

JAN 23 2006

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. Echoing the sentiment of Act 51 of 2004 (Act
2 51), the legislature reaffirms that education must do no less
3 than advance the endowment of human culture; it is of the utmost
4 importance to collective society. A key component in any plan
5 to improve public education in Hawaii is the provision of proper
6 school facilities that support and enhance academic programs.
7 No public school in the State currently receives sufficient
8 funds to meet all of its staffing, programmatic, or facility
9 maintenance needs. These critical shortfalls must be addressed
10 to ensure that the quality of education received by Hawaii's
11 children is the highest it can be.

12 First, the legislature finds that teachers are the
13 cornerstone of a high-quality education. They are entrusted
14 with the education of Hawaii's children, and those who perform
15 their responsibilities diligently and admirably deserve proper
16 compensation for their efforts.

17 Second, the legislature acknowledges, as it did in Act 51,
18 that the majority of research continues to demonstrate that



1 students from small classes outperform students from larger
2 classes through the eighth grade. Students from smaller classes
3 participate more actively in class, and are less likely to be
4 retained in a grade and referred to special education. Any
5 commitment to improving education and student achievement would
6 include a plan to reduce class size in the lower grades.

7 Third, a 2005 Department of Education (DOE) "Adequacy
8 Funding Study (DOE Study) finds that the state needs to increase
9 funding for schools by seventeen per cent, or by \$278,000,000,
10 over a five-year period, to improve school performance from a
11 mere "baseline" to "adequate." This will increase average per
12 pupil spending from \$8,598 to \$10,117. The DOE Study recommends
13 the largest funding reforms be implemented at the elementary
14 school level because research shows this level to be fundamental
15 to a child's long-term educational development. Additionally,
16 the study calls for an increase in spending in targeted areas of
17 staff enhancement and curriculum development for all elementary,
18 middle, and high schools. Some areas identified for improvement
19 include tutoring, summer school, English for Second Language
20 Learners, special education, and writing programs, available
21 technology, instructional and professional development,
22 counseling and mentoring programs in middle and high schools,



1 and internship program staff at the high school level. The DOE
2 Study found these spending increases would augment the abilities
3 of all schools to offer a quality curriculum that achieves key
4 state and federal educational goals.

5 Fourth, school facilities are insufficient in several
6 areas, including the number of qualified security aides on each
7 campus, the number of working phones and computers per
8 classroom, and the proper electrical and telecommunications
9 infrastructure to support school activities. Additional funding
10 is needed to provide teachers and students with a safe working
11 environment in which to grow and thrive.

12 Fifth, the newest campuses notwithstanding, school repair
13 and maintenance projects have been sacrificed in recent years
14 due to budget constraints. Past practice has been to repair
15 only the most critical, health-threatening conditions that
16 exist, or to tackle the least complicated projects in an effort
17 merely to maintain a basic level of facility operation. This
18 has proved an imprudent course of action that has culminated in
19 a massive school repair and renovation crisis. These neglected
20 maintenance projects cannot be allowed to become further
21 rundown, and even dangerous; they must be addressed with



1 adequate funding so that Hawaii's schools continue to be healthy
2 places of learning.

3 Sixth, the legislature further finds that many state
4 schools stand to lose between tens and hundreds of thousands of
5 dollars in new funding with the impending implementation of the
6 weighted student formula under Act 51. Although the board of
7 education has voted recently to limit shortfalls in the first
8 year to ten percent, by the end of the four-year implementation
9 process, many school campuses will face the full brunt of severe
10 financial losses. Schools forced to bear these losses will
11 undoubtedly suffer a decline in staffing, services, and facility
12 maintenance that their students do not deserve. With adequate
13 funding, this decline can and must be prevented.

14 The purpose of this Act is to appropriate funds to address:

- 15 (1) The need to recognize the continued efforts of
16 teachers by granting an annual increment or longevity
17 increase in salary;
- 18 (2) A reduction in class size in the lower grades over a
19 three-year period;
- 20 (3) The funding shortfalls at the elementary, middle, high
21 school, and central administration levels identified



- 1 by the DOE Study, and the need for a department
- 2 commission to oversee budget implementation;
- 3 (4) The inadequacies of school facilities, including a
- 4 lack of qualified security aides, working telephones
- 5 and computers per classroom, and proper electronic and
- 6 telecommunications infrastructure;
- 7 (5) The backlog of school repair and maintenance projects;
- 8 and
- 9 (6) The budget losses to be produced by the implementation
- 10 of the weighted student formula under Act 51.

11 PART I. TEACHER SALARY INCREASE

12 SECTION 2. Chapter 89, Hawaii Revised Statutes, is amended
13 by adding a new section to be appropriately designated and to
14 read as follows:

15 "§89- Teacher compensation. Except as provided in
16 chapter 302A, an employee of the department of education paid
17 under the salary schedule contained in the unit 05 collective
18 bargaining agreement shall receive an annual increment or
19 longevity increase, as the case may be, for a year's
20 satisfactory service in any fiscal year."

21 SECTION 3. Section 89-9, Hawaii Revised Statutes, is
22 amended to read as follows:

1 **"§89-9 Scope of negotiations; consultation.** (a) [~~The~~]
2 Except as provided in subsection (g), the employer and the
3 exclusive representative shall meet at reasonable times,
4 including meetings sufficiently in advance of the February 1
5 impasse date under section 89-11, and shall negotiate in good
6 faith with respect to wages, hours, the amounts of contributions
7 by the State and respective counties to the Hawaii employer-
8 union health benefits trust fund or a voluntary employees'
9 beneficiary association trust to the extent allowed in
10 subsection (e), and other terms and conditions of employment
11 that are subject to collective bargaining and that are to be
12 embodied in a written agreement as specified in section 89-10,
13 but the obligation does not compel either party to agree to a
14 proposal or make a concession; provided that the parties may not
15 negotiate with respect to cost items as defined by section 89-2
16 for the biennium 1999 to 2001, and the cost items of employees
17 in bargaining units under section 89-6 in effect on June 30,
18 1999, shall remain in effect until July 1, 2001.

19 (b) The employer or the exclusive representative desiring
20 to initiate negotiations shall notify the other party in
21 writing, setting forth the time and place of the meeting desired



1 and the nature of the business to be discussed, sufficiently in
2 advance of the meeting.

3 (c) Except as otherwise provided in this [~~chapter,~~
4 section, all matters affecting employee relations, including
5 those that are, or may be, the subject of a rule adopted by the
6 employer or any director, shall be subject to consultation with
7 the exclusive representatives of the employees concerned. The
8 employer shall make every reasonable effort to consult with
9 exclusive representatives and consider their input, along with
10 the input of other affected parties, prior to effecting changes
11 in any major policy affecting employee relations.

12 (d) Excluded from the subjects of negotiations are matters
13 of classification, reclassification, benefits of but not
14 contributions to the Hawaii employer-union health benefits trust
15 fund or a voluntary employees' beneficiary association trust;
16 recruitment; examination; initial pricing; and retirement
17 benefits except as provided in subsection (g) or section
18 88-8(h). The employer and the exclusive representative shall
19 not agree to any proposal that would be inconsistent with the
20 merit principle or the principle of equal pay for equal work
21 pursuant to section 76-1 or that would interfere with the rights
22 and obligations of a public employer to:



- 1 (1) Direct employees;
- 2 (2) Determine qualifications, standards for work, and the
3 nature and contents of examinations;
- 4 (3) Hire, promote, transfer, assign, and retain employees
5 in positions;
- 6 (4) Suspend, demote, discharge, or take other disciplinary
7 action against employees for proper cause;
- 8 (5) Relieve an employee from duties because of lack of
9 work or other legitimate reason;
- 10 (6) Maintain efficiency and productivity, including
11 maximizing the use of advanced technology, in
12 government operations;
- 13 (7) Determine methods, means, and personnel by which the
14 employer's operations are to be conducted; and
- 15 (8) Take such actions as may be necessary to carry out the
16 missions of the employer in cases of emergencies.

17 The employer and the exclusive representative may negotiate
18 procedures governing the promotion and transfer of employees to
19 positions within a bargaining unit; the suspension, demotion,
20 discharge, or other disciplinary actions taken against employees
21 within the bargaining unit; and the layoff of employees within
22 the bargaining unit. Violations of the procedures so negotiated



1 may be subject to the grievance procedure in the collective
2 bargaining agreement.

3 (e) Negotiations relating to contributions to the Hawaii
4 employer-union health benefits trust fund or a voluntary
5 employees' beneficiary association trust shall be for the
6 purpose of agreeing upon the amounts that the State and counties
7 shall contribute under sections 87A-32 through 87A-37, toward
8 the payment of the costs for a health benefits plan, as defined
9 in section 87A-1 and group life insurance benefits, and the
10 parties shall not be bound by the amounts contributed under
11 prior agreements; provided that section 89-11 for the resolution
12 of disputes by way of arbitration shall not be available to
13 resolve impasses or disputes relating to the amounts the State
14 and counties shall contribute to the Hawaii employer-union
15 health benefits trust fund or a voluntary employees' beneficiary
16 association trust established under chapter 87D.

17 (f) The repricing of classes within an appropriate
18 bargaining unit may be negotiated as follows:

19 (1) At the request of the exclusive representative and at
20 times allowed under the collective bargaining
21 agreement, the employer shall negotiate the repricing
22 of classes within the bargaining unit. The negotiated



1 repricing actions that constitute cost items shall be
2 subject to the requirements in section 89-10.

3 (2) If repricing has not been negotiated under paragraph
4 (1), the employer of each jurisdiction shall ensure
5 establishment of procedures to periodically review, at
6 least once in five years, unless otherwise agreed to
7 by the parties, the repricing of classes within the
8 bargaining unit. The repricing of classes based on
9 the results of the periodic review shall be at the
10 discretion of the employer. Any appropriations
11 required to implement the repricing actions that are
12 made at the employer's discretion shall not be
13 construed as cost items.

14 (g) Notwithstanding subsections (a) and (d) to the
15 contrary, movement between incremental and longevity steps
16 within the salary range for employees in appropriate bargaining
17 unit 05 shall be specified by law, including chapter 302A."

18 SECTION 4. This Act shall not be applied so as to impair
19 any collective bargaining agreement existing as of the effective
20 date of this Act in a manner that would violate either the
21 Hawaii Constitution or Article I, section 10, of the United
22 States Constitution.



PART II. CLASS-SIZE REDUCTION

SECTION 5. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302A- Class size reduction. (a) Subject to the availability of funds appropriated by the legislature and allotted by the governor, the department shall:

(1) Beginning with the 2007-2008 school year, reduce the ratio of students to teachers in kindergarten to not more than eighteen students to one teacher;

(2) Beginning with the 2008-2009 school year, reduce the ratio of students to teachers in grade one to not more than eighteen students to one teacher; and

(3) Beginning with the 2009-2010 school year, reduce the ratio of students to teachers in grade two to not more than eighteen students to one teacher.

(b) If in any year set forth in subsections (a) (1), (2), or (3), the department fails to attain, maintain, or both, the required ratio of students to teachers, and the department submits to the legislature the report required by subsection

(f) :



1 (1) Departmental compliance with the requirements of that
2 paragraph may be delayed until such time as the
3 department reports to the legislature that it is able
4 to comply with the requirements of subsections (a) (1),
5 (2), or (3); provided that in no event shall
6 compliance with the requirements be delayed for more
7 than three years; and

8 (2) The deadline for compliance with the requirements
9 shall be postponed for an amount of time that is equal
10 to the postponement authorized in paragraph (1).

11 (c) The department shall not include any students or
12 teachers in categorical programs when computing the ratio of
13 students to teachers specified in subsection (a). The exemption
14 in subsection (a) shall not apply to the availability of funds
15 allocated by the department.

16 (d) A special education student shall be counted as one
17 full-time student when computing the ratio of students to
18 teachers.

19 (e) If a school will not have the classrooms needed to
20 accommodate the additional classes created by the reductions of
21 the student-to-teacher ratio as specified in subsection (a),



1 then the governor may reallocate the unexpendable operating
2 funds to:

3 (1) Supplement any capital investment funds that may have
4 been appropriated by the legislature to construct
5 permanent or portable classrooms at the school,
6 notwithstanding any other law to the contrary; and

7 (2) Provide additional part-time teachers for the school.

8 (f) The department shall report the failure to attain,
9 maintain, or both, the ratio of students to teachers, including
10 the reasons therefor, to the legislature. The report shall
11 contain a discussion of all planning, programming, and budgeting
12 decisions contributing to the failure and shall be submitted to
13 the legislature not less than twenty days prior to the convening
14 of any regular or special session next occurring after that
15 failure.

16 (g) No funds appropriated for the purpose of class size
17 reduction shall be used for administrative services, regardless
18 of whether these services are provided to students.

19 (h) Each school shall determine through a collaborative
20 process with teachers how funds shall be expended to reduce
21 class size.



1 (i) This section shall apply only to elementary schools
2 and those portions of multi-level or comprehensive schools using
3 elementary school pedagogy.

4 (j) In the event of a conflict between this section and
5 any other law, this section shall control."

6 SECTION 6. The department of education shall develop a
7 phase-in plan for the reduction of class size for grades three,
8 four, and five as follows:

9 (1) Beginning with the 2006-2007 school year, grade three
10 class size shall not be more than twenty-five students
11 per teacher;

12 (2) Beginning with the 2007-2008 school year, grade four
13 class size shall not be more than twenty-five students
14 per teacher; and

15 (3) Beginning with the 2008-2009 school year, grade five
16 class size shall not be more than twenty-five students
17 per teacher.

18 The department shall plan and budget for future classroom
19 expansion and construction to accommodate this policy.

20 Initially, the department shall be prepared to address the
21 challenge creatively until the new construction has been
22 completed.



1 SECTION 7. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$, or so
3 much thereof as may be necessary for fiscal year 2006-2007, to
4 reduce the ratio of students to teachers in all public
5 elementary schools from kindergarten through grade two to
6 eighteen students per teacher, over the next three years
7 beginning with school year 2006-2007.

8 The sums appropriated shall be expended by the department
9 of education for the purposes of this Act.

10 SECTION 8. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2006-2007 to
13 phase in the reduction of class sizes in all public elementary
14 schools for grades three through five to twenty-five students
15 per teacher, over the next three years beginning with school
16 year 2006-2007.

17 The sums appropriated shall be expended by the department
18 of education for the purposes of this Act.

19 SECTION 9. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$, or so
21 much thereof as may be necessary for fiscal year 2006-2007, to
22 hire part-time teachers, tutors, or both, for public elementary



1 schools to fulfill the needs of this part; provided that no
2 public elementary school shall receive more than \$10,000
3 pursuant to this section.

4 The sums appropriated shall be expended by the department
5 of education for the purposes of this Act.

6 SECTION 10. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$, or so
8 much thereof as may be necessary for fiscal year 2006-2007, to
9 hire part-time teachers, tutors, or both, in public intermediate
10 schools to fulfill the needs of this part; provided that no
11 public intermediate school shall receive more than \$15,000
12 pursuant to this section.

13 The sums appropriated shall be expended by the department
14 of education for the purposes of this Act.

15 SECTION 11. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$, or so
17 much thereof as may be necessary for fiscal year 2006-2007, to
18 hire additional part-time teachers, aides, or both, when the
19 one-to-twenty-five ratio is exceeded in grades three to five in
20 public schools.

21 The sums appropriated shall be expended by the department
22 of education for the purposes of this Act.



1 PART III. DOE ADEQUACY FUNDING STUDY

2 SECTION 12. The DOE Study recommends a five-year, phased
3 implementation of its budget increase to be applied at the
4 elementary, middle, high school, and central administrative
5 levels. These funding recommendations include the institution
6 of the following items for elementary schools over a five-year
7 period:

8 (a) A Positive Behavioral Support (PBS) System to improve
9 discipline and classroom communication;

10 (b) Summer school classes with academic focus on students
11 in the bottom forty per cent of each grade from kindergarten to
12 grade five;

13 (c) A mentoring program for new teachers;

14 (d) Targeting reading and math programs in grades one to
15 three;

16 (e) A teacher leadership development program;

17 (f) An increase in tutoring in reading and math in grades
18 four and five;

19 (g) The hiring of instructional improvement coordinators
20 to organize and conduct professional development for teachers;

21 (h) Supplemental teacher training in reading and math;



1 (i) Additional support for high-needs special education
2 students to meet No Child Left Behind standards; and

3 (j) Intensive language acquisition program for ESLL
4 students by reducing student-teacher ratio.

5 The DOE Study recommends the institution of the following
6 items for middle schools over a five-year period:

7 (a) A PBS System;

8 (b) A mentoring program for new teachers;

9 (c) Increased campus security to improve students' sense
10 of safety and well-being;

11 (d) A "default core" curriculum into which all students
12 are enrolled unless they opt out;

13 (e) A closely articulated math curriculum so that progress
14 may be measured appropriately;

15 (f) A reading program focused on informational texts,
16 charts, graphs, diagrams, and data arrays across the curriculum;

17 (g) The hiring of instructional improvement coordinators
18 for teacher professional development;

19 (h) The improvement of counseling services to help
20 diagnose students with out-of-classroom issues that are
21 preventing them from meeting standards; and

22 (i) The creation of small learning communities.



1 The DOE Study recommended the institution of the following
2 items for high schools over a five-year period:

- 3 (a) A PBS System;
- 4 (b) Increased campus security;
- 5 (c) A mentoring program for new teachers;
- 6 (d) The creation of small learning communities, including
7 career academies;
- 8 (e) A teacher leadership development program;
- 9 (f) The hiring of instructional improvement coordinators
10 to support teacher professional development;
- 11 (g) The staffing of a community-based internship program
12 and a student-run business program;
- 13 (h) A reading program focused on informational texts,
14 charts, graphs, diagrams, and data arrays across the curriculum;
- 15 (i) A more intensive student writing program, including
16 multiple five-page research papers;
- 17 (j) An increase in Advanced Placement (AP) enrollment and
18 passage rate on AP examinations; and
- 19 (k) An increase in post-secondary options through a dual
20 enrollment program.



1 SECTION 13. There is established in the state treasury the
2 adequacy funding special fund, into which shall be deposited
3 appropriations made by the legislature to the fund.

4 SECTION 14. There is appropriated out of the general
5 revenues of the State of Hawaii to the adequacy funding special
6 fund the sum of \$278,000,000 to fulfill the budget shortfalls
7 identified by the DOE Study described in brief by this part.

8 SECTION 15. There is established within the department of
9 education for administrative purposes the adequacy funding
10 commission consisting of ____ members appointed by the governor
11 as provided in section 26-34. ____ of the members shall be
12 appointed from a list of ____ nominees submitted by the speaker
13 of the house of representatives and ____ shall be appointed from
14 a list of ____ nominees submitted by the president of the
15 senate. The members of the adequate funding commission shall
16 serve without compensation but shall be reimbursed for expenses,
17 including travel expenses, necessary for the performance of
18 their duties.

19 PART IV. SAFE SCHOOL ENVIRONMENT

20 SECTION 16. A safe working environment for every teacher
21 and student in any classroom shall include:

22 (a) Qualified security aides in each campus;



1 (b) A working telephone in every classroom;

2 (c) A proper and functioning electrical and
3 telecommunications infrastructure sufficient to support school
4 activities; and

5 (d) An adequate number of computers in every classroom.

6 SECTION 17. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$, or so
8 much thereof as may be necessary for fiscal year 2006-2007, to
9 meet the needs listed in this part for all public schools.

10 PART V. SCHOOL REPAIR AND MAINTENANCE

11 SECTION 18. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$160,000,000, or so
13 much thereof as may be necessary for fiscal year 2006-2007, to
14 carry out the backlog of repair and maintenance projects at all
15 public school facilities.

16 PART VI. BUDGET RESTORATION UNDER ACT 51

17 SECTION 19. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$, or so
19 much thereof as may be necessary for fiscal year 2006-2007, to
20 restore to pre-implementation levels all public school budgets
21 which will lose funding through the implementation of the
22 weighted student formula.



1 SECTION 20. All sums appropriated shall be expended by the
2 department of education for the purposes of this Act.

3 SECTION 21. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 22. This Act shall take effect on July 1, 2006.

6

INTRODUCED BY: Shannon Cunniff
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7

SB2171

Report Title:

Schools; Repair and Maintenance; Appropriation

Description:

Appropriates funds to alleviate the budget shortfall identified by the DOE-sponsored "Adequacy Funding Study" and the backlog of school repair and maintenance projects; to provide a safe school environment; and to restore school budgets post-Act 51 implementation.

