
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

PART I

2

SECTION 1. Section 36-32, Hawaii Revised Statutes, is

3

amended by amending subsections (a) and (b) to read as follows:

4

"(a) There is created in the treasury of the State the

5

state educational facilities improvement special fund~~[, into~~

6

~~which shall be deposited a portion of all general excise tax~~

7

~~revenues collected by the department of taxation under section~~

8

~~237-31].~~ The special fund shall be used solely to plan, design,

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acquire lands for, and to construct public school facilities and

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to provide equipment and technology infrastructure to improve

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public schools and other facilities under the jurisdiction of

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the department of education, except public libraries. In

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addition, activities of the department of education intended to

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eliminate the gap between the facility needs of schools and

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available resources shall be eligible for funding from the

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special fund. Expenditures from the special fund shall be

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limited to projects authorized by the legislature for fiscal



1 years ending prior to July 1, 2014, and shall be subject to
2 sections 37-31, and 37-33 through 37-40. Appropriations or
3 authorizations from the special fund shall be expended by the
4 superintendent of education.

5 (b) There is established within the state educational
6 facilities improvement special fund a separate account, to be
7 known as the lease payments for schools account, for lease
8 payments required by financing agreements entered into by the
9 department of education prior to July 1, 2013, pursuant to this
10 section and sections 37D-2 and 302A-1506. The lease payments
11 for schools account shall be funded by legislative
12 appropriations and expended by the superintendent of education.
13 Expenditures from the lease payments for schools account shall
14 be exempt from chapters 103 and 103D and are restricted to lease
15 payments on new schools included within the department of
16 education's current six year capital improvement programs and
17 for which:

18 (1) The legislature adopted a concurrent resolution
19 directing the department of education to:

20 (A) Build a new school in a specific geographic area
21 using the design-build method; and



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

13 SECTION 2. Section 237-31, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§237-31 Remittances.** All remittances of taxes imposed by
16 this chapter shall be made by money, bank draft, check,
17 cashier's check, money order, or certificate of deposit to the
18 office of the department of taxation to which the return was
19 transmitted. The department shall issue its receipts therefor
20 to the taxpayer and shall pay the moneys into the state treasury
21 as a state realization, to be kept and accounted for as provided
22 by law; provided that:



1 ~~[(1) The sum from all general excise tax revenues realized~~
2 ~~by the State that represents the difference between~~
3 ~~\$45,000,000 and the proceeds from the sale of any~~
4 ~~general obligation bonds authorized for that fiscal~~
5 ~~year for the purposes of the state educational~~
6 ~~facilities improvement special fund shall be deposited~~
7 ~~in the state treasury in each fiscal year to the~~
8 ~~credit of the state educational facilities improvement~~
9 ~~special fund;~~

10 ~~—~~ ~~(2)]~~ (1) A sum, not to exceed \$5,000,000, from all general
11 excise tax revenues realized by the State shall be
12 deposited in the state treasury in each fiscal year to
13 the credit of the compound interest bond reserve fund;
14 and

15 ~~[(3)]~~ (2) A sum from all general excise tax revenues
16 realized by the State that is equal to one-half of the
17 total amount of funds appropriated or transferred out
18 of the hurricane reserve trust fund under sections 4
19 and 5 of Act 62, Session Laws of Hawaii 2011, shall be
20 deposited into the hurricane reserve trust fund in
21 fiscal year 2013-2014 and in fiscal year 2014-2015;

1 provided that the deposit required in each fiscal year
2 shall be made by October 1 of that fiscal year."

3 **PART II**

4 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Except as provided in this section, and
7 notwithstanding any other law to the contrary, from time to
8 time, the director of finance, for the purpose of defraying the
9 prorated estimate of central service expenses of government in
10 relation to all special funds, except the:

11 (1) Special out-of-school time instructional program fund
12 under section 302A-1310;

13 (2) School cafeteria special funds of the department of
14 education;

15 (3) Special funds of the University of Hawaii;

16 [~~(4)~~] ~~State educational facilities improvement special fund;~~

17 ~~—(5)]~~ (4) Convention center enterprise special fund under
18 section 201B-8;

19 [~~(6)~~] (5) Special funds established by section 206E-6;

20 [~~(7)~~] (6) Housing loan program revenue bond special fund;

21 [~~(8)~~] (7) Housing project bond special fund;

22 [~~(9)~~] (8) Aloha Tower fund created by section 206J-17;



- 1 [~~+10~~] (9) Funds of the employees' retirement system created
2 by section 88-109;
- 3 [~~+11~~] (10) Unemployment compensation fund established under
4 section 383-121;
- 5 [~~+12~~] (11) Hawaii hurricane relief fund established under
6 chapter 431P;
- 7 [~~+13~~] (12) Hawaii health systems corporation special funds
8 and the subaccounts of its regional system boards;
- 9 [~~+14~~] (13) Tourism special fund established under section
10 201B-11;
- 11 [~~+15~~] (14) Universal service fund established under section
12 269-42;
- 13 [~~+16~~] (15) Emergency and budget reserve fund under section
14 328L-3;
- 15 [~~+17~~] (16) Public schools special fees and charges fund
16 under section 302A-1130;
- 17 [~~+18~~] (17) Sport fish special fund under section 187A-9.5;
- 18 [~~+19~~] (18) Glass advance disposal fee established by
19 section 342G-82;
- 20 [~~+20~~] (19) Center for nursing special fund under section
21 304A-2163;



1 ~~[(21)]~~ (20) Passenger facility charge special fund
2 established by section 261-5.5;

3 ~~[(22)]~~ (21) Court interpreting services revolving fund under
4 section 607-1.5;

5 ~~[(23)]~~ (22) Hawaii cancer research special fund;

6 ~~[(24)]~~ (23) Community health centers special fund;

7 ~~[(25)]~~ (24) Emergency medical services special fund;

8 ~~[(26)]~~ (25) Rental motor vehicle customer facility charge
9 special fund established under section 261-5.6;

10 ~~[(27)]~~ (26) Shared services technology special fund under
11 section 27-43; and

12 ~~[(28)]~~ (27) Automated victim information and notification
13 system special fund established under section 353-136,
14 shall deduct five per cent of all receipts of all special funds,
15 which deduction shall be transferred to the general fund of the
16 State and become general realizations of the State. All
17 officers of the State and other persons having power to allocate
18 or disburse any special funds shall cooperate with the director
19 in effecting these transfers. To determine the proper revenue
20 base upon which the central service assessment is to be
21 calculated, the director shall adopt rules pursuant to chapter
22 91 for the purpose of suspending or limiting the application of



1 the central service assessment of any fund. No later than
2 twenty days prior to the convening of each regular session of
3 the legislature, the director shall report all central service
4 assessments made during the preceding fiscal year."

5 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Each special fund, except the:

8 (1) Transportation use special fund established by section
9 261D-1;

10 (2) Special out-of-school time instructional program fund
11 under section 302A-1310;

12 (3) School cafeteria special funds of the department of
13 education;

14 (4) Special funds of the University of Hawaii;

15 [~~(5)~~] ~~State educational facilities improvement special fund;~~

16 ~~—(6)]~~ (5) Special funds established by section 206E-6;

17 [~~(7)~~] (6) Aloha Tower fund created by section 206J-17;

18 [~~(8)~~] (7) Funds of the employees' retirement system created
19 by section 88-109;

20 [~~(9)~~] (8) Unemployment compensation fund established under
21 section 383-121;



- 1 ~~[(+10)]~~ (9) Hawaii hurricane relief fund established under
2 section 431P-2;
- 3 ~~[(+11)]~~ (10) Convention center enterprise special fund
4 established under section 201B-8;
- 5 ~~[(+12)]~~ (11) Hawaii health systems corporation special funds
6 and the subaccounts of its regional system boards;
- 7 ~~[(+13)]~~ (12) Tourism special fund established under section
8 201B-11;
- 9 ~~[(+14)]~~ (13) Universal service fund established under section
10 269-42;
- 11 ~~[(+15)]~~ (14) Emergency and budget reserve fund under section
12 328L-3;
- 13 ~~[(+16)]~~ (15) Public schools special fees and charges fund
14 under section 302A-1130;
- 15 ~~[(+17)]~~ (16) Sport fish special fund under section 187A-9.5;
- 16 ~~[(+18)]~~ (17) Center for nursing special fund under section
17 304A-2163;
- 18 ~~[(+19)]~~ (18) Passenger facility charge special fund
19 established by section 261-5.5;
- 20 ~~[(+20)]~~ (19) Court interpreting services revolving fund under
21 section 607-1.5;
- 22 ~~[(+21)]~~ (20) Hawaii cancer research special fund;



1 ~~[(+22)]~~ (21) Community health centers special fund;
2 ~~[(+23)]~~ (22) Emergency medical services special fund;
3 ~~[(+24)]~~ (23) Rental motor vehicle customer facility charge
4 special fund established under section 261-5.6;
5 ~~[(+25)]~~ (24) Shared services technology special fund under
6 section 27-43;
7 ~~[(+26)]~~ (25) Nursing facility sustainability program special
8 fund, ~~[+]~~under Act 156, Session Laws of Hawaii
9 2012~~[+]~~;
10 ~~[[+27]]~~ (26) Automated victim information and notification
11 system special fund established under section 353-136;
12 and
13 ~~[[+28]]~~ (27) Hospital sustainability program special fund
14 under ~~[+]~~Act 217, Session Laws of Hawaii 2012~~[+]~~,
15 shall be responsible for its pro rata share of the
16 administrative expenses incurred by the department responsible
17 for the operations supported by the special fund concerned."

18 SECTION 5. Section 37D-2, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) There is hereby established and authorized the
21 financing agreement program of the State. Any agency desiring
22 to acquire or improve projects through the financing agreement



1 program established and authorized by this chapter shall submit
2 a written request to the department providing any information
3 that the department shall require. Notwithstanding any other
4 law to the contrary, and except for the Hawaii health systems
5 corporation and its regional system boards, only with the
6 approval by the attorney general as to form and legality and
7 upon the written request of one or more agencies may the
8 department enter into a financing agreement in accordance with
9 this chapter, and only with the approval by the attorney general
10 as to form and legality, and by the director as to fiscal
11 responsibility, and upon the written request of an agency, the
12 agency may enter into a financing agreement in accordance with
13 this chapter, except that [~~the department of education may enter
14 into a financing agreement in accordance with section 36-32 with
15 the concurrence of the director and with the approval of the
16 attorney general as to form and legality; and that~~] the board of
17 regents of the University of Hawaii may enter into a financing
18 agreement in accordance with this chapter without the approval
19 of the director and of the attorney general as to form and
20 legality if the principal amount of the financing agreement does
21 not exceed \$3,000,000. A financing agreement may be entered
22 into by the department on behalf of one or more agencies, or by



1 an agency, at any time (before or after commencement or
2 completion of any improvements or acquisitions to be financed)
3 and shall be upon terms and conditions the department finds to
4 be advantageous. In each case of a written request by the
5 judiciary to participate in the financing agreement program, the
6 department shall implement the request; provided that the
7 related financing agreement shall be upon terms and conditions
8 the department finds to be advantageous. Any financing
9 agreement entered into by the department without the approval,
10 or by an agency without the approvals required by this section
11 shall be void and of no effect. A single financing agreement
12 entered into by the department may finance a single item or
13 multiple items of property to be used by multiple agencies or
14 may finance a single item or multiple items of property to be
15 used by a single agency. If the financing agreement is by the
16 department, the department shall bill any agency that benefits
17 from property acquired with the proceeds of a financing
18 agreement for the agency's pro rata share of:

- 19 (1) The department's costs of administration of the
20 financing agreement program; and



1 (2) The financing costs, including the principal and
2 interest components of the financing agreement and
3 insurance premiums,
4 on a monthly or other periodic basis, and may deposit payments
5 received in connection with the billings with a trustee as
6 security for the financing agreement. Any agency receiving such
7 a bill shall be authorized and shall pay the amounts billed from
8 available moneys.

9 If a financing agreement is by an agency, the agency shall
10 deposit on a monthly or other periodic basis with the
11 department, payments from available moneys with respect to the
12 agency's financing costs, including the principal and interest
13 components of the financing agreement and insurance premiums,
14 which payments the department may deposit with a trustee as
15 security for the financing agreement. The department may bill
16 an agency for the department's costs of administering the
17 agency's payments and the agency receiving such a bill shall be
18 authorized to and shall pay the amounts billed from available
19 moneys."

20 SECTION 6. Section 36-32, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§36-32 State educational facilities improvement special~~
2 ~~fund. (a) There is created in the treasury of the State the~~
3 ~~state educational facilities improvement special fund, into~~
4 ~~which shall be deposited a portion of all general excise tax~~
5 ~~revenues collected by the department of taxation under section~~
6 ~~237-31. The special fund shall be used solely to plan, design,~~
7 ~~acquire lands for, and to construct public school facilities and~~
8 ~~to provide equipment and technology infrastructure to improve~~
9 ~~public schools and other facilities under the jurisdiction of~~
10 ~~the department of education, except public libraries. In~~
11 ~~addition, activities of the department of education intended to~~
12 ~~eliminate the gap between the facility needs of schools and~~
13 ~~available resources shall be eligible for funding from the~~
14 ~~special fund. Expenditures from the special fund shall be~~
15 ~~limited to projects authorized by the legislature and shall be~~
16 ~~subject to sections 37-31, and 37-33 through 37-40.~~
17 ~~Appropriations or authorizations from the special fund shall be~~
18 ~~expended by the superintendent of education.~~
19 ~~— (b) There is established within the state educational~~
20 ~~facilities improvement special fund a separate account, to be~~
21 ~~known as the lease payments for schools account, for lease~~
22 ~~payments required by financing agreements entered into by the~~



~~1 department of education pursuant to this section and sections
2 37D-2 and 302A-1506. The lease payments for schools account
3 shall be funded by legislative appropriations and expended by
4 the superintendent of education. Expenditures from the lease
5 payments for schools account shall be exempt from chapters 103
6 and 103D and are restricted to lease payments on new schools
7 included within the department of education's current six year
8 capital improvement programs and for which:~~

~~9 (1) The legislature adopted a concurrent resolution
10 directing the department of education to:~~

~~11 (A) Build a new school in a specific geographic area
12 using the design-build method; and~~

~~13 (B) Pursue the use of a financing agreement to build
14 the new school; or~~

~~15 (2) The legislature appropriated planning and design funds
16 and specified that the remainder of the costs
17 necessary to complete the project are eligible for
18 funding through a financing agreement;~~

~~19 provided that any school to which the legislature has
20 appropriated planning and design funds prior to July 1, 2007 and
21 for which a private developer is willing to enter into a lease-
22 purchase agreement with the department of education within~~



1 ~~twelve months of July 1, 2007 is exempt from the requirements of~~
2 ~~[paragraphs] (1) and (2).~~

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

9 SECTION 7. All moneys collected pursuant to section
10 237-31, Hawaii Revised Statutes, deposited into the state
11 educational facilities improvement special fund established
12 under section 36-32, Hawaii Revised Statutes, and remaining
13 unencumbered on balance in that special fund shall lapse to the
14 credit of the general obligation bond fund on July 1, 2023.

15 **PART III**

16 SECTION 8. Section 37-74, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) No appropriation transfers or changes between
19 programs or agencies shall be made without legislative
20 authorization; provided that:

21 (1) Authorized transfers or changes, when made, shall be
22 reported to the legislature;



1 (2) Except with respect to appropriations to fund
2 financing agreements under chapter 37D, the University
3 of Hawaii shall have the flexibility to transfer
4 appropriated funds and positions for the operating
5 cost category among programs, among cost elements in a
6 program, and between quarters, as applicable; [~~except~~
7 ~~with respect to appropriations to fund financing~~
8 ~~agreements under chapter 37D, the department of~~
9 ~~education shall have the flexibility to transfer~~
10 ~~appropriated funds and positions for the operating~~
11 ~~cost category among programs and among cost elements~~
12 ~~in a program, and between quarters, as applicable;]~~
13 and the Hawaii health systems corporation and its
14 regional system boards shall have the flexibility to
15 transfer special fund appropriations among regional
16 system hospital facilities as applicable and as
17 mutually agreed to by the corporation and the
18 respective regional system board; provided that the
19 Hawaii health systems corporation and the regional
20 system boards shall maintain the integrity and
21 services of each individual regional system and shall
22 not transfer appropriations out of any regional system



1 that would result in a reduction of services offered
2 by the regional system, with due regard for statutory
3 requirements, changing conditions, the needs of the
4 programs, and the effective utilization of resources;
5 and

6 (3) The university and the department of education shall
7 account for each transfer implemented under this
8 subsection in quarterly reports to the governor and
9 annual reports at the end of each fiscal year to the
10 legislature and the governor, which shall be prepared
11 in the form and manner prescribed by the governor and
12 shall include information on the sources and uses of
13 the transfer."

14 SECTION 9. Section 302A-1116, Hawaii Revised Statutes, is
15 repealed.

16 ~~"[§302A-1116] Authority to create temporary positions.~~

17 ~~The department may create temporary positions as it deems~~
18 ~~necessary; provided that:~~

19 ~~—— (1) The department's expenditures shall not exceed its~~
20 ~~allocated budget;~~

21 ~~—— (2) The term of each position shall not exceed one year;~~

22 and



1 ~~(3) The department shall report the creation of temporary~~
2 ~~positions to the department of budget and finance."~~

3 **PART IV**

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval;
7 provided that:

- 8 (1) Part II shall take effect on July 1, 2023;
- 9 (2) The amendments made to section 36-27(a), Hawaii
10 Revised Statutes, by section 3 of this Act shall not
11 be repealed when that section is reenacted on June 30,
12 2015, pursuant to Act 79, Session Laws of Hawaii 2009;
13 and
- 14 (3) The amendments made to section 36-30(a), Hawaii
15 Revised Statutes, by section 4 of this Act shall not
16 be repealed when that section is reenacted on June 30,
17 2015, pursuant to Act 79, Session Laws of Hawaii 2009.

18



Report Title:

State Educational Facilities Improvement Special Fund

Description:

Removes the requirement that general excise tax revenues be deposited to the credit of the state educational facilities improvement special fund. Limits expenditures from the special fund to projects authorized by the legislature for fiscal years ending prior to 07/01/2014. Limits lease payments required by financing agreements paid from the special fund to those entered into prior to 07/01/2013. Repeals the special fund on 07/01/2023.(SD1) Removes the department's ability to transfer appropriated funds and positions for the operating cost category among programs. Repeals the department's ability to create temporary positions. (Proposed HD1).

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

