

JAN 17 2007

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§302A- Schools education special fund. (a) There is
5 established within the state treasury a schools education
6 special fund. The moneys in the schools education special fund
7 shall be administered and expended by the department accordance
8 with this section.

9 (b) The department may expend moneys in the schools
10 education special fund for exigencies, without authorization by
11 the legislature, if:

12 (1) Other funding sources for a particular problem or
13 project are nonexistent or inadequate; and

14 (2) The department determines that use of the moneys is
15 appropriate under the circumstances.

16 (c) The fund shall consist of:



1 (1) Unexpended and unencumbered moneys transferred from
2 other special funds established under this chapter and
3 sections 36-32, 36-35, and 36-36 at the end of each
4 fiscal year; provided that the moneys shall be
5 deposited into the schools education special fund
6 without lapsing into the general fund and without
7 appropriation by the legislature, notwithstanding any
8 law to the contrary; and

9 (2) Such other moneys appropriated into the schools
10 education special fund.

11 (d) The department shall report to the legislature no
12 later than twenty days prior to the convening of each regular
13 session on the receipts, expenditures, and current balance of
14 the schools education special fund."

15 SECTION 2. Section 36-32, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§36-32 State educational facilities improvement special**
18 **fund.** (a) There is created in the treasury of the State the
19 state educational facilities improvement special fund, into
20 which shall be deposited a portion of all general excise tax
21 revenues collected by the department of taxation under section
22 237-31. The special fund shall be used solely to plan, design,



1 acquire lands for and to construct public school facilities and
2 to provide equipment and technology infrastructure to improve
3 public schools and other facilities under the jurisdiction of
4 the department of education, except public libraries. In
5 addition, activities of the department of education intended to
6 eliminate the gap between the facility needs of schools and
7 available resources shall be eligible for funding from the
8 special fund. Expenditures from the special fund shall be
9 limited to projects authorized by the legislature and shall be
10 subject to sections 37-31, and 37-33 [~~through~~] to 37-40.
11 Appropriations or authorizations from the special fund shall be
12 expended by the superintendent of education.

13 (b) All unexpended and unencumbered moneys remaining in
14 the special fund created under this section at the end of each
15 fiscal year in which the moneys are appropriated or as may be
16 otherwise eligible for lapsing by law shall be transferred to
17 the schools education special fund under section 302A- without
18 lapsing into the general fund.

19 [~~(b)~~] (c) The department of education shall submit an
20 annual report to the legislature that shall include a financial
21 statement of the special fund and the status of projects



1 undertaken pursuant to this section, no later than twenty days
2 prior to the convening of each regular session."

3 SECTION 3. Section 36-35, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§36-35 State educational facilities repair and**
6 **maintenance account.** (a) There is created in the state general
7 fund under EDN 400 (school support) the state educational
8 facilities repair and maintenance account, into which shall be
9 deposited legislative appropriations to the account designated
10 for use solely to eliminate the backlog of school repair and
11 maintenance projects, including the repair or replacement of
12 fixtures, furnishings, and equipment, existing on June 30, 2000.
13 Expenditures from the account shall be subject to sections 37-31
14 and 37-33 to 37-40. Based on the prioritization approved by the
15 department of education as prescribed by section 302A-1505,
16 appropriations or authorizations from the account shall be
17 expended by the superintendent of education.

18 (b) The department of education shall review the existing
19 condition of school facilities and establish specific vision
20 plans for each school complex based on current repair and
21 maintenance requirements and overall repair and maintenance
22 priorities.



1 (c) Criteria used to establish current repair and
2 maintenance requirements may include:

3 (1) The remaining useful life of the school facility and
4 its major components;

5 (2) The adjusted life of the school facility and its major
6 components after repair or maintenance; and

7 (3) The current and future repair and maintenance
8 requirements of the school facility and its components
9 based on established industry standards or product
10 manufacturer recommendations;

11 provided that demolition of a facility or any of its components
12 may be recommended if the cost of the repairs do not justify the
13 adjusted life or remaining life of the facility.

14 (d) Criteria used to establish overall repair and
15 maintenance requirements may include:

16 (1) Whether a school facility will continue to be used for
17 the next twenty-five years; and

18 (2) Whether a repair or maintenance project is required:

19 (A) For health or safety reasons;

20 (B) To comply with legal mandates;

21 (C) To comply with current building codes; or

22 (D) For preventive maintenance reasons;



1 provided that in developing criteria, consideration shall be
2 given to school facilities that were more than twenty-five years
3 of age on July 1, 2000.

4 (e) The expenditure of funds for any project with an
5 estimated total cost of less than \$100,000 shall be exempt from
6 section 464-4; provided that:

7 (1) The superintendent of education shall develop internal
8 policies and procedures for the procurement of goods,
9 services, and construction, consistent with the goals
10 of public accountability and public procurement
11 practices;

12 (2) Insofar as is practical, and based on specifications
13 developed, adequate and reasonable competition of no
14 fewer than three proposals shall be solicited for each
15 project, based on rules adopted by the superintendent
16 of education;

17 (3) Considering all factors, including quality, warranty,
18 and delivery, the award shall be made to the vendor
19 with the most advantageous proposal;

20 (4) The procurement requirements shall not be artificially
21 divided or parceled so as to avoid competitive bidding
22 or competitive proposals; and



1 (5) Formal design for projects shall be done when there is
2 a clear need to preserve structural integrity, health
3 and safety, or to clearly communicate construction
4 requirements.

5 For all projects, the superintendent of education shall
6 develop a strategy for the efficient and cost-effective use of
7 government and private-sector workforces and consider increased
8 flexibility through public-private partnering, design-build
9 options, cost plus, job order contracts, performance-based
10 contracts, request for proposals, and any other means to improve
11 communications and accelerate repairs while preserving the
12 quality of the repairs.

13 (f) The superintendent of education shall ensure that all
14 repair and maintenance projects achieve maximum cost-efficiency
15 by emphasizing functional or performance criteria, uniformity of
16 design, and commonality of products, and by avoiding unique or
17 custom requirements that increase costs. The superintendent of
18 education shall develop project specifications based on generic
19 specifications or prescriptive specifications using standard
20 commercial products. Prescriptive specifications may include a
21 qualified product list.

22 For the purposes of this subsection:



1 "Generic specification" means a technical specification
2 that is written in a clear, unambiguous, and nonrestrictive
3 manner establishing:

- 4 (1) Design, performance, or functional requirements to
5 identify the work to be performed; and
- 6 (2) Material standards to be used on a project.

7 "Prescriptive specification" means a technical
8 specification:

- 9 (1) Establishing that the required work to be performed is
10 written in a clear, unambiguous, and nonrestrictive
11 manner; and
- 12 (2) Listing manufacturers or products that are acceptable
13 for use on the project.

14 "Standard commercial product" means a product or material
15 that in the normal course of business is customarily maintained
16 in stock by, or readily available for marketing from a
17 manufacturer, distributor, or dealer.

18 This subsection shall not apply to any school facility
19 designated a historic property pursuant to section 6E-5.5.

20 (g) All unexpended and unencumbered moneys remaining in
21 the account created under this section at the end of each fiscal
22 year in which the moneys were appropriated or as may be



1 otherwise eligible for lapsing by law shall be transferred to
2 the schools education special fund under section 302A- without
3 lapsing into the general fund.

4 [~~g~~] (h) The superintendent of education shall submit an
5 annual report to the legislature, which shall include a
6 financial statement of the account and the status of repair and
7 maintenance projects undertaken pursuant to this section, no
8 later than twenty days prior to the convening of each regular
9 session. Expenditures for repair and maintenance projects
10 undertaken pursuant to this section shall be posted
11 electronically on the Internet by the department of education
12 within thirty days of each project's completion.

13 [~~h~~] (i) This section shall be repealed on July 1, 2020."

14 SECTION 4. Section 36-36, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§36-36 School physical plant operations and maintenance**
17 **account; maintenance schedule.** (a) There is created in the
18 state general fund under EDN 400 (school support) the school
19 physical plant operations and maintenance account, into which
20 shall be deposited all legislative appropriations to the
21 account.



1 The moneys in the account shall be used solely for school
2 repairs and preventive maintenance projects scheduled after
3 June 30, 2001. Expenditures from the account shall be subject
4 to sections 37-31 and 37-33 to 37-40. Based on the
5 prioritization approved by the department of education as
6 prescribed by section 302A-1505, appropriations or
7 authorizations from the account shall be expended by the
8 superintendent of education.

9 (b) Every school facility newly constructed or renovated
10 after June 30, 2001, shall include a preventive maintenance
11 schedule prepared by the architect or engineer of the facility
12 or the capital improvement project. The maintenance schedule
13 shall include:

- 14 (1) A description of each major component of a facility or
15 capital improvement project and the component's
16 maintenance;
- 17 (2) The starting date of each maintenance project;
- 18 (3) The current, future, and any recurring cost of each
19 maintenance project;
- 20 (4) The useful life of the facility or capital improvement
21 project;



1 (5) The present value of the cost of normally scheduled
2 maintenance over the useful life of the facility;

3 (6) The adjusted life of the facility or capital
4 improvement project; and

5 (7) The replacement date of the facility or capital
6 improvement project.

7 (c) Moneys in physical plant operations and maintenance
8 account shall be allocated according to departmental school
9 districts based on:

10 (1) Estimated preventive and scheduled maintenance costs
11 that reflect the age and condition of existing school
12 facilities in the State in the following categories:
13 re-roofing, electrical, athletic facilities, re-
14 surfacing, equipment, exterior painting, plumbing,
15 structural integrity, termite ground treatment,
16 termite tent treatment, interior painting, air
17 conditioning change out, and re-carpeting; and

18 (2) Budgeted recurring maintenance, health and safety
19 requirements, and legal mandates.

20 (d) The expenditure of funds made under this [Act] section
21 for any project with an estimated total cost of less than
22 \$100,000 shall be exempt from section 464-4; provided that:



- 1 (1) The superintendent of education shall develop internal
2 policies and procedures for the procurement of goods,
3 services, and construction, consistent with the goals
4 of public accountability and public procurement
5 practices, subject to chapter 103D;
- 6 (2) Insofar as is practical, and based on specifications
7 developed, adequate and reasonable competition of no
8 fewer than three quotations shall be solicited for
9 each project based on rules adopted by the
10 superintendent of education;
- 11 (3) Considering all factors, including quality, warranty,
12 and delivery, the award shall be made to the vendor
13 with the most advantageous quotation;
- 14 (4) The procurement requirements shall not be artificially
15 divided or parceled so as to avoid competitive bidding
16 or competitive proposals; and
- 17 (5) Formal design for projects shall be done when there is
18 a clear need to preserve structural integrity, health
19 and safety, or to clearly communicate construction
20 requirements.
- 21 (e) All unexpended and unencumbered moneys remaining in
22 the account created under this section at the end of each fiscal



1 year in which the moneys were appropriated or as may be
2 otherwise eligible for lapsing by law shall be transferred to
3 the schools education special fund under section 302A- without
4 lapsing into the general fund.

5 [~~e~~] (f) The superintendent of education shall submit an
6 annual report to the legislature, which shall include a
7 financial statement of the account and the status of school
8 repair and preventive maintenance projects undertaken pursuant
9 to this section, no later than twenty days prior to the
10 convening of each regular session. The department of education
11 shall post the following reports electronically on the Internet
12 and update them quarterly:

13 (1) Expenditures for school repair and preventive
14 maintenance projects undertaken pursuant to this
15 section, shall be posted within thirty days of each
16 project's completion; and

17 (2) A list of each school's repair and maintenance needs
18 to be undertaken."

19 SECTION 5. Section 302A-1504, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Funds in the account shall be expended at the
22 direction of the school principal to contract for minor repairs



1 and maintenance. Notwithstanding any other law to the contrary,
2 special funds appropriated for this purpose that are
3 unencumbered at the close of each fiscal year in the account
4 shall not lapse until June 30 of the first fiscal year of the
5 next fiscal biennium[-], at which time all unexpended and
6 unencumbered moneys shall be transferred to the schools
7 education special fund under section 302A- without lapsing
8 into the general fund. The department shall submit:

9 (1) A report to the director of finance, ninety days after
10 the close of each fiscal year, which shall be prepared
11 in the form prescribed by the director of finance and
12 shall identify the total amount of funds in the
13 account that shall carry over to the next fiscal year;
14 and

15 (2) A copy of this report to the legislature at least
16 twenty days prior to the convening of each regular
17 session of the legislature."

18 SECTION 6. Section 302A-1504.5, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "§302A-1504.5 School-level minor repairs and maintenance
21 special fund. (a) There is established within the state
22 treasury a special fund to be known as the school-level minor



1 repairs and maintenance special fund, into which shall be
2 deposited all moneys collected pursuant to section 235-102.5(b),
3 and any other moneys received by the department in the form of
4 grants and donations for school-level minor repairs and
5 maintenance. The special fund shall be administered by the
6 department and used to fund school-level minor repairs and
7 maintenance.

8 (b) All unexpended and unencumbered moneys remaining in
9 the special fund established under this section at the end of
10 each fiscal year in which the moneys are appropriated or as may
11 be otherwise eligible for lapsing by law shall be transferred to
12 the schools education special fund under section 302A- without
13 lapsing into the general fund."

14 SECTION 7. Section 302A-1508, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[+]§302A-1508[+]~~ **Education design and construction**
17 **project assessment fund.** (a) There shall be established in the
18 department a revolving fund to be known as the education design
19 and construction project assessment fund for the purpose of
20 defraying the costs of:

21 (1) Carrying out construction projects managed by the
22 department;



1 (2) Managing funds representing accumulated vacation and
2 sick leave credits and retirement benefits for non-
3 general fund employees in the construction program in
4 accordance with section 78-23;

5 (3) Equitably collecting and distributing moneys for other
6 current expenses associated with capital improvement,
7 repairs and maintenance, and repairs and alterations
8 projects; and

9 (4) Managing payments for employee transportation
10 requirements such as car mileage reimbursements in
11 accordance with applicable law and collective
12 bargaining agreements.

13 (b) The superintendent shall assess construction projects
14 managed by the department based on the superintendent's
15 evaluation of the costs of services for capital improvements,
16 repairs and maintenance, and repairs and alterations projects.
17 All assessments collected shall be deposited into the education
18 design and construction project assessment fund.

19 (c) All expenditures from the education design and
20 construction project assessment fund shall be made by the
21 superintendent in accordance with applicable law and rules.



1 (d) All unexpended and unencumbered moneys remaining in
 2 the fund established under this section at the end of each
 3 fiscal year in which the moneys are appropriated or as may be
 4 otherwise eligible for lapsing by law shall be transferred to
 5 the schools education special fund under section 302A- without
 6 lapsing into the general fund."

7 SECTION 8. There is appropriated out of the general
 8 revenues of the State of Hawaii the sum of \$, or so
 9 much thereof as may be necessary for fiscal year 2007-2008, for
 10 start-up moneys to be deposited into the schools education
 11 special fund created under this Act.

12 SECTION 9. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 10. This Act shall take effect on July 1, 2007.

15

INTRODUCED BY:

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Report Title:

Education; Schools Education Special Fund

Description:

Creates the schools education special fund under the department of education to hold unexpended and unencumbered moneys from other education special funds and accounts instead of lapsing into the general fund. Moneys to be used for emergencies or as needed. Makes start-up appropriation.

