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## A BILL FOR AN ACT

RELATING TO SUBSTITUTE TEACHERS.

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

1           SECTION 1. The legislature finds that the long-standing  
2 dispute between the department of education and Hawaii's  
3 substitute teachers has been judicially resolved. In *Garner v.*  
4 *DOE* (Civil No. 03-1-000305) and *Klitternick v. Hamamoto* (Civil  
5 No. 05-1-0031-01), the intermediate court of appeals affirmed  
6 Judge Karen Ahn's 2005 decision that the department of education  
7 failed to pay substitute teachers the per diem salary based upon  
8 a 1996 formula enacted by the legislature.

9           Since 2005, the legislature provided annual and temporary  
10 relief by providing interim pay adjustments for the benefit of  
11 substitute teachers while the matter was being litigated in the  
12 courts. The interim pay adjustments represented only a fraction  
13 of the pay the substitute teachers would have received under the  
14 formula adopted in 1996 if it had been properly implemented and  
15 the compensation to substitute teachers tracked the pay given to  
16 entry level class II teachers.

17           In Act 263, Session Laws of Hawaii 2006, the conferees of  
18 the house of representatives and senate, in their committee



1 report (conference committee report no. 216-06), urged the  
2 legislature to make appropriate adjustments, including  
3 retroactive pay adjustments, to substitute teacher pay in accord  
4 with the appellate court's final ruling. When the legislature  
5 set a formula for substitute teachers that was comparable to  
6 wage adjustments for regular teachers (Act 187, Session Laws of  
7 Hawaii 2008), house of representatives and senate conferees  
8 reaffirmed, in conference committee report no. 110-08, that pay  
9 adjustments for substitute teachers in 2005 and 2006 were only  
10 interim rates set by the legislature, pending the resolution of  
11 litigation.

12 In addition, in May 2011, the circuit court granted a  
13 motion for an award of interest based on section 103-10, Hawaii  
14 Revised Statutes, requiring the department of education to pay  
15 substitute teachers interest on the back pay due from the year  
16 2000 to the date the payment is received. Now that the  
17 intermediate court of appeals and circuit court have ruled, the  
18 legislature finds that it is only fair and appropriate to  
19 provide retroactive pay adjustments to substitute teachers  
20 during the period between November 2000 and June 2005, and an  
21 award of interest on the back pay due from November 2000 to the  
22 date that payment is made.



1 The purpose of this Act is to appropriate funds to provide  
 2 retroactive pay adjustments to substitute teachers for the  
 3 period between November 2000 and June 2005, during which only  
 4 interim partial pay adjustments were made by statute, and to  
 5 provide an award of interest on the back pay due from November  
 6 2000 to the date that payment is made.

7 SECTION 2. 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 2013-2014 for  
 10 the purpose of compensating substitute teachers for the  
 11 shortfall in their pay during the period between November 2000  
 12 and June 2005 and awarding interest on back pay due from  
 13 November 2000 to the date that payment is made.

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

16 SECTION 3. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

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# H.B. NO. 605

**Report Title:**

Substitute Teachers; Compensation; Appropriation

**Description:**

Appropriates funds for court-ordered retroactive pay and interest on back pay for substitute teachers.

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

