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 5 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8; and
- (3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; and
- ~~(4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10].~~

The tax imposed by this subsection shall be paid by the distributor of the petroleum product.

(b) In addition to subsection (a), the tax shall also be imposed on each one million British thermal units of fossil fuel sold by a distributor to any retail dealer or end user, other than a refiner, of fossil fuel. The tax shall be 19 cents

on each one million British thermal units of fossil fuel; provided that of the tax collected pursuant to this subsection:

- (1) 4.8 per cent of the tax on each one million British thermal units shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 14.3 per cent of the tax on each one million British thermal units shall be deposited into the energy security special fund established under section 201-12.8; and
- (3) 9.5 per cent of the tax on each one million British thermal units shall be deposited into the energy systems development special fund established under section 304A-2169.1[~~]; and~~
- (4) ~~14.3 per cent of the tax on each one million British thermal units shall be deposited into the agricultural development and food security special fund established under section 141-10].~~

The tax imposed by this subsection shall be paid by the distributor of the fossil fuel.”

SECTION 8. Section 141-10, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 155-34, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 155-6.5(a), Hawaii Revised Statutes, is amended by substituting the words “general fund” or similar term wherever the words “agricultural loan reserve fund” or similar term appears, as the context requires.

SECTION 11. The following funds (account code) are abolished:

- (1) Measurement standards (S-309-A);
- (2) Biosecurity program (S-312-A);
- (3) General administration for agriculture (S-319-A);
- (4) Agr dev/food security - add (S-321-A);
- (5) Agr dev/food security - pi (S-333-A);
- (6) Agr dev/food security - arm (S-335-A);
- (7) Agribusiness development & research (S-337-A); and
- (8) Agricultural dev & food security spec fd (S-352-A),

and any unencumbered balances shall lapse to the credit of the general fund.

PART III. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SECTION 12. The Leeward coast homeless project fund, account code S-335M, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART IV. DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 13. The hydrogen investment capital special fund, account code S-308-B, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART V. DEPARTMENT OF EDUCATION

SECTION 14. Section 302A-425, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Fees collected pursuant to this section shall be deposited into the [~~private trade, vocational, and technical school licensure special~~] general fund.”

SECTION 15. Section 302A-425.5, Hawaii Revised Statutes, is repealed.

SECTION 16. The Hawaii teacher standards board special fund, account code S-321-E, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART VI. DEPARTMENT OF HEALTH

SECTION 17. Section 448B-10, Hawaii Revised Statutes, is repealed.

PART VII. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SECTION 18. Section 396-20, Hawaii Revised Statutes, is repealed.

PART VIII. DEPARTMENT OF LAND AND NATURAL RESOURCES

SECTION 19. The iucn - sldf fund, account code S-371-C, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART IX. DEPARTMENT OF PUBLIC SAFETY

SECTION 20. The drug law enforcement equipment procurement fund, account code T-905-V1, is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART X. AUDITOR'S REPORT NO. 20-01, DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SECTION 21. The purpose of this part is to reclassify, repeal, or abolish various non-general funds, including accounts of the department of business, economic development, and tourism pursuant to the recommendations made by the auditor in auditor's report no. 20-01 and to transfer the unencumbered balances to the general fund.

SECTION 22. Section 206E-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) The authority shall adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section shall include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, [~~revolving~~] special funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions

relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.”

2. By amending subsection (g) to read:

“(g) All sums collected under this section shall be deposited in the Hawaii community development ~~[revolving]~~ special fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against ~~[such]~~ that fund, it shall be credited to and become a part of the Hawaii community development ~~[revolving]~~ special fund. Moneys in the Hawaii community development ~~[revolving]~~ special fund may be used to make up any deficiencies in the special fund.”

SECTION 23. Section 206E-16, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-16]]~~ **Hawaii community development ~~[revolving]~~ special fund.** There is created the Hawaii community development ~~[revolving]~~ special fund into which all receipts and revenues of the authority shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter.”

SECTION 24. Section 206E-16.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-16.5]]~~ **Expenditures of ~~[revolving]~~ special funds under the authority exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any ~~[revolving]~~ special fund administered by the authority may be made by the authority without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any ~~[revolving]~~ special fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any ~~[revolving]~~ special fund administered by the authority to be reappropriated annually.”

SECTION 25. Section 206E-184, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

- (1) To pay to the authority during the initial term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other person, a rental or rentals at the time or times and in the amount or amounts that will be sufficient:
 - (A) To pay the principal and interest on all special facility revenue bonds issued for the special facility;
 - (B) To establish or maintain any reserves for these payments; and
 - (C) To pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility;
- (2) To pay to the authority:

- (A) A ground rental, as determined by the authority, if the land on which the special facility is located was not acquired from the proceeds of the special facility revenue bonds; or
 - (B) A properly allocable share of the administrative costs of the authority in carrying out the special facility lease and administering the special facility revenue bonds issued for the special facility, if the land was acquired from the proceeds of the special facility revenue bonds;
- (3) To either operate, maintain, and repair the special facility and pay the costs thereof or to pay to the authority all costs of operation, maintenance, and repair of the special facility;
- (4) To:
- (A) Insure, or cause to be insured, the special facility under builder's risk insurance (or similar insurance) in the amount of the cost of construction of the special facility to be financed from the proceeds of the special facility revenue bonds;
 - (B) Procure and maintain, or cause to be procured or maintained, to the extent commercially available, a comprehensive insurance policy providing protection and insuring the authority and its officers, agents, servants, and employees (and so long as special facility revenue bonds are outstanding, the trustee) against all direct or contingent loss or liability for damages for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the special facility or occasioned by reason of occupancy by and the operations of the other person upon, in, and around the special facility;
 - (C) Provide all risk casualty insurance, including insurance against loss or damage by fire, lightning, flood, earthquake, typhoon, or hurricane, with standard extended coverage and standard vandalism and other malicious mischief endorsements; and
 - (D) Provide insurance for workers' compensation and employer's liability for personal injury or death or damage to property (the other party may self-insure for workers' compensation if permitted by law);
- provided that all policies with respect to loss or damage of property including fire or other casualty and extended coverage and builder's risk shall provide for payments of the losses to the authority, the other person, or the trustee as their respective interests may appear; and provided further that the insurance may be procured and maintained as part of or in conjunction with other policies carried by the other person; and provided further that the insurance shall name the authority, and so long as any special facility revenue bonds are outstanding, the trustee, as additional insured; and
- (5) To indemnify, save, and hold the authority, the trustee and their respective agents, officers, members, and employees harmless from and against all claims and actions and all costs and expenses incidental to the investigation and defense thereof, by or on behalf of any person, firm, or corporation, based upon or arising out of the special facility or the other person's use and occupancy thereof, including, without limitation, from and against all claims and actions based upon and arising from any:
- (A) Condition of the special facility;

- (B) Breach or default on the part of the other person in the performance of any of the person's obligations under the special facility lease;
- (C) Fault or act of negligence of the other person or the person's agents, contractors, servants, employees, or licensees; or
- (D) Accident to, or injury or death of, any person or loss of, or damage to any property occurring in or about the special facility, including any claims or actions based upon or arising by reason of the negligence or any act of the other person.

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

SECTION 26. Section 206E-185, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) No revenue bonds shall be issued unless at the time of issuance the authority shall have entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;
- (2) The revenue bonds shall be issued in the name of the authority, and not in the name of the State;
- (3) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the authority from the special facility for which they are issued;
- (4) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease;
- (5) If deemed necessary or advisable by the authority, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the authority, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the authority to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. If any trustee shall be appointed, any trust indenture or agreement entered into by the authority with the trustee may contain the covenants and provisions authorized by part III of chapter 39 to be inserted in a resolution adopted or certificate issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or agreement". The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the authority pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The authority may pledge and assign to the

- trustee the special facility lease and the rights of the authority including the revenues thereunder;
- (6) If the authority, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The authority, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the authority may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the authority, with the approval of the director of finance, to appoint the trustee, or granted in sections 36-3 and 39-13 and the third sentence of section 39-68 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;
 - (7) The authority may sell the revenue bonds either at public or private sale;
 - (8) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the Hawaii community development [~~revolving~~] special fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing the revenue bonds;
 - (9) If the resolution, certificate, trust indenture, or trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of the revenue bonds, signatures of the officers of the State upon the bonds required by section 39-56 may be facsimiles of their signatures;
 - (10) Proceeds of the revenue bonds may be used and applied by the authority to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs; and
 - (11) If the special facility lease shall require the other person to operate, maintain, and repair the special facility which is the subject of the lease, at the other person's expense, the requirement shall constitute compliance by the authority with section 39-61(a)(2), and none of

the revenues derived by the authority from the special facility shall be required to be applied to the purposes of section 39-62(2). Sections 39-62(4), 39-62(5), and 39-62(6) shall not apply to the revenues derived from a special facility lease.”

SECTION 27. Section 206E-195, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“~~§206E-195~~ **Kalaeloa community development [revolving] special fund.**

(a) There is established in the state treasury the Kalaeloa community development [revolving] special fund, into which shall be deposited:

- (1) All revenues, income, and receipts of the authority for the Kalaeloa community development district, notwithstanding any other law to the contrary, including section 206E-16;
- (2) Moneys directed, allocated, or disbursed to the Kalaeloa community development district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the Kalaeloa community development district; and
- (3) Moneys appropriated to the fund by the legislature.

(b) Moneys in the Kalaeloa community development [revolving] special fund shall be used for the purposes of this part.”

SECTION 28. Section 206E-201, Hawaii Revised Statutes, is amended by amending the definition of “fund” to read as follows:

““Fund” means the Heeia community development [revolving] special fund.”

SECTION 29. Section 206E-204, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“~~§206E-204~~ **Heeia community development [revolving] special fund.**

(a) There is established in the state treasury the Heeia community development [revolving] special fund, into which shall be deposited:

- (1) All revenues, income, and receipts of the authority for the district, notwithstanding any other law to the contrary, including section 206E-16;
- (2) Moneys directed, allocated, or disbursed to the district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the district; and
- (3) Moneys appropriated to the fund by the legislature.”

SECTION 30. Section 206M-15.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Subject to available funds, the research and development program shall:

- (1) Apply [~~the research and development special fund~~] funds to support product development, technology transfer, and commercialization;
- (2) Provide capital to support accelerated commercialization activities for qualified Hawaii-based small businesses;
- (3) Provide capital to sustain high-potential infrastructure development to assist qualified Hawaii-based small businesses towards commercial success;
- (4) Promote efforts that reverse the loss of qualified workers to other states by providing jobs to retain existing Hawaii technology em-

- ployees and enable highly qualified scientists and engineers to return to living-wage jobs in Hawaii;
- (5) Promote efforts that keep technology companies in Hawaii by limiting the need to seek out-of-state venture capital, which dilutes local ownership and increases the probability of high-potential technology companies moving from Hawaii; and
 - (6) Provide grants of up to \$300,000 for critical product development that enables a qualified Hawaii-based small business to achieve significant product development and technical milestones.”

SECTION 31. Section 210D-4, Hawaii Revised Statutes, is amended to read as follows:

“§210D-4 Hawaii community-based economic development [revolving] special fund; established. There is established a [revolving] special fund to be known as the Hawaii community-based economic development [revolving] special fund from which moneys shall be loaned or granted by the department under this chapter. All moneys appropriated to the fund by the legislature, received as repayments of loans, payments of interest or fees, and all other moneys received by the fund from any other source shall be deposited into the [revolving] special fund and used for the purposes of this chapter. The department may deposit moneys it receives from the repayments of loans and payments of interest or fees from the Hawaii capital loan program established by chapter 210, the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program established by part II of chapter 189, and the Hawaii small fishing vessel loan program established by part IV of chapter 189, into the Hawaii community-based economic development [revolving] special fund to be used for the purposes of this chapter. The department may use all appropriations and other moneys in the [revolving] special fund not appropriated for a designated purpose to make grants or loans.”

SECTION 32. Section 210D-8, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

SECTION 33. Section 206M-15.3, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 206M-15.6, Hawaii Revised Statutes, is repealed.

SECTION 35. The Kalaeloa facilities trust account administratively established in 2018 is reclassified as a special fund.

SECTION 36. The energy audits - recipients’ share of cost trust account administratively established in 2012 is abolished and any unencumbered balance shall lapse to the credit of the general fund.

PART XI. AUDITOR’S REPORT NO. 20-18, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

SECTION 37. The purpose of this part is to abolish or reclassify various non-general funds pursuant to the recommendations by the auditor in auditor’s report no. 20-18 and to transfer the unencumbered balances to other appropriate non-general funds.

SECTION 38. The compliance resolution fund—appraisal management registration program special fund administratively established in 2017 is abolished and any remaining unencumbered balance shall lapse to the credit of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes.

SECTION 39. The electrical vehicle charging system rebate program special fund administratively established in 2019 is abolished and any remaining unencumbered balance shall lapse to the credit of the public utilities commission special fund established pursuant to section 269-33, Hawaii Revised Statutes.

SECTION 40. The service contract provider’s financial security deposit trust account is reclassified as a trust fund.

PART XII. AUDITOR’S REPORT NO. 20-17, JUDICIARY

SECTION 41. The purpose of this part is to repeal the probation services special fund as recommended by the auditor in auditor report no. 20-17.

SECTION 42. Section 353B-6, Hawaii Revised Statutes, is amended to read as follows:

“**§353B-6 Interstate transfer fee.** The judiciary may assess a fee not to exceed \$200 for each application made by a parolee or probationer for a transfer out of the State[; provided that the fees collected shall be deposited into the probation services special fund established in section 706-649].”

SECTION 43. Section 706-648, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) The defendant shall pay the fee to the clerk of the court. [~~The fee shall be deposited with the director of finance who shall transmit the fee to the probation services special fund pursuant to section 706-649.~~]”

SECTION 44. Section 706-649, Hawaii Revised Statutes, is repealed.

PART XIII. AUDITOR’S REPORT NO. 20-03, UNIVERSITY OF HAWAII

SECTION 45. The purpose of this part is to repeal or reclassify certain non-general funds of the University of Hawaii pursuant to the recommendations of the auditor in auditor’s report no. 20-03.

SECTION 46. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to part V, subpart D, to be appropriately designated and to read as follows:

“**§304A- Community colleges revolving fund.** (a) Section 304A-2003 notwithstanding, there is established a community colleges revolving fund to receive, disburse, and account for funds of programs and activities of the community colleges, including but not limited to off-campus programs, summer session programs, overseas programs, evening sessions, study abroad, exchange programs, cultural enrichment programs, and consultative services that help make available the resources of the community colleges to the communities they serve.

(b) The revolving fund may include deposits from:

- (1) The University of Hawaii tuition and fees special fund established in section 304A-2153;
- (2) Tuition, fees, and charges for affiliated instructional, training, and public service courses and programs; and
- (3) Fees, fines, and other money collected for:
 - (A) Student health;
 - (B) Transcript and diploma;
 - (C) Library;
 - (D) Facility use;
 - (E) Child care;
 - (F) Auxiliary enterprises;
 - (G) Alumni; and
 - (H) Other related activities.”

SECTION 47. Section 304A-2156, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 304A-2162, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 304A-2277, Hawaii Revised Statutes, is repealed.

SECTION 50. Any unencumbered balance remaining in the community colleges special fund repealed by this part shall lapse to the credit of the community colleges revolving fund established pursuant to this part.

SECTION 51. The university system bond and interest sinking fund revolving fund administratively established in 2002 is reclassified as a trust account.

PART XIV. AUDITOR'S REPORT NO. 19-16, DEPARTMENT OF THE ATTORNEY GENERAL

SECTION 52. The purpose of this part is to reclassify or abolish certain non-general funds of the department of the attorney general pursuant to the recommendations by the auditor in auditor's report no. 19-16 and, for any abolished accounts, transfer the remaining unencumbered balances to the general fund.

SECTION 53. Section 28-16, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§28-16[H] **Litigation deposits trust [fund.] account.**~~ (a) There is created in the state treasury the litigation deposits trust ~~[fund.] account~~. There shall be deposited into this ~~[fund] account~~ all moneys received through any civil action in which the State is a party where the settlement amount is \$100,000 or higher, except for those actions involving departments able to procure their own legal services as provided for by section 28-8.3 and where no other state statute or court order specifically provides for the deposit of moneys received through the action.

(b) The ~~[fund] account~~ shall be administered by the department of the attorney general. The department shall maintain accounting records of ~~[fund] account~~ moneys, including subsidiary records of individual litigation deposits and disbursements thereof. Moneys in the ~~[fund] account~~ may be separated into subsidiary accounts; provided that one subsidiary account shall not be commingled with moneys from another subsidiary account except for deposit or investment purposes under subsection (d).

(c) Disbursements from each subsidiary account maintained under subsection (b) may include attorney's fees and other necessary expenses that the department determines to be reasonable and directly related to prosecution of the civil action for which the subsidiary account is maintained; provided that in the case of moneys deposited as a result of recoveries by an agency to which a non-general fund applies, the moneys shall be held and disbursed intact for deposit to the credit of the non-general fund. Money deposited in the ~~[fund] litigation deposits trust account~~ pursuant to an order of the court shall be disbursed in accordance with the order of the court. Any residual funds remaining in ~~[an] a~~ subsidiary account shall be transferred to the respective non-general or general fund with which the civil action is associated no later than thirty days after the civil action for which the subsidiary account is maintained is closed and all costs of that civil action have been paid, unless otherwise provided for by statute.

(d) Moneys in the ~~[fund] litigation deposits trust account~~ may be invested by the department in securities as provided by section 36-21. Investment earnings shall be deposited in the general fund.

(e) The department shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on:

- (1) The transactions, by subsidiary account, that take place in the ~~[fund] litigation deposits trust account~~ for each fiscal year; and
- (2) A summary of the collections made in any amount on behalf of other departments and agencies specifying the appropriate number of transactions and amount collected for each department and agency.”

SECTION 54. Section 456-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The moneys collected by the attorney general pursuant to this section shall be deposited into the notaries public ~~[revolving] special~~ fund estab-

lished by section 456-9.5, except that if that fund is terminated, the moneys shall thereafter be deposited with the director of finance to the credit of the general fund.”

SECTION 55. Section 456-9.5, Hawaii Revised Statutes, is amended to read as follows:

“**§456-9.5 Notaries public [revolving] special fund.** (a) There is established in the state treasury the notaries public [revolving] special fund into which shall be deposited:

- (1) All fees, administrative fines, charges, or other payments received pursuant to section 456-9;
- (2) Penalties and fines for violations of section 456-3 or 456-7;
- (3) Appropriations made for deposit into the notaries public [revolving] special fund; and
- (4) Interest earned on money in the notaries public [revolving] special fund.

(b) The notaries public [revolving] special fund shall be administered by the department of the attorney general. Notwithstanding any law to the contrary, moneys in the notaries public [revolving] special fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public.”

SECTION 56. Section 456-18, Hawaii Revised Statutes, is amended to read as follows:

“**§456-18 Notaries in government service.** Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department’s subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States.

Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

- (1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;
- (2) Not be required to:
 - (A) Pay any fee to the clerk of any circuit court for filing a copy of the notary’s commission;
 - (B) Pay any fee to the attorney general for the issuance of the notary’s commission or the renewal thereof; or
 - (C) Furnish and file an official bond unless that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and
- (3) Not demand or receive any fee for the notary’s service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and con-

venience, the notary may, but shall not be compelled to, administer oaths or take acknowledgments in nongovernmental matters, for which services the prescribed fees shall be demanded and received as governmental realizations and covered into the notaries public [~~revolving~~] special fund established by section 456-9.5, except that if that fund is terminated, the fees shall thereafter be deposited into the general fund of the State; provided further that with the prior written approval of the attorney general, the notary public, upon paying the fees prescribed by law and upon executing, depositing, and filing at the notary's own expense, the required official bond, may demand or receive the fees prescribed by law for services rendered by the notary in matters not pertaining to such public business."

SECTION 57. Section 712A-16, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) There is established in the department of the attorney general a [~~revolving~~] special fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture and any penalties paid pursuant to section 712A-10(6). All moneys in the fund shall be expended by the attorney general and are appropriated for the following purposes:

- (a) The payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any federal, state, or county agency for any expenditures made to perform the foregoing functions;
- (b) The payment of awards for information or assistance leading to a civil or criminal proceeding;
- (c) The payment of supplemental sums to state and county agencies for law enforcement purposes;
- (d) The payment of expenses arising in connection with programs for training and education of law enforcement officers;
- (e) The payment of expenses arising in connection with enforcement pursuant to the drug nuisance abatement unit in the department of the attorney general; and
- (f) The payment of expenses arising in connection with the law enforcement officer independent review board in the department of the attorney general."

SECTION 58. The Hawaii criminal justice commission trust account established in 1985 pursuant to the authority granted by section 28-10.6(a)(5), Hawaii Revised Statutes, is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

PART XV. AUDITOR'S REPORT NO. 19-05, DEPARTMENT OF TRANSPORTATION

SECTION 59. The purpose and intent of this part is to repeal or reclassify certain non-general funds and accounts of the department of transportation pursuant to the recommendations or commentary by the auditor in auditor's

report no. 19-05 and the accompanying summary and to transfer the unencumbered balances to the general fund.

SECTION 60. Section 264-16, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§264-16~~ **State highway clearing accounts.** The director of transportation may with the prior approval of the director of finance and comptroller establish the state highway payroll clearing account, employee benefits clearing account, construction administration clearing trust account, and any other necessary clearing account or clearing trust account to effectively account for program costs and appropriations.

The director of transportation may, from time to time, make advances to the clearing accounts or clearing trust accounts from the state highway fund or from any moneys appropriated or otherwise made available to the department. The advances shall be in such amounts as may be required to meet the obligations of the department which are authorized by the legislature.

As soon as practicable after an expenditure from a clearing account~~[.]~~ or clearing trust account, a determination shall be made of the proper fund or appropriation to which the expenditure should be charged. The fund or account from which funds are advanced shall thereupon be reimbursed out of the proper fund or appropriation.”

SECTION 61. Section 291C-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

~~“(d) [The director of transportation, through the safe routes to school program coordinator and in consultation with county safe routes to school program coordinators, shall develop a mechanism to provide funds to county safe routes to school programs from the safe routes to school program special fund established under section 291C-4] The legislature shall appropriate funds from the safe routes to school program special fund to the counties to be used for the implementation of county safe routes to school program projects. No later than twenty days prior to the convening of each regular session, each county shall submit to the legislature an annual report on the status and progress of its county safe routes to school program, including an accounting of all grants provided through the program and a timeline for future grant awards.”~~

SECTION 62. Section 291C-4, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§291C-4~~ **Safe routes to school program special fund; establishment.** [(a)] There is established in the state treasury the safe routes to school program special fund, into which shall be deposited:

- (1) Assessments collected for speeding in a school zone, pursuant to section 291C-104; and
- (2) Safe routes to school program surcharges collected in accordance with sections 291-16 and 291C-5.

~~[Moneys in the fund shall be distributed by the director of transportation to the respective counties to expend.~~

~~(b) The director of transportation shall adopt rules pursuant to chapter 91 to implement this section. The rules shall establish a formula by which the moneys in the fund shall be distributed to each county and provide how the county shall expend the moneys for the purposes under [section] 291C-3 in public school zones.]”~~

SECTION 63. Section 264-19, Hawaii Revised Statutes, is repealed.

SECTION 64. The following revolving funds of the department of transportation airports division are reclassified as trust accounts:

- (1) The airport sinking fund for retire term bond revolving fund administratively created in 1969;
- (2) The airport system debt service reserve account revolving fund administratively created in 1969;
- (3) The airport system interest account revolving fund administratively created in 1969;
- (4) The airport system major maintenance, renewal, and replacement account revolving fund administratively created in 1969;
- (5) The airport system serial bond principal account revolving fund administratively created in 1969;
- (6) The debt service funded coverage revolving fund administratively created in 1994;
- (7) The reserve for airline rate mitigation revolving fund administratively created in 1994; and
- (8) The reserve for operating and maintenance expenses revolving fund administratively created in 1994.

SECTION 65. The following revolving funds of the department of transportation harbors division are reclassified as trust accounts:

- (1) The 1997 certificate - harbor interest account revolving fund administratively created in 1997;
- (2) The 1997 certificate - harbor principal account revolving fund administratively created in 1997;
- (3) The 7th supplemental certificate 2010A debt service reserve fund principal revolving fund administratively created in 2010; and
- (4) The harbor extraordinary renewal/replacement reserve account revolving fund administratively created in 1997.

SECTION 66. The risk management fire and casualty losses - harbors trust fund administratively created in 2006 is abolished and any remaining unencumbered balance shall lapse to the credit of the general fund.

SECTION 67. The following revolving funds of the department of transportation highways division are reclassified as trust accounts:

- (1) The highway senior interest account revolving fund administratively created in 1994;
- (2) The highway senior principal account revolving fund administratively created in 1994; and
- (3) The highways accrued payroll overhead revolving fund administratively created in 1983.

SECTION 68. The special deposits - highways trust account administratively created in 1979 is reclassified as a trust fund.

SECTION 69. Any unencumbered balance in the highway senior debt service reserve account revolving fund administratively created in 1994 shall be transferred to the credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

SECTION 70. Any unencumbered balance remaining in the transportation improvement special fund repealed by this part shall be transferred to the

credit of the state highway fund established by section 248-8, Hawaii Revised Statutes.

PART XVI. AUDITOR'S REPORT NO. 21-02, DEPARTMENT OF HUMAN SERVICES

SECTION 71. The purpose of this part is to repeal or reclassify certain non-general funds of the department of human services pursuant to the recommendations of the auditor in auditor report no. 21-02.

SECTION 72. The donations for social services trust account, a trust account that was administratively established and is administered by the department of human services, is reclassified as a trust fund.

SECTION 73. The Kahikolu Ohana O Waianae project, a trust fund that was administratively established in 2007 and is administered by the department of human services, is abolished and any unencumbered balance remaining shall be lapse to the credit of the general fund.

PART XVII. AUDITOR'S REPORT NO. 21-02, HAWAII PUBLIC HOUSING AUTHORITY

SECTION 74. The purpose of this part is to repeal or reclassify certain non-general funds of the Hawaii public housing authority pursuant to the recommendations of the auditor in auditor report no. 21-02.

SECTION 75. Section 356D-11, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) In connection with the development of any public housing dwelling units under this chapter, the authority may also develop commercial and industrial properties and sell or lease other properties if it determines that the uses will be an integral part of the public housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the public housing development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto. The authority may use any funding authorized under this chapter to implement this subsection.

The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing ~~[revolving]~~ special fund established by section 356D-28.”

SECTION 76. Section 356D-28, Hawaii Revised Statutes, is amended to read as follows:

“**§356D-28 Public housing ~~[revolving]~~ special fund.** (a) There is established the public housing ~~[revolving]~~ special fund to be administered by the authority. Notwithstanding section 36-21, the proceeds in the fund shall be used for long-term and other special financings of the authority and for necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged, obligated, or required by law to be placed in any other special fund, shall be deposited into the public housing ~~[revolving]~~ special fund.”

SECTION 77. The financial assistance for housing special fund, a special fund that was administratively established in 2001 and administered by the

Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.

SECTION 78. The HPHA administration revolving fund, administratively established in 1982 and administered by the Hawaii public housing authority, is abolished and any unencumbered balance remaining shall lapse to the credit of the general fund.

PART XVIII. MISCELLANEOUS PROVISIONS

SECTION 79. Except as otherwise provided in this Act, all unencumbered balances in the funds repealed by this Act shall lapse to the credit of the general fund.

SECTION 80. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 81. This Act shall take effect on July 1, 2021; provided that the amendments made to section 712A-16, Hawaii Revised Statutes, in section 57 of this Act shall not be repealed when that section is repealed and reenacted on June 30, 2022, by Act 161, Session Laws of Hawaii 2016.

(Amended by Legislature to meet Governor's objections. Approved July 20, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.