
A BILL FOR AN ACT

RELATING TO DISASTER RESPONSE.

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

1 SECTION 1. Hawaii has always been vulnerable to natural
2 disasters, including hurricanes, earthquakes, volcanic
3 eruptions, storm surges, tsunamis, and wildfires. The
4 legislature finds that over the years, various state departments
5 and agencies have been affected by natural disasters and
6 emergencies and have spent departmental funds to respond to
7 incidents as necessary. Many departments apply for
8 reimbursement for the costs of emergency response measures from
9 the Federal Emergency Management Agency. Disaster reimbursement
10 may take months or years, depending on the federal government.

11 The legislature further finds that this delay resulted in
12 the holding of federal reimbursement funds in the major disaster
13 fund, rather than the funds being returned to the originating
14 department or agency. As a result of this practice, the
15 legislature created an exception for the department of education
16 by Act 139, Session Laws of Hawaii 2017 (Act 139), in which any
17 federal reimbursement moneys for disaster-related expenditures



1 made by the department of education are credited directly to the
2 department of education instead of the major disaster fund.
3 Furthermore, Act 139 also allows the department of education to
4 carry over the federal reimbursement moneys regardless of
5 whether the original appropriation has lapsed. No other state
6 department has this type of exception.

7 The purpose of this Act is to:

- 8 (1) Repeal the special exception for the department of
9 education and instead fairly reimburse all state
10 departments and agencies for disaster-related
11 expenses;
- 12 (2) Clarify that all federal funds received by the State
13 for reimbursement of disaster-related expenses shall
14 first be applied to the originating fund used by the
15 department or agency for payment of disaster relief
16 expenses; provided that if the original appropriation
17 has lapsed, the funds shall be returned to the general
18 fund;
- 19 (3) Require the administrator of the Hawaii emergency
20 management agency to submit an annual report to the
21 legislature on the status of federal reimbursement



1 moneys for disaster response, and disaster response
2 spending by each state agency; and

3 (4) Appropriate funds to the department of defense for
4 disaster response efforts.

5 SECTION 2. Section 37-41.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§37-41.5 Department of education; carryover of funds.**

8 (a) The department of education may retain up to five per cent
9 of any appropriation, except for appropriations to fund
10 financing agreements entered into in accordance with
11 chapter 37D, at the close of a fiscal year and the funds
12 retained shall not lapse until June 30 of the first fiscal year
13 of the next fiscal biennium. The department of education shall
14 submit:

15 (1) A report to the director of finance ninety days after
16 the close of each fiscal year, which shall be prepared
17 in the form prescribed by the director of finance and
18 shall identify the total amount of funds that will
19 carry over to the next fiscal year; and

20 (2) A copy of this report to the legislature, as well as a
21 report identifying the carryover of funds on a school-



1 by-school basis, at least twenty days prior to the
2 convening of the next regular session of the
3 legislature.

4 (b) Appropriations allocated to the schools shall remain
5 within the budget of the school to which they were originally
6 allocated; provided that the retention of an appropriation shall
7 not be used by the department as a basis for reducing a school's
8 future budget requirements.

9 ~~[(c) In addition to the five per cent retainage under~~
10 ~~subsection (a), the department of education may retain any~~
11 ~~appropriation received pursuant to section 127A-16(a) or as~~
12 ~~reimbursement for disaster relief pursuant to section 127A-16(d)~~
13 ~~at the close of the fiscal year in which the appropriation or~~
14 ~~reimbursement was received and the funds retained shall not~~
15 ~~lapse until June 30 of the first fiscal year of the next fiscal~~
16 ~~biennium. Such funds shall be considered as separate and~~
17 ~~distinct from the funds the department of education is~~
18 ~~authorized to retain pursuant to subsection (a).]~~"

19 SECTION 3. Section 127A-16, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§127A-16 Major disaster fund.** (a) The administrator
2 shall submit requests to the legislature to appropriate from the
3 general revenues of the State sufficient moneys as may be
4 necessary for expenditure by or under the direction of the
5 governor for immediate relief in response to an emergency or
6 disaster in any part of the State; provided that:

7 (1) The governor has issued a proclamation of a state of
8 emergency;

9 (2) The governor [~~may~~] shall not expend in excess of
10 \$10,000,000 for immediate relief as a result of any
11 single emergency or disaster; and

12 (3) In addition to the funds in paragraph (2), an
13 additional \$5,000,000 may be made available solely for
14 the purpose of matching federal disaster relief funds
15 when these funds become available to the State
16 following a presidential disaster declaration.

17 In expending the moneys, the governor may allot any portion
18 thereof to any agency, office, or employee of the State or a
19 county for the most efficient relief for the population.

20 Notwithstanding this subsection, the only exception to
21 paragraphs (1), (2), and (3) is that the administrator may use



1 up to \$250,000 per year to support the emergency management
2 reserve corps.

3 (b) No later than sixty days after any allotment by the
4 governor or the expenditure of any fund moneys, the
5 administrator shall report to the legislature on the purpose of
6 the allotment or expenditure.

7 (c) ~~[Except as provided in subsection (d), federal]~~
8 Federal reimbursement moneys for disaster relief shall be deemed
9 to be trust moneys and ~~[may]~~ shall be deposited into a trust
10 account with and under the control of the Hawaii emergency
11 management agency. ~~[These moneys and any interest earned~~
12 ~~thereon shall be used for the purpose identified in subsection~~
13 ~~(a) and shall not lapse to the general fund.~~

14 ~~(d) In cases in which the department of education expends~~
15 ~~the funds appropriated to the department for purposes deemed to~~
16 ~~be reimbursable by federal reimbursement moneys for disaster~~
17 ~~relief, the federal reimbursement moneys shall not lapse to the~~
18 ~~general fund and shall be credited directly to the department of~~
19 ~~education without regard to whether the original appropriation~~
20 ~~has lapsed. Such funds shall carry over in accordance with~~
21 ~~section 37-41.5(c).~~



1 ~~(c) Any unspent funding under \$2,500,000 shall be rolled~~
2 ~~over to the next fiscal year to support future emergencies and~~
3 ~~disasters.]~~ Upon receipt by the Hawaii emergency management
4 agency, these moneys shall be reimbursed to the originating fund
5 of the expending agency; provided that if the original
6 appropriation has lapsed, the funds shall be returned to the
7 general fund.

8 (d) Each state agency shall submit to the administrator no
9 later than August 1 of each year a report of all funds expended,
10 if any, for the prior fiscal year by the state agency for
11 disaster response. The report shall include:

- 12 (1) The source of funds, including the name and account
13 number of the funding source;
14 (2) The amount and purpose of each expenditure; and
15 (3) Whether any programs, activities, or contracts were
16 reduced as a result of disaster response spending by
17 the state agency.

18 (e) The administrator shall submit an annual report to the
19 legislature no later than September 1 of each year on:

- 20 (1) The amount of federal reimbursement moneys for
21 disaster response that the State or any county could



1 have applied for during the prior fiscal year. The
2 report shall indicate the amount of federal
3 reimbursement moneys for disaster response broken down
4 by department, agency, and county;

5 (2) The amount of federal reimbursement moneys for
6 disaster response that the State or any county applied
7 for and the amount received during the prior fiscal
8 year. The report shall indicate the amount of federal
9 reimbursement moneys for disaster response broken down
10 by department, agency, and county;

11 (3) The justification for any difference in the amount of
12 federal reimbursement moneys for disaster response
13 that the State or county was eligible for and the
14 amount the State or county applied for;

15 (4) The average amount of time between the submittal of an
16 application for a Federal Emergency Management Agency
17 reimbursement and receipt of the funds;

18 (5) The number of disaster accounts opened for the prior
19 fiscal year; and



1 (6) The information relating to the expenditure of funds
2 that is reported by state agencies pursuant to
3 subsection (d)."

4 SECTION 4. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2022-2023 for
7 the department of defense for disaster response efforts.

8 The sum appropriated shall be expended by the department of
9 defense for the purposes of this Act.

10 SECTION 5. If any part of this Act is found to be in
11 conflict with federal requirements that are a prescribed
12 condition for the allocation of federal funds to the State, the
13 conflicting part of this Act is inoperative solely to the extent
14 of the conflict and with respect to the agencies directly
15 affected, and this finding does not affect the operation of the
16 remainder of this Act in its application to the agencies
17 concerned. The rules under this Act shall meet federal
18 requirements that are a necessary condition to the receipt of
19 federal funds by the State.

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1, 2050.

2



Report Title:

Disaster Response; Disaster Relief; Major Disaster Fund; Federal Reimbursements; Reports; Appropriation

Description:

Repeals language authorizing the department of education to retain federal reimbursements for disaster relief and delaying the lapsing of those funds to the general fund. Requires federal disaster relief reimbursement moneys to be deposited into a trust account of the Hawaii emergency management agency and reimbursed to the originating fund of the expending agency, with funds to be returned to the general fund upon lapse of the original appropriation. Requires annual reports to the legislature on federal reimbursement moneys, and disaster response spending by each state agency. Appropriates funds. Effective 7/1/2050. (HD1)

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