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AMENDMENT TO: Senate Bill No. 2124, Senate Draft 2, House Draft 1  
HOUSE OF  
REPRESENTATIVES  
OFFERED BY: Representative Gene Ward *GW*

DATE: April 6<sup>th</sup>, 2010

SECTION 1. Senate Bill No. 2124, Senate Draft 2, House Draft 1, is amended by amending Section 1, to read as follows:

"SECTION 1. Hawaii is facing one of the most challenging economic times it has ever faced and these economic conditions have necessitated difficult decisions by the State to balance an already precarious budget. One such decision reached through collective bargaining between the Governor, the Board of Education, the Department of Education, and the Hawaii State Teachers Association, was to institute furlough days for Hawaii's educational system. As a result of this agreement,

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<i>Munishi</i>		<i>4/6-2010</i>
CHIEF CLERK, HOUSE OF REPRESENTATIVES		

Hawaii's keiki have already lost nearly three weeks worth of instructional days during the current school year and are scheduled to lose anywhere from seventeen to twenty-one more days during the next school year.

The loss of these instructional days may have a tremendous impact on the youth of our state. It may be devastating to the quality of their education and a loss which may last them a lifetime. In addition to the effect on our youth, these lost days may have far reaching effects on the prosperity, health, and growth of the entire state for years to come.

Despite the State's economic difficulties and the great need for additional resources in many areas that would benefit the public welfare, the legislature finds that the education of our youth is of the utmost importance. Accordingly, your Committee is loaning Hawaii Hurricane Relief Funds to the general fund to restore instructional days for the 2009-2010 and 2010-2011 school years that would be lost to furloughs. By providing these funds, the legislature is enabling a return of our students to the classroom.

As required by the Hawaii Constitution, the legislature's authority and responsibility is to establish funding priorities that will result in a balanced budget. In our current fiscal climate it is difficult to balance the many needs of the people of Hawaii, but the legislature has made the educational needs of

Hawaii's children a top priority and therefore has appropriated these funds to restore instructional days. In doing so, it is not the intent of the legislature to become a participant in the collective bargaining process. In fact, the Hawaii Constitution forbids this. The legislature's role is to reject or approve funding for the cost items agreed to by collective bargaining.

The legislature declares that the loan made under this Act shall not be construed to mean that the legislature, in any way, intends to interfere with the processes of public sector collective bargaining as authorized under the state constitution and chapter 89, Hawaii Revised Statutes.

The purpose of this Act is to loan Hawaii hurricane relief funds to restore instructional days for the 2009-2010 and 2010-2011 school years that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes, and a proportionate amount on a per-pupil basis to alleviate the impact of reductions to charter schools for the 2009-2010 and 2010-2011 school years."

**SECTION 2. Senate Bill No. 2124, Senate Draft 2, House Draft 1, is amended by adding a new Part I, to read as follows:**

**"PART I**

**SECTION 2. Section 431P-16, Hawaii Revised Statutes, is amended as follows:**

1. By amending subsection (g) to read:

"(g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds issued pursuant to this chapter loaned by the director to the Hawaii hurricane relief fund, any repayment of principal and interest on loans to the general fund, and other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund."

2. By amending subsection (i) to read:

"(i) Moneys in the hurricane reserve trust fund may be:

(1) Disbursed upon dissolution of the Hawaii hurricane relief fund; provided that:

(A) The net moneys in the hurricane reserve trust fund shall revert to the state general fund after payments by the fund on behalf of licensed property and casualty insurers or the State that are required to be made pursuant to any federal disaster insurance program enacted to provide insurance or reinsurance for hurricane risks are completed; and

(B) If such moneys are paid on behalf of licensed property and casualty insurers, payment shall be made in proportion to the premiums from policies of hurricane property insurance serviced by the

insurers in the twelve months prior to  
dissolution of the fund; or

- (2) [~~Deposited to the loss mitigation grant fund  
established under section 431:22-102;~~] Loaned to the  
general fund pursuant to legislative act and expended  
in place of previously appropriated general funds;

provided that all interest earned from the principal in the  
hurricane reserve trust fund shall be transferred and deposited  
into the general fund each year that the hurricane reserve trust  
fund remains in existence.

Any legislative act that provides for the loan of moneys  
from the Hawaii hurricane reserve trust fund to the general fund  
shall also provide for the repayment of half of the principal of  
and, if any, interest due and owing on the loan by June 30,  
2015, and the repayment of the remaining half of the principal  
of and, if any, interest due and owing on the loan by June 30,  
2017. As the means of repayment, the legislative act may  
dedicate general revenues from an existing or new tax or fee.  
If the principal and interest are not fully repaid by the  
applicable deadlines, the director of finance shall transfer the  
delinquent amount from the general fund to the Hawaii hurricane  
reserve trust fund. No penalty shall be charged on any  
delinquent principal or interest. The director shall make the  
transfer or transfers without necessity of appropriation or any

other legislation. Notwithstanding the foregoing, all or a portion of the principal of and, if any, interest due and owing on the loan may be repaid at any time prior to the applicable deadlines without penalty."

SECTION 3. Section 431P-16.5, Hawaii Revised Statutes, is amended to read as follows:

**"[+]§431P-16.5[+] Transfer or loan of funds; immunity.**

There shall be no cause of action, claim for damages or relief, charge, or any other liability of any kind whatsoever created against the State, the Hawaii hurricane relief fund, the commissioner, or their respective agents, employees, or board, by, or relating to~~[, the]~~:

(1) The transfer of any moneys from the hurricane reserve trust fund to the loss mitigation grant fund or from the loss mitigation grant fund to the hurricane reserve trust fund or involving the loss mitigation grant program~~[-]~~; or

(2) The loan of any moneys from the hurricane reserve trust fund to the general fund."

SECTION 3. Senate Bill No. 2124, Senate Draft 2, House Draft 1, is amended by adding a new Part II, to read as follows:

"PART II

SECTION 4. Notwithstanding provisions of chapter 431P, Hawaii Revised Statutes, to the contrary, there is appropriated

out of the Hawaii hurricane relief fund the sum of \$16,533,333 or so much thereof as may be necessary for fiscal year 2009-2010 to restore instructional days for the 2009-2010 school year that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes; provided that:

- (1) The funds appropriated by this Act shall only be released upon the completion of all negotiations of parties necessary to execute the restoration of instructional days pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes;
- (2) Of the sum appropriated, \$691,289 shall be allocated to charter schools for the 2009-2010 school year to alleviate the impact of funding reductions for the 2009-2010 fiscal year;
- (3) Of the sum appropriated, \$15,842,044 shall be allocated to non-charter schools for the 2009-2010 school year to alleviate the impact of funding reductions for the 2009-2010 fiscal year;
- (4) Notwithstanding section 37-41.5, Hawaii Revised Statutes, funds appropriated for the 2009-2010 school year that are not expended at the close of that school year shall not be carried over to the following school

year and shall lapse into the Hawaii hurricane relief fund; and

- (5) The funds appropriated by this Act shall be treated as a loan pursuant to the provisions of sections 431P-16 and 431P-16.5, as amended by this Act.

The sum appropriated under this section shall be expended by the department of education and the charter school administrative office, respectively, for the purposes of this Act.

SECTION 5. Notwithstanding provisions of chapter 431P, Hawaii Revised Statutes, to the contrary, there is appropriated out of the Hawaii hurricane relief fund the sum of \$45,466,667 or so much thereof as may be necessary for fiscal year 2010-2011 to restore instructional days for the 2010-2011 school year that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes; provided that:

- (1) The funds appropriated by this Act shall only be released upon the completion of all negotiations of parties necessary to execute the restoration of instructional days pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes;



- (2) Of the sum appropriated, \$1,901,045 shall be allocated to charter schools for the 2010-2011 school year to alleviate the impact of funding reductions for the 2010-2011 fiscal year;
- (3) Of the sum appropriated, \$43,565,622 shall be allocated to non-charter schools for the 2010-2011 school year to alleviate the impact of funding reductions for the 2010-2011 fiscal year; and
- (4) Notwithstanding section 37-41.5, Hawaii Revised Statutes, funds appropriated for the 2010-2011 school year that are not expended at the close of that school year shall not be carried over to the following school year and shall lapse into the Hawaii hurricane relief fund; and
- (5) The funds appropriated by this Act shall be treated as a loan pursuant to the provisions of sections 431P-16 and 431P-16.5, as amended by this Act.

The sum appropriated under this section shall be expended by the department of education and the charter school administrative office, respectively, for the purposes of this Act."

**SECTION 4.** Senate Bill No. 2124, Senate Draft 2, House Draft 1, is amended by renumbering the subsequent remaining sections and amending them to read as follows:

"SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that sections 4 and 5 shall take effect on July 1, 2010, and that Part I of this Act shall be repealed on July 1, 2017; provided that:

- (1) Sections 431P-16 and 431P-16.5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective day of this Act; and
- (2) The repeal of this Act shall not affect the obligation of the State to repay any loan or portion thereof made from the Hawaii hurricane relief fund pursuant to this Act."