
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 is primarily sourced from the general fund of the State.

8 The legislature further finds that public education in
9 Hawaii is not adequately funded. Compared to school districts
10 of similar size in other states, Hawaii ranks two hundred twenty
11 seventh in per-pupil funding before adjusting for cost of
12 living. At \$11,823 per child, Hawaii education spending trails
13 major private schools, which average \$15,173 in per-pupil
14 spending. Hawaii also ranks last nationally in capital
15 improvement expenditures for public schools, appropriating about
16 \$300 per pupil, compared to averages in other states of \$1,200
17 to \$1,500.



1 The legislature additionally finds that in December 2015,
2 the United States Congress passed the Every Student Succeeds Act
3 (ESSA), which provides states with increased flexibility in
4 limiting the amount of time students spend taking and preparing
5 for standardized testing, designing teacher evaluations that
6 support professional practice, and implementing curricula
7 associated with individual state standards. To realize the
8 promise of the ESSA, Hawaii's school system must be better
9 funded. Currently, the United States Department of Education
10 considers over seventy per cent of Hawaii's public schools to be
11 Title I schools. A majority of public school students are now
12 considered "high-needs" students, meaning the student qualifies
13 for free or reduced price lunch, is an English language learner,
14 or is a special education student. Hawaii public school
15 facilities average sixty-one years in age, with the average
16 school building being forty-four years old and fifty-three
17 buildings being over one-hundred years in age. After adjusting
18 for the high cost of living in Hawaii, teachers are faced with
19 the lowest pay in the United States. Hawaii ranks fifty-first
20 out of fifty states and the District of Columbia in starting and



1 median teacher salaries adjusted for cost of living, according
2 to a 2016 study performed by WalletHub.com.

3 The legislature also finds that chronic underfunding of
4 public schools undermines the state's goal of providing a
5 quality education to all of Hawaii's children. Insufficient
6 education funding results in delayed repairs to school
7 facilities, overheated classrooms, higher class sizes, a lack of
8 adequate classroom supplies, elimination of arts and career and
9 technical education courses, budget cuts for special education
10 and English language learner programs, and an increasing number
11 of vacant teacher positions statewide. It is necessary to
12 develop a new means of funding Hawaii's public education system
13 to ensure that the State will be able to prepare children to
14 meet the social and economic demands of the twenty first
15 century.

16 The purpose of this Act is to implement a constitutional
17 amendment permitting the legislature to establish a surcharge on
18 visitor accommodations and residential investment properties to
19 fund the most urgent needs of the department of education,
20 including recruiting and retaining highly qualified teachers,
21 lowering class sizes, improving special education staffing and



1 resources, and growing the number of career and technical
2 education and arts courses offered statewide.

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

6 "PART . EDUCATION SURCHARGE ON RESIDENTIAL INVESTMENT
7 PROPERTY AND VISITOR ACCOMMODATIONS

8 §302A-A Definitions. As used in this part:

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

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

18 "Operator" means any person, corporation, copartnership,
19 company, or other private business entity that operates one or
20 more visitor accommodations, whether as owner or proprietor or
21 as lessee, sublessee, mortgagee in possession, licensee, or



1 otherwise, or engaging or continuing in any service business
2 that involves the furnishing of visitor accommodations.

3 "Plan manager" shall have the same meaning as in section
4 237D-1.

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

6 "Residential investment property" means and includes all
7 land and appurtenances thereof and the buildings, structures,
8 fences, and improvements erected on or affixed to the same, and
9 any fixture which is erected on or affixed to such land,
10 buildings, structures, fences, and improvements, including all
11 machinery and other mechanical or other allied equipment and the
12 foundations thereof, and including apartments and condominiums,
13 that is dedicated for residential use for which the owner does
14 not qualify for a county homeowner's exemption.

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

17 "Visitor accommodation" means and includes all transient
18 accommodations pursuant to section 237D-1, resort time share
19 vacation units pursuant to section 237D-1, and any other
20 dwelling or lodging located in the State and let by an owner or
21 operator for less than one hundred eighty days. Visitor



1 accommodations shall not include any facility owned or used by a
2 government agency, school or college dormitory, homeless
3 facility pursuant to section 346-361, or tenement home, group
4 home, group residence, group living arrangement, or boarding
5 house certified pursuant to section 445-94.

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

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

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



1 dance, Hawaiian and Polynesian studies, and Hawaiian
2 language.

3 (b) Revenue generated by the education surcharges on
4 residential investment property and visitor accommodations shall
5 be placed in the quality education special fund and shall be in
6 addition to all other funds appropriated for the department.

7 Moneys budgeted for the department from sources of funding other
8 than the quality education special fund, including for capital
9 improvement projects, shall remain equal to or greater than the
10 inflation-adjusted minimum level of funding, except when the
11 consumer price index for the twelve-month period ending June 30
12 of the preceding calendar year is less than zero.

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

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



- 1 (1) Residential investment properties; and
- 2 (2) Visitor accommodations, regardless of occupancy.
- 3 (c) A corporation, copartnership, company, or other
- 4 private business entity that owns or operates residential
- 5 investment property or one or more visitor accommodations shall
- 6 be subject to any applicable surcharge established by this part.
- 7 Property of a corporation, copartnership, company, or other
- 8 private businesses shall be assessed the surcharge under its
- 9 corporate or firm name.
- 10 (d) A person or private business that is a wholly owned
- 11 subsidiary or acting as an agent or on behalf of a corporation
- 12 having its principal place of business outside of Hawaii shall
- 13 be subject to any applicable surcharge on residential investment
- 14 property established by this part.
- 15 (e) Every personal representative, trustee, guardian, or
- 16 other fiduciary shall be responsible for the performance of all
- 17 such acts required by this part with respect to any applicable
- 18 surcharge on residential investment property or visitor
- 19 accommodations in their fiduciary capacity and shall be liable
- 20 for the payment of a surcharge on residential investment
- 21 property or visitor accommodations held in the fiduciary's



1 capacity, but shall not be personally liable and may retain, out
2 of the money or other property which may be obtained in the
3 fiduciary's capacity, so much as may be necessary to pay the
4 surcharge, recoup the payment thereof, or recover the amount
5 paid from the beneficiary to whom property or visitor
6 accommodations subject to a surcharge pursuant to this part have
7 been distributed.

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

11 (g) The penalties provided by section 231-39 for failure
12 to file a tax return shall be imposed on the amount of the
13 applicable education surcharge for failure to file a return
14 pursuant to section 302A-E(f), failure to pay, file appropriate
15 documentation with regard to, or correctly report the amount of
16 the surcharge.

17 **§302A-D Education surcharge on residential investment**
18 **property; levy; assessment.** (a) There is levied and shall be
19 assessed and collected each year on all residential investment
20 property in the State of Hawaii a surcharge as follows:

21



1	Property value	Surcharge per \$1,000 of total property value
2	Under \$500,000	\$3.50
3	\$500,000 under \$750,000	\$4.50
4	\$750,000 under \$1,000,000	\$5.50
5	\$1,000,000 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 as such, 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 educational 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 sound appraisal of a



1 residential investment property, for assessment purposes, of the
2 value of the property or properties, or portions thereof, it may
3 require an owner to file a return within thirty days.

4 Consideration of and liability for a return, including in
5 determining the fair market value of a property or properties,
6 shall made in the same manner and with the same limitations as
7 for real property tax returns in the county in which the
8 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) 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 (f) Failure to file a return required under this section
20 shall render the owner liable for payment of an additional sum



1 equal to the sum defined in and prescribed for failure to file a
2 tax return under section 231-39(b)(1).

3 (g) If any return is sent by United States registered or
4 certified mail, a record authenticated by the United States
5 Postal Service of the registration or certification shall be
6 considered evidence that the return was delivered to the county
7 director of finance. The date of registration or certification
8 shall be deemed the postmarked date for filing purposes.

9 (h) Each county director of finance shall make publicly
10 available a form for a return related to the education surcharge
11 on residential investment property for use in collecting the
12 education surcharge.

13 **§302A-F Education surcharge on residential investment**
14 **property; appeals.** (a) Any owner of residential investment
15 property who is aggrieved by an assessment used to determine the
16 amount of the education surcharge on residential investment
17 property for any year or by a refusal to be granted an exemption
18 from the education surcharge may appeal from such assessment in
19 the manner provided in the case of real property tax appeals.

20 (b) Each of the counties shall by ordinance provide for
21 appeals from assessments 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 (c) 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 director of finance shall



1 prescribe together with a remittance for the amount of the
2 surcharge 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 make payments thereon:

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

19 (e) The 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 director of finance
12 determines that any such quarterly or semiannual filing of
13 return would unduly jeopardize the proper administration of this
14 part, including the assessment or collection of the education
15 surcharge on visitor accommodations, the director of finance, at
16 any time, may revoke an operator's or plan manager's permit, in
17 which case the operator or plan manager shall then be required
18 to file an immediate return and make payments thereon as
19 provided in subsection (c).



1 (g) Payments collected by the department under this
2 section shall be deposited into the quality education special
3 fund 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 of a respective county's education surcharge collection
16 to reimburse the county for the costs of assessment, collection,
17 and disposition of the education surcharge incurred by the
18 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 quality education special fund established by section 302A-
18 K.

19 **§302A-I Exemptions.** (a) This part shall not apply to:



- 1 (1) Property rented for an amount of \$1,500 or less per
2 month, not including any applicable maintenance fees,
3 utility fees, and service charges;
- 4 (2) Property rented to a person or household whose income
5 level would qualify the person or household for the
6 federal public housing program;
- 7 (3) Property rented to a person or household receiving
8 rental assistance through the state rent supplement
9 program pursuant to section 356D-151;
- 10 (4) Property rented to a resident aged sixty-five years or
11 older, provided that the resident's annual income is
12 less than \$75,000;
- 13 (5) Property leased, purchased, or otherwise obtained by a
14 lessee, tenant, purchaser, or homesteader under the
15 Hawaiian Homestead Act of 1920, or a lease of land
16 made for a term of nine hundred and ninety-nine years
17 under provisions of law which were repealed by section
18 3 of Joint Resolution 12, Session Laws of 1949,
19 ratified by the Congress of the United States by the
20 Act of September 1, 1950 (64 Stat. 572);



1 (6) Property rented to a person who is blind or deaf, or a
2 person totally disabled, as those terms are defined in
3 section 235-1; provided that the person's blindness,
4 deafness, or total disability shall be verified by a
5 licensed physician, ophthalmologist, optometrist, or
6 otolaryngologist;

7 (7) Property rented to a totally disabled veteran;

8 (8) Property used exclusively for charitable purposes,
9 including property used for church purposes and
10 cemeteries that are maintained by a religious
11 organization;

12 (9) Property used for school purposes including:

13 (A) Prekindergarten facilities, including any
14 property used to administer the executive office
15 on early learning public prekindergarten program
16 under section 302L-7;

17 (B) Kindergartens, elementary schools, middle
18 schools, intermediate schools, and high schools,
19 which carry on a program of instruction meeting
20 the requirements of compulsory school attendance
21 pursuant to section 302A-1132; and



1 (C) Colleges or junior colleges offering a general
2 program of instruction;

3 (10) Property owned by a nonprofit corporation to which
4 admission is restricted by corporate charter to
5 members of a labor union or government employees'
6 association, one of the primary purposes of which is
7 to improve employment conditions of its members;

8 (11) Property dedicated to public use by the owner, which
9 dedication has been accepted by the State or any
10 county, reduced to writing, and recorded in the bureau
11 of conveyances;

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

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

17 (b) A person who is eligible for a county homeowner's
18 exemption on property tax who also owns more than one
19 residential investment property shall be entitled to designate
20 which residential investment property owned by that person shall
21 be exempt from this part.



1 (c) No exemption from this part shall be allowed to any
2 corporation, copartnership, company, or other private business
3 entity, unless otherwise specified by law.

4 (d) An exemption shall only be granted for a residential
5 investment property or a visitor accommodation for which every
6 owner or ownership interest qualifies for one or more exemptions
7 provided by this section.

8 **§302A-J Enforcement.** (a) The superintendent of education
9 shall administer and enforce this part; provided that each
10 county director of finance and the state director of finance, as
11 applicable, shall administer and enforce:

12 (1) The examinations of books and records by any person or
13 private entity subject to the education surcharge on
14 residential investment property or the education
15 surcharge on visitor accommodations; and

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

19 (b) The department may contract with any state or county
20 department or agency for the purposes of implementing or
21 enforcing this part.



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

3 **§302A-K Quality education special fund.** (a) There is
4 established within the state treasury a special fund to be known
5 as the quality education special fund to be administered by the
6 department and into which shall be deposited:

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

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

11 (3) All other funds received by the department and legally
12 available for the purposes of the quality education
13 special fund; and

14 (4) Interest accrued on all amounts in the quality
15 education special fund.

16 (b) The quality education special fund shall not be
17 subject to sections 36-27, 36-30, and 37-53. Expenditures from
18 the special fund shall be subject to sections 37-31, and 37-33
19 through 37-40. Funds that are credited and transferred back to
20 property owners from the special fund shall not be considered
21 income and shall not be subject to state or county taxes.



1 (c) Moneys in the quality education special fund shall be
2 allocated by the legislature through appropriations out of the
3 special fund, in consultation with the department and the
4 exclusive representatives of any appropriate bargaining units,
5 for the purposes of:

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

13 (d) All amounts in the quality education special fund
14 shall be exempt from all taxes and surcharges imposed by the
15 State or the counties.

16 (e) No later than twenty days prior to the convening of
17 each regular session, the department shall post on the
18 department's website a report containing an accounting of the
19 receipts of and expenditures from the quality education special
20 fund. The legislature shall provide to the department any



1 information necessary to complete and post the report required
2 by this section."

3 SECTION 3. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

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

12



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. (SD1)

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

