

ACT 281

H.B. NO. 3447

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§37-A University of Hawaii; carryover of funds. (a) The University of Hawaii may retain not more than five per cent of any appropriation of general funds for operating purposes at the close of each fiscal year. The funds retained by the University of Hawaii shall not lapse until June 30 of the following fiscal year. The University of Hawaii shall report to the director of finance, by the close of each fiscal year, the total amount of funds that will carry over to the following fiscal year from each appropriation and shall submit a copy of this report to the legislature not less than twenty days prior to the convening of the next regular session of the legislature.

(b) Any appropriation retained in accordance with this section may be used by the University of Hawaii to supplement the appropriation for any program of the University of Hawaii; provided that the retention of an appropriation shall not be used as the basis for reducing the future budget requests or allotments of the University of Hawaii unless the University of Hawaii requests such a reduction.

§37-B Fiscal flexibility; suspension by governor. When it has been determined by the governor that any allowance or exception conferred upon the University of Hawaii by sections 37-34, 37-35, 37-36, 37-37, and 37-74, will impair the governor's ability to promote and ensure the economic and efficient management of the State's financial resources, that allowance or exception may be suspended by the governor for not more than twelve months in any one fiscal year. The governor shall report the suspension of any such allowance or exception to the legislature not more than thirty days after its institution."

SECTION 2. Section 37-32, Hawaii Revised Statutes, is amended to read as follows:

"§37-32 Quarterly allotment periods. Except as provided in [section] sections 37-41.5[,] and 37-A, no officer, department, or establishment shall expend or be allowed to expend during any fiscal year any sum for any purpose not specifically authorized by the legislature for expenditure during that particular fiscal year, and not made available pursuant to the allotment system provided for in sections 37-31 to 37-41. For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January, and April; provided that in any case where the quarterly allotment period is impracticable, the director of finance may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the fiscal year."

SECTION 3. Section 37-41, Hawaii Revised Statutes, is amended to read as follows:

"§37-41 Appropriations to revert to state treasury; exceptions. Unless otherwise provided by [section] sections 37-41.5, 37-A, or any other law, every appropriation or part thereof of any kind made subject to sections 37-31 to 37-40, remaining unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the general fund in the manner prescribed in section 40-66."

PART II

SECTION 4. Act 320, Session Laws of Hawaii 1986, as amended by Act 283, Session Laws of Hawaii 1987, and Act 370, Session Laws of Hawaii 1989, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect on July 1, 1986[, and be repealed as of June 30, 1994; provided that on repeal sections 37-34, 37-35, 37-36, 37-37, and 37-74, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986]."

SECTION 5. Section 37-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Before appropriations for the University of Hawaii [or the department of education] become available to the university [or the department of education], the governor, with the assistance of the director of finance, as may be necessary, shall establish allotment ceilings for each source of funding of all of

the appropriations of the University of Hawaii [and the department of education] for each allotment period and shall advise the university [and the department of education] of these determinations.”

SECTION 6. Section 37-35, Hawaii Revised Statutes, is amended to read as follows:

“§37-35 **Estimated expenditures; approval.** The director of finance shall review all estimates submitted under section 37-34 and, having due regard for [the];

- (1) The probable further needs of the department or establishment for the remainder of the term for which the appropriation was made[, the];
- (2) The terms and purposes of the appropriation, the progress of collection of revenues, and condition of the treasury[,]; and
- (3) [the] The probable receipts and total cash requirements for the ensuing quarter, shall approve, increase, or reduce the amount of the estimate;

provided that the director of finance shall approve the estimates submitted by the University of Hawaii [or the department of education] when [the];

- (1) The sum of the estimates for each funding source does not exceed the applicable allotment ceilings established by the governor under section 37-34[, the];
- (2) The progress of collection of revenues, the condition of the treasury, and the probable receipts and total cash requirements for the ensuing quarter permit[,]; and
- (3) [all] All other legal requirements are satisfied.

The director shall act promptly upon all estimates and notify each department or establishment of its allotment, and shall notify the comptroller.”

SECTION 7. Section 37-36, Hawaii Revised Statutes, is amended to read as follows:

“§37-36 **Modification.** The director of finance [may], at any time, may modify or amend any previous allotment upon application of, or upon notice to, the department or establishment concerned; provided that [for];

- (1) For the University of Hawaii [or the department of education], the director of finance may modify or amend any previous allotment only upon application of or notice to the university [or the department of education, or upon notice to the university or the department of education], and upon public declaration, which shall be made ten days prior to the modification or amendment taking effect; [provided further that the]
- (2) The modification or amendment shall be made only to avoid an illegal result or in anticipation of a revenue shortfall; [provided further that no]
- (3) No deficit or undue reduction of funds to meet future needs of the department or establishment will result [therefrom;] from the modification or amendment; and [provided further that no]
- (4) No modification or amendment [reduces] shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

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

“(b) For the University of Hawaii [or the department of education], when the director of finance determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the director shall advise the governor of the situation, and the governor shall redetermine the allotment ceiling for the affected source or sources of funding pursuant to section 37-34, and shall advise the university [or the department of education, as applicable,] and make a public declaration ten days prior to the effective date of the redetermination. The university [or the department of education, within], not more than twenty days [of] after the governor’s notification, shall submit revised estimates consistent with the governor’s redetermination to the director of finance[; otherwise,]. Otherwise, the director of finance shall modify, amend, or reduce any allotment of the university [or the department of education, as applicable,] to comply with the governor’s redetermination; provided that no reduction [reduces] shall reduce any allotted amount below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 9. Section 37-74, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) The department of budget and finance shall:

- (1) Review each operations plan to determine:
 - (A) [that] That it is consistent with the policy decisions of the governor and appropriations by the legislature[.];
 - (B) [that] That it reflects proper planning and efficient management methods[.]; and
 - (C) [that] That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii [or the department of education, as applicable,] solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, and the status of revenues to support operations plans for all state programs[.];

- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part[.]; and
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that [such] the expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels; provided that the planned expenditures for the University of Hawaii [or the department

of education, as applicable,] may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that [authorized];

(1) Authorized transfers or changes, when made, shall be reported to the legislature; [provided further that the]

(2) The University of Hawaii [and the department of education, within their respective departments,] shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and [provided further that the]

(3) The university [and the department of education, within their respective departments,] shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.

(e) The University of Hawaii [and the department of education, within their respective departments,] shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs [which] that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor."

PART III

SECTION 10. In codifying the new sections added to chapter 37, Hawaii Revised Statutes, by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections' designations in this Act.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 12. This Act shall take effect upon its approval; provided that:

- (1) Sections 1, 2, and 3 shall be repealed two years after the approval of this Act; and
- (2) On repeal of Sections 1, 2, and 3 of this Act, Sections 37-32 and 37-41, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Approved July 6, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.