
A BILL FOR AN ACT

RELATING TO EDUCATION FUNDING.

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

1 SECTION 1. The legislature finds that article X,
2 section 1, of the Constitution of the State of Hawaii requires
3 the State to provide a system of public education. Compared to
4 other states, Hawaii is unique because the State, rather than a
5 county or local level jurisdiction, is responsible for public
6 education. As a result, funding for public education in Hawaii,
7 which is primarily sourced from the general fund of the State,
8 is inadequate.

9 The legislature additionally finds that in December 2015,
10 the United States Congress passed the Every Student Succeeds Act
11 (ESSA), which provides States with increased flexibility in
12 limiting the amount of time students spend taking and preparing
13 for standardized testing, designing teacher evaluations that
14 support professional practice, and implementing curricula
15 associated with individual state standards. To realize the
16 promise of the ESSA, Hawaii's school system must be better
17 funded. Currently, the United States Department of Education



1 considers over seventy per cent of Hawaii's public schools to be
2 Title I schools. A majority of public school students are now
3 considered "high-needs" students, meaning the student qualifies
4 for free or reduced price lunch, is an English language learner,
5 or is a special education student. Hawaii public school
6 facilities average sixty-one years in age, with the average
7 school building being forty-four years old and fifty-three
8 buildings being over one-hundred years in age. After adjusting
9 for the high cost of living in Hawaii, teachers are faced with
10 the lowest pay in the United States. Hawaii ranks fifty-first
11 out of fifty states and the District of Columbia in starting and
12 median teacher salaries adjusted for cost of living, according
13 to a 2016 study performed by WalletHub.com.

14 The legislature also finds that chronic underfunding of
15 public schools undermines the State's goal of providing a
16 quality education to all of Hawaii's children. Insufficient
17 education funding results in delayed repairs to school
18 facilities, overheated classrooms, higher class sizes, a lack of
19 adequate classroom supplies, elimination of arts and career and
20 technical education courses, budget cuts for special education
21 and English language learner programs, and an increasing number



1 of vacant teacher positions statewide. It is necessary to
2 develop a new means of funding Hawaii's public education system
3 to ensure that the State will be able to prepare children to
4 meet the social and economic demands of the twenty first
5 century.

6 The purpose of this Act is to implement a constitutional
7 amendment permitting the legislature to establish a surcharge on
8 visitor accommodations and residential investment properties to
9 fund the most urgent needs of the department of education,
10 including recruiting and retaining highly qualified teachers,
11 lowering class sizes, improving special education staffing and
12 resources, and growing the number of career and technical
13 education and arts courses offered statewide.

14 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

17 "PART . EDUCATION SURCHARGE ON RESIDENTIAL INVESTMENT
18 PROPERTY AND VISITOR ACCOMMODATIONS

19 §302A-A Definitions. As used in this part:

20 "Consumer price index" means the national consumer price
21 index average over a twelve-month period that is published



1 monthly by the United States Department of Labor's Bureau of
2 Labor Statistics as the "National Consumer Price Index for All
3 Urban Consumers-United States City Average".

4 "Inflation-adjusted minimum level of funding" means the
5 total amount of funding provided to the department in the fiscal
6 year 2016-2017; provided that this amount shall increase by
7 three per cent for each subsequent fiscal year.

8 "Operator" means any person, corporation, copartnership,
9 company, or other private business entity that operates one or
10 more visitor accommodations, whether as owner or proprietor or
11 as lessee, sublessee, mortgagee in possession, licensee, or
12 otherwise, or engaging or continuing in any service business
13 that involves the furnishing of visitor accommodations.

14 "Plan manager" shall have the same meaning as in section
15 237D-1.

16 "Property" shall have the same meaning as in section 248-1.

17 "Residential investment property" means and includes all
18 land and appurtenances thereof and the buildings, structures,
19 fences, and improvements erected on or affixed to the same, and
20 any fixture that erected on or affixed to such land, buildings,
21 structures, fences, and improvements, including all machinery



1 and other mechanical or other allied equipment and the
2 foundations thereof, and including apartments and condominiums,
3 that is dedicated for residential use for which the owner does
4 not qualify for a homeowner's exemption.

5 "Tax year" means the fiscal year beginning July 1 of each
6 calendar year and ending June 30 of the following calendar year.

7 "Visitor accommodation" means and includes all transient
8 accommodations pursuant to section 237D-1, resort time share
9 vacation units pursuant to section 237D-1, and any other
10 dwelling or lodging located in the State and let by an owner or
11 operator for less than one hundred eighty days. Visitor
12 accommodations shall not include any facility owned or used by a
13 government agency, school or college dormitory, homeless
14 facility pursuant to section 346-361, or tenement home, group
15 home, group residence, group living arrangement, boarding house,
16 securing clearance pursuant to section 445-94.

17 **§302A-B Education surcharges on residential investment**
18 **property and visitor accommodations; establishment; purpose.**

19 (a) There is established an education surcharge on residential
20 investment property and an education surcharge on visitor
21 accommodations in the State of Hawaii. The purpose of the



1 education surcharges is to increase funding for the department
2 to provide a quality public education to all of Hawaii's
3 children. Revenue generated by the education surcharges may be
4 used for:

- 5 (1) Recruiting and retaining public school teachers;
- 6 (2) Lowering public school class sizes;
- 7 (3) Improving special education staffing and resources;
- 8 and
- 9 (4) Offering additional instruction in career and
10 technical education, visual arts, music, theatre,
11 dance, Hawaiian and Polynesian studies, and Hawaiian
12 language.

13 (b) Revenue generated by the education surcharges on
14 residential investment property and visitor accommodations shall
15 be placed in the education special fund and shall be in addition
16 to all other funds appropriated for the department. Moneys
17 budgeted for the department from sources of funding other than
18 the education special fund, including for capital improvement
19 projects, shall remain equal to or greater than the inflation-
20 adjusted minimum level of funding, except when the consumer



1 price index for the twelve-month period ending June 30 of the
2 preceding calendar year is less than zero.

3 **§302A-C Applicability.** (a) There shall be levied,
4 assessed, and collected an education surcharge on residential
5 investment property and an education surcharge on visitor
6 accommodations as provided in this part. With respect to the
7 surcharges, the superintendent of education shall have all the
8 rights and powers provided under this part.

9 (b) The education surcharges on residential investment
10 property and visitor accommodations shall be imposed statewide
11 on all:

12 (1) Residential investment properties; and

13 (2) Visitor accommodations, regardless of occupancy.

14 (c) A corporation, copartnership, company, or other
15 private business entity that owns or operates residential
16 investment property or one or more visitor accommodations shall
17 be subject to any applicable surcharge established by this part.
18 Property of a corporation, copartnership, company, or other
19 private businesses shall be assessed the surcharge under its
20 corporate or firm name.



1 (d) A person or private business that is a wholly owned
2 subsidiary or acting as an agent or on behalf of a corporation
3 having its principal place of business outside Hawaii shall be
4 subject to any applicable surcharge on residential investment
5 property established by this part.

6 (e) Every personal representative, trustee, guardian, or
7 other fiduciary shall be responsible for the performance of all
8 such acts required by this part with respect to any applicable
9 surcharge on residential investment property or visitor
10 accommodations in their fiduciary capacity and shall be liable
11 for the payment of a surcharge on residential investment
12 property or visitor accommodations held in the fiduciary's
13 capacity, but shall not be personally liable and may retain, out
14 of the money or other property that may be obtained in the
15 fiduciary's capacity, so much as may be necessary to pay the
16 surcharge, recoup the payment thereof, or recover the amount
17 paid from the beneficiary to whom property or visitor
18 accommodations subject to a surcharge pursuant to this part have
19 been distributed.



1 (f) No education surcharge shall be established upon any
2 property that is not subject to property taxation or that is
3 otherwise exempt under this part.

4 (g) The penalties provided by section 231-39 for failure
5 to file a tax return shall be imposed on the amount of the
6 applicable education surcharge for failure to file a return
7 pursuant to section 302A-D(f), failure to pay, file appropriate
8 documentation with regard to, or correctly report the amount of
9 the surcharge.

10 **§302A-D Education surcharge on residential investment**

11 **property; levy; assessment.** (a) There is levied and shall be
12 assessed and collected each year on all residential investment
13 property in the State of Hawaii a surcharge as follows:

14	Property value	Surcharge per \$1,000 of total property value
15	Under \$500,000	\$3.50
16	\$500,000 under \$750,000	\$4.50
17	\$750,000 under \$1,000,000	\$5.50
18	\$1,000,000 under \$2,000,000	\$6.50
19	\$2,000,000 and over	\$7.50

20 (b) The education surcharge on residential investment
21 property shall be imposed on the most recent valuation that is



1 assessed by the county where the property is located for the
2 purpose of determining the annual county property tax liability.

3 (c) For the purposes of this part, life tenants, personal
4 representatives, trustees, guardians, or other fiduciaries may
5 be; and persons holding government property under an agreement
6 for the conveyance of the same to such persons shall be,
7 considered as owners during the time any residential investment
8 property is held or controlled by them as such, including:

- 9 (1) Lessees holding under any government lease during the
10 time any residential investment property is held;
- 11 (2) Any tenant occupying government land for a period of
12 one year or more;
- 13 (3) Persons holding any residential investment property
14 under an agreement to purchase the same;
- 15 (4) Persons holding any residential investment property
16 under a lease for a term to last during the lifetime
17 of the lessee; and
- 18 (5) Persons bearing tax liability on the property during
19 the time period for which an educational surcharge on
20 the property has been assessed.



1 **§302A-E Education surcharge on residential investment**
2 **property; notice and returns.** (a) Notices of the amount of the
3 education surcharge on residential investment property shall be
4 transmitted by each county through the United States mail to any
5 property owner subject to the education surcharge. Notice of
6 the surcharge amount shall be transmitted no later than
7 October 31 of each calendar year to the owner's last known
8 address or place of business.

9 (b) Each county shall by ordinance permit an owner to pay
10 the education surcharge in the same manner provided for the
11 payment of real property taxes.

12 (c) Whenever any county director of finance finds that
13 there is not sufficient evidence to form sound appraisal of a
14 residential investment property, for assessment purposes, of the
15 value of the property or properties, or portions thereof, it may
16 require an owner to file a return within thirty days.
17 Consideration of and liability for a return, including in
18 determining the fair market value of a property or properties,
19 shall be made in the same manner and with the same limitations
20 as for real property tax returns in the county in which the
21 property is located.



1 (d) All returns made under this section shall be open to
2 inspection by the public, and shall be admissible in evidence
3 against the owner making the return, in any state court in any
4 action wherein the value of the residential investment property,
5 or portion thereof, covered by the return, may be in dispute.

6 (e) No owner shall be deemed to be aggrieved by any
7 assessment made upon the owner's property that is based upon the
8 opinion of value set forth in the owner's return unless the
9 owner shows lack of uniformity or inequality as set forth in
10 section 232-3.

11 (f) Failure to file a return required under this section
12 shall render the owner liable for payment of an additional sum
13 equal to the sum defined in and prescribed for failure to file a
14 tax return under section 231-39(b)(1).

15 (g) If any return is sent by United States registered or
16 certified mail, a record authenticated by the United States
17 Postal Service of the registration or certification shall be
18 considered evidence that the return was delivered to the county
19 director of finance. The date of registration or certification
20 shall be deemed the postmarked date for filing purposes.



1 (h) Each county director of finance shall make publicly
2 available a form for a return related to the education surcharge
3 on residential investment property for use in collecting the
4 education surcharge.

5 **§302A-F Education surcharge on residential investment**
6 **property; appeals.** (a) Any owner of residential investment
7 property who is aggrieved by an assessment used to determine the
8 amount of the education surcharge on residential investment
9 property for any year or by a refusal to be granted an exemption
10 from the education surcharge may appeal from such assessment in
11 the manner provided in the case of real property tax appeals.

12 (b) Each of the counties shall by ordinance provide for
13 appeals from assessments used to determine the amount of the
14 education surcharge and denial of an exemption in the same
15 manner as provided in the case of real property tax appeals.

16 (c) Any county decision on an appeal for relief or
17 exemption from the education surcharge may be appealed to the
18 tax appeal court as provided in chapter 232.

19 **§302A-G Education surcharge on visitor accommodations;**
20 **levy; assessment.** (a) There is levied and shall be assessed

1 and collected each year on all visitor accommodations in the
2 State of Hawaii a surcharge.

3 (b) The surcharge shall be:

4 (1) \$3 per day for each visitor accommodation furnished by
5 an operator or plan manager at a cost of less than
6 \$150 per day; and

7 (2) \$5 per day for each visitor accommodation furnished by
8 an operator or plan manager at a cost of \$150 per day
9 or greater.

10 (c) On or before the final day of each calendar month,
11 every operator or plan manager subject to an education surcharge
12 on visitor accommodations during the preceding calendar month
13 shall file a sworn return with the county director of finance
14 together with a remittance for the amount of the surcharge
15 required by this section.

16 (d) Notwithstanding subsection (c), the director of
17 finance, for good cause and in writing, may permit an operator
18 or plan manager to file a return required by this section and
19 make payments thereon:

20 (1) On a quarterly basis during the calendar or fiscal
21 year, the return and payment to be made on or before



1 the final day of the calendar month after the close of
2 each quarter; or

3 (2) On a semiannual basis during the calendar or fiscal
4 year, the return and payment to be made no later than
5 the final day of the calendar month after the close of
6 each six-month period;

7 provided that the county director of finance is satisfied that
8 the grant of the permit will not unduly jeopardize the
9 collection of the surcharge due thereon or the operator's or
10 plan manager's total surcharge liability.

11 (e) The county director of finance, for good cause and in
12 writing, may permit an operator or plan manager to make monthly
13 payments based on the operator's or plan manager's estimated
14 quarterly or semiannual surcharge liability; provided that the
15 operator or plan manager files a reconciliation return at the
16 end of each quarter or each six-month period during the calendar
17 or fiscal year.

18 (f) If an operator or plan manager filing a return on a
19 quarterly or semiannual basis, as provided in this section,
20 becomes delinquent in either the filing of the return or the
21 payment of the surcharge due thereon, or if the liability of an



1 operator or plan manager who possesses a permit to file a return
 2 and make payments on a quarterly or semiannual basis exceeds
 3 \$5,000 during the calendar year, or if the county director of
 4 finance determines that any such quarterly or semiannual filing
 5 of return would unduly jeopardize the proper administration of
 6 this part, including the assessment or collection of the
 7 education surcharge on visitor accommodations, the county
 8 director of finance, at any time, may revoke an operator's or
 9 plan manager's permit, in which case the operator or plan
 10 manager shall then be required to file an immediate return and
 11 make payments thereon as provided in subsection (c).

12 (g) Payments collected by the department under this
 13 section shall be deposited into the education special fund
 14 established by section 302A-K.

15 **§302A-H Education surcharge on residential and investment**
 16 **property; disposition of proceeds.** (a) The education surcharge
 17 on residential investment property shall be collected by the
 18 counties in accordance with this section. All moneys collected
 19 by the counties pursuant to the establishment of the education
 20 surcharge shall be paid into each county's treasury within ten
 21 working days after collection and shall be placed by each



1 county's director of finance in special accounts. Out of the
2 revenues generated by the education surcharge paid into each
3 respective county treasury special account, the director of
4 finance of each county shall deduct five per cent of the gross
5 proceeds of a respective county's education surcharge collection
6 to reimburse the county for the costs of assessment, collection,
7 and disposition of the education surcharge incurred by the
8 county.

9 (b) The amounts deducted for costs of assessment,
10 collection, and disposition of the education surcharge shall be
11 withheld from payment to the State by the counties out of the
12 revenue generated by the education surcharge for the current
13 calendar year.

14 (c) For the purpose of this section, the costs of
15 assessment, collection, and disposition of the education
16 surcharge shall include any and all costs, direct or indirect,
17 that are deemed necessary and proper to effectively administer
18 this part.

19 (d) After the deduction and withholding of the costs under
20 subsections (a) and (c), the director of finance of each county
21 shall, on a quarterly basis, pay the remaining balance of



1 revenue collected under the education surcharge to the state
2 director of finance. The quarterly payments shall be made after
3 the education surcharge has been paid into the county treasury
4 special accounts and after the disposition of any appeal.

5 (e) Education surcharge payments received by the state
6 director of finance from the counties shall be deposited into
7 the education special fund established by section 302A-K.

8 **§302A-I Exemptions.** (a) This part shall not apply to:

9 (1) Property rented for an amount no greater than \$1,500
10 per month, not including any applicable maintenance
11 fees, utility fees, and service charges;

12 (2) Property rented to a person or household whose income
13 level would qualify the person or household for the
14 federal public housing program;

15 (3) Property rented to a person or household receiving
16 rental assistance through the state rent supplement
17 program pursuant to section 356D-151;

18 (4) Property rented to a resident aged sixty-five years or
19 older, provided that the resident's annual income is
20 less than \$75,000;



- 1 (5) Property leased, purchased, or otherwise obtained by a
2 lessee, tenant, purchaser, or homesteader under the
3 Hawaiian Homestead Act of 1920, or a lease of land
4 made for a term of nine hundred and ninety-nine years
5 under provisions of law that were repealed by section
6 3 of Joint Resolution 12, Session Laws of 1949,
7 ratified by the Congress of the United States by the
8 Act of September 1, 1950;
- 9 (6) Property rented to a person who is blind, deaf, or
10 totally disabled as those terms are defined in section
11 235-1; provided that the person's blindness, deafness,
12 or total disability shall be verified by a licensed
13 physician, ophthalmologist, optometrist, or
14 otolaryngologist;
- 15 (7) Property rented to a totally disabled veteran;
- 16 (8) Property used exclusively for charitable purposes,
17 including property used for church purposes and
18 cemeteries that are maintained by a religious
19 organization;
- 20 (9) Property used for school purposes including:



- 1 (A) Prekindergarten facilities, including any
2 property used to administer the executive office
3 on early learning public prekindergarten program
4 under section 302L-7;
- 5 (B) Kindergartens, grade schools, junior high
6 schools, and high schools, which carry on a
7 program of instruction meeting the requirements
8 of compulsory school attendance pursuant to
9 section 302A-1132; and
- 10 (C) Colleges or junior colleges offering a general
11 program of instruction;
- 12 (10) Property owned by a nonprofit corporation to which
13 admission is restricted by corporate charter to
14 members of a labor union or government employees'
15 association, one of the primary purposes of which is
16 to improve employment conditions of its members;
- 17 (11) Property dedicated to public use by the owner, which
18 dedication has been accepted by the State or any
19 county, reduced to writing, and recorded in the bureau
20 of conveyances;



1 (12) Property that has been set aside for public use for a
2 period of not less than ten years after enactment of
3 this section; and

4 (13) Property owned by any entity granted a transient
5 accommodations tax exemption under section 237D-3.

6 (b) No exemption from this part shall be allowed to any
7 corporation, copartnership, company, or other private business
8 entity, unless otherwise specified by law.

9 (c) An exemption shall only be granted for property or a
10 visitor accommodation for which every owner or ownership
11 interest qualifies for one or more exemptions provided by this
12 section.

13 **§302A-J Enforcement.** (a) The superintendent of education
14 shall administer and enforce this part; provided that each
15 county director of finance and the state director of finance, as
16 applicable, shall administer and enforce:

17 (1) The examinations of books and records by any person or
18 private entity subject to the education surcharge on
19 residential investment property or the education
20 surcharge on visitor accommodations; and



1 (2) Procedure and powers upon failure or refusal by a
2 person or private entity to file a return, sworn
3 return, or proper return.

4 (b) The department may contract with any state or county
5 department or agency for the purposes of implementing or
6 enforcing this part.

7 (c) The superintendent of education shall adopt, amend, or
8 repeal rules under chapter 91 to carry out this part.

9 **§302A-K Education special fund.** (a) There is established
10 within the state treasury a special fund to be known as the
11 education special fund to be administered by the department and
12 into which shall be deposited:

13 (1) The proceeds of the education surcharge on residential
14 investment property established under section 302A-D;

15 (2) The proceeds of the education surcharge on visitor
16 accommodations established under section 302A-G;

17 (3) All other funds received by the department and legally
18 available for the purposes of the education special
19 fund; and

20 (4) Interest accrued on all amounts in the education
21 special fund.



1 (b) The education special fund shall not be subject to
 2 sections 36-27, 36-30, and 37-53. Expenditures from the special
 3 fund shall be subject to sections 37-31, and 37-33 through 37-
 4 40. Funds that are credited and transferred back to property
 5 owners from the special fund shall not be considered income and
 6 shall not be subject to state or county taxes.

7 (c) Moneys in the education special fund shall be used to
 8 develop and deliver instructional services to students in
 9 accordance with statewide educational policy.

10 (d) All amounts in the education special fund shall be
 11 exempt from all taxes and surcharges imposed by the State or the
 12 counties.

13 (e) No later than twenty days prior to the convening of
 14 each regular session, the department shall post on the
 15 department's website a report containing an accounting of the
 16 receipts of and expenditures from the education special fund.
 17 The legislature shall provide to the department any information
 18 necessary to complete and post the report required by this
 19 section."

20 SECTION 3. In codifying the new sections added by section
 21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 4. This Act shall take effect upon ratification of
4 the constitutional amendment proposed in S.B. No. 683 or H.B.
5 No. 182, Regular Session of 2017, permitting the legislature to
6 establish a surcharge on residential investment properties and
7 visitor accommodations to fund public education.



Report Title:

Education Surcharge; Residential Investment Properties; Visitor Accommodations

Description:

Establishes an education surcharge on residential investment properties and visitor accommodations for the purpose of funding public education. (HB180 HD1)

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

