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# 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 appropriated from the general fund of the  
8 State, is inadequate.

9           The legislature also finds that in December 2015, the  
10 United States Congress passed the Every Student Succeeds Act  
11 (ESSA) to provide states with increased flexibility in  
12 determining the amount of time students spend taking and  
13 preparing for standardized testing, designing teacher  
14 evaluations that support professional practice, and implementing  
15 curricula associated with individual state standards.

16           Hawaii's school system must be better funded to realize the  
17 promise of the ESSA. Currently, the United States Department of



1 Education considers over seventy per cent of Hawaii's public  
2 schools to be Title I schools. A majority of public school  
3 students are now considered "high-needs" students, meaning the  
4 student qualifies for free or reduced price lunch, is an English  
5 language learner, or is a special education student.

6 Hawaii public school facilities average sixty-one years in  
7 age, with the average school building being forty-four years old  
8 and fifty-three buildings being over one hundred years in age.

9 Even after adjusting for the high cost of living in Hawaii,  
10 Hawaii teachers are faced with the lowest pay in the United  
11 States. Hawaii ranks fifty-first out of fifty states and the  
12 District of Columbia in starting and median teacher salaries  
13 adjusted for cost of living, according to a 2016 study performed  
14 by WalletHub.com.

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



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

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

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

18 "PART . EDUCATION SURCHARGE ON RESIDENTIAL INVESTMENT

19 PROPERTY AND VISITOR ACCOMMODATIONS

20 §302A-A Definitions. As used in this part:



1 "Consumer price index" means the national consumer price  
2 index average over a twelve-month period that is published  
3 monthly by the United States Department of Labor's Bureau of  
4 Labor Statistics as the "National Consumer Price Index for All  
5 Urban Consumers-United States City Average".

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

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

16 "Plan manager" shall have the same meaning as in section  
17 237D-1.

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

19 "Residential investment property" means:



- 1 (1) All land and appurtenances including buildings,  
2 structures, fences, and improvements that are erected  
3 on or affixed to the property;
- 4 (2) Any fixture erected on or affixed to the land,  
5 buildings, structures, fences, and improvements,  
6 including machinery and other mechanical or allied  
7 equipment and foundations; and
- 8 (3) Apartments, condominiums, and single family residences  
9 dedicated for residential use for which the owner does  
10 not qualify for a homeowner's exemption on county real  
11 property tax.
- 12 "Tax year" means the fiscal year beginning July 1 of each  
13 calendar year and ending June 30 of the following calendar year.
- 14 "Visitor accommodation" means and includes all transient  
15 accommodations pursuant to section 237D-1, resort time share  
16 vacation units pursuant to section 237D-1, and any other  
17 dwelling or lodging located in the State that is rented by an  
18 owner or operator for less than one hundred eighty days per  
19 year. Visitor accommodations shall not include any:
- 20 (1) Facility owned or used by a government agency;  
21 (2) School or college dormitory;



- 1 (3) Homeless facility pursuant to section 346-361; or
- 2 (4) Tenement home, group home, group residence, group
- 3 living arrangement, or boarding house, requiring
- 4 clearance pursuant to section 445-94.

5 **§302A-B Education surcharges on residential investment**  
6 **property and visitor accommodations; establishment; purpose.**

7 (a) There is established an education surcharge on residential  
8 investment property and an education surcharge on visitor  
9 accommodations in the State of Hawaii. The purpose of the  
10 education surcharges is to increase funding for the department  
11 to provide a quality public education to all of Hawaii's  
12 children. Revenue generated by the education surcharges may be  
13 used for:

- 14 (1) Recruiting and retaining public school teachers;
- 15 (2) Lowering public school class sizes;
- 16 (3) Improving special education staffing and resources;
- 17 and
- 18 (4) Offering additional instruction in career and
- 19 technical education, visual arts, music, theatre,
- 20 dance, Hawaiian and Polynesian studies, and Hawaiian
- 21 language.



1 (b) Revenue generated by the education surcharges on  
2 residential investment property and visitor accommodations shall  
3 be placed in the education special fund and shall be in addition  
4 to all other funds appropriated for the department. Moneys  
5 budgeted for the department from sources of funding other than  
6 the education special fund, including for capital improvement  
7 projects, shall remain equal to or greater than the inflation-  
8 adjusted minimum level of funding, except when the consumer  
9 price index for the twelve-month period ending June 30 of the  
10 preceding calendar year is less than zero.

11 **§302A-C Applicability.** (a) There shall be levied,  
12 assessed, and collected an education surcharge on residential  
13 investment property and an education surcharge on visitor  
14 accommodations as provided in this part. With respect to the  
15 surcharges, the superintendent of education shall have all the  
16 rights and powers provided under this part.

17 (b) The education surcharges on residential investment  
18 property and visitor accommodations shall be imposed statewide  
19 on all:

- 20 (1) Residential investment properties; and  
21 (2) Visitor accommodations, regardless of occupancy.



1 (c) A corporation, copartnership, company, or other  
2 private business entity that owns or operates residential  
3 investment property or one or more visitor accommodations shall  
4 be subject to any applicable surcharge established by this part.  
5 Property of a corporation, copartnership, company, or other  
6 private businesses shall be assessed the surcharge under its  
7 corporate or firm name.

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

13 (e) Every personal representative, trustee, guardian, or  
14 other fiduciary shall be responsible for the performance of all  
15 acts required by this part with respect to any applicable  
16 surcharge on residential investment property or visitor  
17 accommodations in their fiduciary capacity and shall be liable  
18 for the payment of a surcharge on residential investment  
19 property or visitor accommodations held in the fiduciary's  
20 capacity, but shall not be personally liable and may retain, out  
21 of the money or other property that may be obtained in the



1 fiduciary's capacity, so much as may be necessary to pay the  
2 surcharge, recoup the payment thereof, or recover the amount  
3 paid from the beneficiary to whom property or visitor  
4 accommodations subject to a surcharge pursuant to this part have  
5 been distributed.

6 (f) No education surcharge shall be established upon any  
7 property that is not subject to real property taxation or that  
8 is otherwise exempt under this part.

9 (g) The penalties provided by section 231-39 for failure  
10 to file a tax return shall be imposed on the amount of the  
11 applicable education surcharge for:

12 (1) Failure to file a return pursuant to section 302A-  
13 D(f);

14 (2) Failure to pay a surcharge;

15 (3) Failure to file appropriate documentation with regard  
16 to a surcharge; or

17 (4) Failure to correctly report the amount of a surcharge.

18 **§302A-D Education surcharge on residential investment**

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



1	Property value	Surcharge per \$1,000 of total property value
2	Under \$500,000	\$3.50
3	\$500,000 to under \$750,000	\$4.50
4	\$750,000 to under \$1,000,000	\$5.50
5	\$1,000,000 to under \$2,000,000	\$6.50
6	\$2,000,000 and over	\$7.50

7 (b) The education surcharge on residential investment  
8 property shall be imposed on the most recent valuation that is  
9 assessed by the county where the property is located for the  
10 purpose of determining the annual county property tax liability.

11 (c) For the purposes of this part, life tenants, personal  
12 representatives, trustees, guardians, or other fiduciaries may  
13 be, and persons holding government property under an agreement  
14 for the conveyance of the same to such persons shall be,  
15 considered as owners during the time any residential investment  
16 property is held or controlled by them, including:

- 17 (1) Lessees holding under any government lease during the  
18 time any residential investment property is held;  
19 (2) Any tenant occupying government land for a period of  
20 one year or more;



- 1 (3) Persons holding any residential investment property  
2 under an agreement to purchase the same;
- 3 (4) Persons holding any residential investment property  
4 under a lease for a term to last during the lifetime  
5 of the lessee; and
- 6 (5) Persons bearing tax liability on the property during  
7 the time period for which an education surcharge on  
8 the property has been assessed.

9 **§302A-E Education surcharge on residential investment**

10 **property; notice and returns.** (a) Notices of the amount of the  
11 education surcharge on residential investment property shall be  
12 transmitted by each county through the United States mail to any  
13 property owner subject to the education surcharge. Notice of  
14 the surcharge amount shall be transmitted no later than  
15 October 31 of each calendar year to the owner's last known  
16 address or place of business.

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

20 (c) Whenever any county director of finance finds that  
21 there is not sufficient evidence to form, for assessment



1 purposes, a sound appraisal of the value of the residential  
2 investment property or properties, or portions thereof, it may  
3 require an owner to file a return within thirty days of the  
4 county's mailing of notice to the owner. Consideration of and  
5 liability for a return, including in determining the fair market  
6 value of a property or properties, shall be made in the same  
7 manner and with the same limitations as for real property tax  
8 returns in the county in which the property is located.

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

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

18 (f) If any return is sent by United States registered or  
19 certified mail, a record authenticated by the United States  
20 Postal Service of the registration or certification shall be  
21 considered evidence that the return was delivered to the county



1 director of finance. The date of registration or certification  
2 shall be deemed the postmarked date for filing purposes.

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

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

14 (b) No owner shall be deemed to be aggrieved by any  
15 assessment made upon the owner's property that is based upon the  
16 opinion of value set forth in the owner's return unless the  
17 owner shows lack of uniformity or inequality as set forth in  
18 section 232-3.

19 (c) Each of the counties shall by ordinance provide for  
20 appeal from an assessment used to determine the amount of the



1 education surcharge and denial of an exemption in the same  
2 manner as provided in the case of real property tax appeals.

3 (d) Any county decision on an appeal for relief or  
4 exemption from the education surcharge may be appealed to the  
5 tax appeal court as provided in chapter 232.

6 **§302A-G Education surcharge on visitor accommodations;**  
7 **levy; assessment.** (a) There is levied and shall be assessed  
8 and collected each year on all visitor accommodations in the  
9 State of Hawaii a surcharge.

10 (b) The surcharge shall be:

11 (1) \$3 per day for each visitor accommodation furnished by  
12 an operator or plan manager at a cost of less than  
13 \$150 per day; and

14 (2) \$5 per day for each visitor accommodation furnished by  
15 an operator or plan manager at a cost of \$150 per day  
16 or greater.

17 (c) On or before the final day of each calendar month,  
18 every operator or plan manager subject to an education surcharge  
19 on visitor accommodations during the preceding calendar month  
20 shall file a sworn return with the county director of finance



1 together with a remittance for the amount of the surcharge  
2 required by this section.

3 (d) Notwithstanding subsection (c), the director of  
4 finance, for good cause and in writing, may permit an operator  
5 or plan manager to file a return required by this section and  
6 pay the surcharge:

7 (1) On a quarterly basis during the calendar or fiscal  
8 year, the return and payment to be made on or before  
9 the final day of the calendar month after the close of  
10 each quarter; or

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

15 provided that the county director of finance is satisfied that  
16 the grant of the permit will not unduly jeopardize the  
17 collection of the surcharge due thereon or the operator's or  
18 plan manager's total surcharge liability.

19 (e) The county director of finance, for good cause and in  
20 writing, may permit an operator or plan manager to make monthly  
21 payments based on the operator's or plan manager's estimated



1 quarterly or semiannual surcharge liability; provided that the  
2 operator or plan manager files a reconciliation return at the  
3 end of each quarter or each six-month period during the calendar  
4 or fiscal year.

5 (f) If an operator or plan manager filing a return on a  
6 quarterly or semiannual basis, as provided in this section,  
7 becomes delinquent in either the filing of the return or the  
8 payment of the surcharge due thereon, or if the liability of an  
9 operator or plan manager who possesses a permit to file a return  
10 and make payments on a quarterly or semiannual basis exceeds  
11 \$5,000 during the calendar year, or if the county director of  
12 finance determines that any such quarterly or semiannual filing  
13 of a return would unduly jeopardize the proper administration of  
14 this part, including the assessment or collection of the  
15 education surcharge on visitor accommodations, the county  
16 director of finance, at any time, may revoke an operator's or  
17 plan manager's permit, in which case the operator or plan  
18 manager shall then be required to file an immediate return and  
19 make payments thereon as provided in subsection (c).



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

4 **§302A-H Education surcharge on residential and investment**  
5 **property; disposition of proceeds.** (a) The education surcharge  
6 on residential investment property shall be collected by the  
7 counties in accordance with this section. All moneys collected  
8 by the counties pursuant to the establishment of the education  
9 surcharge shall be paid into each county's treasury within ten  
10 working days after collection and shall be placed by each  
11 county's director of finance in special accounts. Out of the  
12 revenues generated by the education surcharge paid into each  
13 respective county treasury special account, the director of  
14 finance of each county shall deduct five per cent of the gross  
15 proceeds collected by a respective county from the education  
16 surcharge to reimburse the county for the costs of assessment,  
17 collection, and disposition of the education surcharge incurred  
18 by the county.

19 (b) The amounts deducted for costs of assessment,  
20 collection, and disposition of the education surcharge shall be  
21 withheld from payment to the State by the counties out of the



1 revenue generated by the education surcharge for the current  
2 calendar year.

3 (c) For the purpose of this section, the costs of  
4 assessment, collection, and disposition of the education  
5 surcharge shall include any and all costs, direct or indirect,  
6 that are deemed necessary and proper to effectively administer  
7 this part.

8 (d) After the deduction and withholding of the costs under  
9 subsections (a) and (c), the director of finance of each county  
10 shall, on a quarterly basis, pay the remaining balance of  
11 revenue collected under the education surcharge to the state  
12 director of finance. The quarterly payments shall be made after  
13 the education surcharge has been paid into the county treasury  
14 special accounts and after the disposition of any appeal.

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

18 **§302A-I Exemptions.** (a) This part shall not apply to:

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



- 1 (2) Property rented to a person or household whose income  
2 level would qualify the person or household for the  
3 federal public housing program;
- 4 (3) Property rented to a person or household receiving  
5 rental assistance through the state rent supplement  
6 program pursuant to section 356D-151;
- 7 (4) Property rented to a resident aged sixty-five years or  
8 older, provided that the resident's annual income is  
9 less than \$75,000;
- 10 (5) Property leased, purchased, or otherwise obtained by a  
11 lessee, tenant, purchaser, or homesteader under the  
12 Hawaiian Homes Commission Act of 1920, or as amended,  
13 a lease of land made for a term of nine hundred  
14 ninety-nine years under provisions of law that were  
15 repealed by section 3 of Joint Resolution 12, Session  
16 Laws of 1949, ratified by the Congress of the United  
17 States by the Act of September 1, 1950;
- 18 (6) Property rented to a person who is blind, deaf, or  
19 totally disabled as those terms are defined in section  
20 235-1; provided that the person's blindness, deafness,  
21 or total disability shall be verified by a licensed



- 1 physician, ophthalmologist, optometrist, or  
2 otolaryngologist;
- 3 (7) Property rented to a totally disabled veteran;
- 4 (8) Property used exclusively for charitable purposes,  
5 including property used for church purposes and  
6 cemeteries that are maintained by a religious  
7 organization;
- 8 (9) Property used for school purposes including:
- 9 (A) Prekindergarten facilities, including any  
10 property used to administer the executive office  
11 on early learning public prekindergarten program  
12 under section 302L-7;
- 13 (B) Kindergartens, grade schools, junior high  
14 schools, and high schools, which carry on a  
15 program of instruction meeting the requirements  
16 of compulsory school attendance pursuant to  
17 section 302A-1132; and
- 18 (C) Colleges or junior colleges offering a general  
19 program of instruction;
- 20 (10) Property owned by a nonprofit corporation to which  
21 admission is restricted by corporate charter to



- 1 members of a labor union or government employees'  
2 association, one of the primary purposes of which is  
3 to improve employment conditions of its members;
- 4 (11) Property dedicated to public use by the owner, which  
5 dedication has been accepted by the State or any  
6 county, reduced to writing, and recorded in the bureau  
7 of conveyances;
- 8 (12) Property that has been set aside for public use for a  
9 period of not less than ten years after enactment of  
10 Act , Session Laws Hawaii 2017; and
- 11 (13) Property owned by any entity granted a transient  
12 accommodations tax exemption under section 237D-3.
- 13 (b) No exemption from this part shall be allowed to any  
14 corporation, copartnership, company, or other private business  
15 entity, unless otherwise specified by law.
- 16 (c) An exemption shall only be granted for residential  
17 investment property or a visitor accommodation for which every  
18 owner or ownership interest qualifies for one or more exemptions  
19 provided by this section.
- 20 **§302A-J Enforcement.** (a) The superintendent of education  
21 shall administer and enforce this part; provided that each



1 county director of finance and the state director of finance, as  
2 applicable, shall administer and enforce:

3 (1) The examinations of books and records of any person or  
4 private entity subject to the education surcharge on  
5 residential investment property or the education  
6 surcharge on visitor accommodations; and

7 (2) The imposition of penalties upon failure or refusal by  
8 a person or private entity to file a return, sworn  
9 return, or proper return.

10 (b) The department may contract with any state or county  
11 department or agency for the purposes of implementing or  
12 enforcing this part.

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

15 **§302A-K Education special fund.** (a) There is established  
16 within the state treasury a special fund to be known as the  
17 education special fund to be administered by the department and  
18 into which shall be deposited:

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



- 1           (2) The proceeds of the education surcharge on visitor  
2                   accommodations established under section 302A-G;
- 3           (3) All other funds received by the department and legally  
4                   available for the purposes of the education special  
5                   fund; and
- 6           (4) Interest accrued on all amounts in the education  
7                   special fund.
- 8           (b) The education special fund shall not be subject to  
9           sections 36-27, 36-30, and 37-53. Expenditures from the special  
10           fund shall be subject to sections 37-31, and 37-33 through 37-  
11           40. Funds that are credited and transferred back to property  
12           owners from the special fund shall not be considered income and  
13           shall not be subject to state or county taxes.
- 14           (c) Moneys in the education special fund shall be used to  
15           develop and deliver instructional services to students in  
16           accordance with statewide educational policy.
- 17           (d) All amounts in the education special fund shall be  
18           exempt from all taxes and surcharges imposed by the State or the  
19           counties.
- 20           (e) No later than twenty days prior to the convening of  
21           each regular session, the department shall post on the



1 department's website a report containing an accounting of the  
2 receipts of and expenditures from the education special fund.  
3 The legislature shall provide to the department any information  
4 necessary to complete and post the report required by this  
5 section."

6 SECTION 3. In codifying the new sections added by section  
7 2 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10 SECTION 4. This Act shall take effect upon ratification of  
11 the constitutional amendment proposed in S.B. No. 683 or H.B.  
12 No. 182, Regular Session of 2017, permitting the legislature to  
13 establish a surcharge on residential investment properties and  
14 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 HD2)

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

