
A BILL FOR AN ACT

RELATING TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL
FUND.

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

1 SECTION 1. Section 37D-2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) There is hereby established and authorized the
4 financing agreement program of the State. Any agency desiring
5 to acquire or improve projects through the financing agreement
6 program established and authorized by this chapter shall submit
7 a written request to the department providing any information
8 that the department shall require. Notwithstanding any other
9 law to the contrary, and except for the Hawaii health systems
10 corporation and its regional system boards, only with the
11 approval by the attorney general as to form and legality and
12 upon the written request of one or more agencies may the
13 department enter into a financing agreement in accordance with
14 this chapter, and only with the approval by the attorney general
15 as to form and legality, and by the director as to fiscal
16 responsibility, and upon the written request of an agency, the
17 agency may enter into a financing agreement in accordance with



1 this chapter [~~except that the department of education may enter~~
2 ~~into a financing agreement in accordance with section 36-32 with~~
3 ~~the concurrence of the director and with the approval of the~~
4 ~~attorney general as to form and legality~~]; and that the board of
5 regents of the University of Hawaii may enter into a financing
6 agreement in accordance with this chapter without the approval
7 of the director and of the attorney general as to form and
8 legality if the principal amount of the financing agreement does
9 not exceed \$3,000,000. A financing agreement may be entered
10 into by the department on behalf of one or more agencies, or by
11 an agency, at any time (before or after commencement or
12 completion of any improvements or acquisitions to be financed)
13 and shall be upon terms and conditions the department finds to
14 be advantageous. In each case of a written request by the
15 judiciary to participate in the financing agreement program, the
16 department shall implement the request; provided that the
17 related financing agreement shall be upon terms and conditions
18 the department finds to be advantageous. Any financing
19 agreement entered into by the department without the approval,
20 or by an agency without the approvals required by this section
21 shall be void and of no effect. A single financing agreement
22 entered into by the department may finance a single item or



1 multiple items of property to be used by multiple agencies or
2 may finance a single item or multiple items of property to be
3 used by a single agency. If the financing agreement is by the
4 department, the department shall bill any agency that benefits
5 from property acquired with the proceeds of a financing
6 agreement for the agency's pro rata share of:

- 7 (1) The department's costs of administration of the
8 financing agreement program; and
- 9 (2) The financing costs, including the principal and
10 interest components of the financing agreement and
11 insurance premiums,
12 on a monthly or other periodic basis, and may deposit payments
13 received in connection with the billings with a trustee as
14 security for the financing agreement. Any agency receiving such
15 a bill shall be authorized and shall pay the amounts billed from
16 available moneys.

17 If a financing agreement is by an agency, the agency shall
18 deposit on a monthly or other periodic basis with the
19 department, payments from available moneys with respect to the
20 agency's financing costs, including the principal and interest
21 components of the financing agreement and insurance premiums,
22 which payments the department may deposit with a trustee as



1 security for the financing agreement. The department may bill
2 an agency for the department's costs of administering the
3 agency's payments and the agency receiving such a bill shall be
4 authorized to and shall pay the amounts billed from available
5 moneys."

6 SECTION 2. Section 36-32, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§36-32—State educational facilities improvement special~~
9 ~~fund. (a) There is created in the treasury of the State the~~
10 ~~state educational facilities improvement special fund, into~~
11 ~~which shall be deposited a portion of all general excise tax~~
12 ~~revenues collected by the department of taxation under section~~
13 ~~237-31. The special fund shall be used solely to plan, design,~~
14 ~~acquire lands for, and to construct public school facilities and~~
15 ~~to provide equipment and technology infrastructure to improve~~
16 ~~public schools and other facilities under the jurisdiction of~~
17 ~~the department of education, except public libraries. In~~
18 ~~addition, activities of the department of education intended to~~
19 ~~eliminate the gap between the facility needs of schools and~~
20 ~~available resources shall be eligible for funding from the~~
21 ~~special fund. Expenditures from the special fund shall be~~
22 ~~limited to projects authorized by the legislature and shall be~~



1 ~~subject to sections 37-31, and 37-33 through 37-40.~~
2 ~~Appropriations or authorizations from the special fund shall be~~
3 ~~expended by the superintendent of education.~~

4 ~~(b) There is established within the state educational~~
5 ~~facilities improvement special fund a separate account, to be~~
6 ~~known as the lease payments for schools account, for lease~~
7 ~~payments required by financing agreements entered into by the~~
8 ~~department of education pursuant to this section and sections~~
9 ~~37D-2 and 302A-1506. The lease payments for schools account~~
10 ~~shall be funded by legislative appropriations and expended by~~
11 ~~the superintendent of education. Expenditures from the lease~~
12 ~~payments for schools account shall be exempt from chapters 103~~
13 ~~and 103D and are restricted to lease payments on new schools~~
14 ~~included within the department of education's current six year~~
15 ~~capital improvement programs and for which:~~

- 16 ~~(1) The legislature adopted a concurrent resolution~~
17 ~~directing the department of education to:~~
- 18 ~~(A) Build a new school in a specific geographic area~~
19 ~~using the design-build method; and~~
 - 20 ~~(B) Pursue the use of a financing agreement to build~~
21 ~~the new school; or~~



1 ~~(2) The legislature appropriated planning and design funds~~
2 ~~and specified that the remainder of the costs~~
3 ~~necessary to complete the project are eligible for~~
4 ~~funding through a financing agreement;~~
5 ~~provided that any school to which the legislature has~~
6 ~~appropriated planning and design funds prior to July 1, 2007 and~~
7 ~~for which a private developer is willing to enter into a lease-~~
8 ~~purchase agreement with the department of education within~~
9 ~~twelve months of July 1, 2007 is exempt from the requirements of~~
10 ~~[paragraphs] (1) and (2).~~

11 ~~(c) The department of education shall submit an annual~~
12 ~~report to the legislature that shall include a financial~~
13 ~~statement of the special fund, the lease payments for schools~~
14 ~~account established under subsection (b), and the status of~~
15 ~~projects undertaken pursuant to this section, no later than~~
16 ~~twenty days prior to the convening of each regular session."]~~

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken.



1 SECTION 4. This Act shall take effect on July 1, 2013;
2 provided that any funds remaining in the state educational
3 facilities improvement special fund or the lease payment for
4 schools account shall lapse to the general fund on July 1, 2014.

5

INTRODUCED BY: Arvid Ylze



S.B. NO. 2348

Report Title:

State Educational Facilities Improvement Special Fund; Repeal

Description:

Repeals the state educational facilities improvement special fund. Remaining funds lapse to the general fund.

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