



**STATE OF HAWAII  
DEPARTMENT OF EDUCATION**

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OFFICE OF THE SUPERINTENDENT

January 21, 2021

TO: The Honorable Kenneth Uemura  
Chairperson, Finance and Infrastructure Committee

FROM: Dr. Christina M. Kishimoto   
Superintendent

SUBJECT: **Committee Action on Department of Education's Plan for Use of Federal Funds in the New COVID-19 Relief Package and Annual Federal Spending Bill**

EXECUTIVE SUMMARY

The recently passed federal Consolidated Appropriations Act, 2021 included authorization for a second round of allocations to states through the Education Stabilization Fund's Elementary and Secondary School Emergency Relief (ESSER) Fund. The allocation of this second round of ESSER funds (ESSER II) to the Hawaii State Department of Education (Department) is \$183,595,211. These funds are available for expenditure through September 30, 2023.

In addition to statutorily prescribed considerations for equitable allocations for charter schools, the Department has five major categories for potential assignment of these funds to (Attachment A):

1. Address current fiscal year (FY 2020-21) shortfalls;
2. Off-set all or a portion of the \$100.2 million per year cut to the Governor's proposed general fund budget for the Department for Fiscal Biennium (FB) 2021-23 that has not been assigned at the program level;
3. Off-set all or a portion of the \$164.3 million per year for FB 2021-23 to restore cut to the general fund budget that has been assigned at the program level;
4. Provide newly identified learning loss mitigation and on-going health and safety measures; and
5. Dispense to charter schools an equitable share of federal funds.

Based on the Department's and Board of Education's (Board) commitment to the classroom, the Department is recommending these funds be used for a combination of funding for 4 out of the 5 categories as follows:

1. A portion of the current year shortfalls;
2. A portion of the Governor's 10% Program Review reductions;
3. Newly identified COVID-19 Response Measures including learning loss mitigation and health & safety measures; and
4. Charter schools' equitable share for the federal funds.

\*The Department does not recommend supplanting the \$100.2M base budget reduction from Act 9, SLH 2020 with federal funds, but rather recommends a request to legislature to fully restore these dollars

## I. BACKGROUND AND HISTORY

On December 3, 2020, the Department presented its proposed operating budget for FB 2021-23 to the Board Finance and Infrastructure Committee (FIC). The Board reviewed and approved the Department's proposed operating budget, stating its reservations. Committee Action on Recommendation Concerning the Department of Education's Operating Budget for 2021-2023 Fiscal Biennium:

[http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC\\_12032020\\_Committee%20Action%20on%20Recommendation%20Concerning%20DOE%27s%20Operating%20Budget%20for%202021-2023%20Fiscal%20Biennium.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC_12032020_Committee%20Action%20on%20Recommendation%20Concerning%20DOE%27s%20Operating%20Budget%20for%202021-2023%20Fiscal%20Biennium.pdf)

On December 21, 2020, Congress passed the Consolidated Appropriations Act, 2021, that authorizes \$900 billion in stimulus relief through various programs and a \$1.4 trillion omnibus spending bill for the federal fiscal year 2021. Included in this act is \$88.18 billion appropriated for the Education Stabilization Fund, of which \$54.3 billion is designated for the ESSER II Fund allocated to states. This measure did not include any funds for State and Local Government as the first COVID Relief measure had. The act was signed into law on December 27, 2020.

On January 5, 2021, the Department received notification from the U.S. Department of Education that the ESSER II allocation for Hawaii is \$183,595,211:

[https://oese.ed.gov/files/2021/01/Final\\_ESSERII\\_Methodology\\_Table\\_1.5.21.pdf](https://oese.ed.gov/files/2021/01/Final_ESSERII_Methodology_Table_1.5.21.pdf)

On January 7, 2021, the Council on Revenues held its quarterly meeting to project general fund tax revenues for the current and next six years. At this meeting, the adjustments to the FY 2020-21 and FY 2021-22 projections resulted in an additional \$471.65 million in revenues for the current and next fiscal year. Cumulative increases from the current FY 2020-21 through FY 2026-27 were over \$1.8 billion. It is anticipated that in the weeks ahead, the Governor will amend the FB 2021-23 Executive Budget Request and Six-Year Financial Plan accordingly.

On January 8, 2021, Georgia Senator David Perdue conceded the election to his opponent, securing a narrow Democrat majority in the U.S. Senate. Along with the Democrat Majority in the U.S. House of Representatives, the outlook for swift passage of additional federal assistance for state and local governments is significantly improved. Assistance for state and local governments was included in the first COVID Relief measure, but left out of the second. In the weeks and months ahead, this development will likely have a significant impact on the ultimate development of the FB 2021-23 Executive Budget.

## II. PURPOSE OF REPORT

Board action is requested to review the Department's planned use of recently allocated \$183.6 million of federal ESSER II funds to ensure alignment with the Board and Department priorities in addressing the impacts of the COVID-19 pandemic and to quickly provide guidance to schools who need stability and predictability in funding for academic planning. The Department plans to use the ESSER II funds to address the current fiscal year shortfall, off-set a portion of potential reductions being proposed in the Governor's FB 2021-23 Budget Request, continue to meet health and safety needs, and mitigate the learning loss of our students.

## III. LIST OF KEY ISSUES

### **Board Policy: 400-1: Board of Education Roles and Responsibilities**

4. Review and approve the Board/Department/Public Library budgets; ensure congruence of spending priorities with the Board's goals and objectives.

<http://boe.hawaii.gov/policies/Board%20Policies/Board%20of%20Education%20Roles%20and%20Responsibilities.pdf>

### **New COVID-19 Relief Package: (ESSER) II funds**

These funds may be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared. These funds are available for expenditure through September 30, 2023.

#### Allowable Uses:

The new ESSER II funds may be used for the same purposes as the original ESSER funds, which includes: any activities authorized by the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act of 2000 (ESSA), Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, the Perkins Career and Technical Education (CTE) Act, or the McKinney-Vento Homeless Assistance Act.

In addition to these, Local Education Agencies (LEA) can use ESSER funds for the following activities:

- Coordination of preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies;
- Providing principals and others school leaders with the resources necessary to address the needs of their individual schools;
- Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population;
- Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs;
- Planning for and coordinating on long-term closures (including on meeting IDEA requirements, how to provide online learning, and how to provide meals to students);
- Staff training and professional development on sanitation and minimizing the spread of infectious disease;
- Purchasing supplies to sanitize and clean the facilities of LEA, including buildings operated by the LEA;
- Purchasing educational technology (hardware, software, and connectivity) for students, that aids in the regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive or adaptive technology;
- Mental health services and supports;
- Summer learning and supplemental after-school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care;
- Discretionary funds for school principals to address the needs of their individual schools;
- Other activities that are necessary to maintain the operation and continuity of services in LEAs and to continuing the employment of their existing staff;
- (NEW for ESSER II) addressing learning loss;
- (NEW for ESSER II) preparing schools for reopening; and
- (NEW for ESSER II) testing, repairing, and upgrading projects to improve air quality in school buildings

Under the Coronavirus Response and Relief Supplemental Appropriations Act included in the Consolidated Appropriations Act, any state that receives ESSER II funds must maintain support for elementary and secondary education and higher education in FY 2022 based on the proportional share of the state's support for elementary and secondary education and higher education relative to the state's overall spending averaged over FYs 2017, 2018, and 2019.

### **Annual Federal Spending Bill**

As of the drafting of the memorandum, details on projected state allocations for all major federal funded education programs were not available. The major federal

education programs, with the exception of the Impact Aid program, are forward funded, meaning the U.S. Department of Education will allocate the funds just appropriated in federal fiscal year (FFY) 2020-2021 (Oct 1, 2020 – Sept 30, 2021) in time for the Department's FY 2021-22 (July 1, 2021-June 30, 2022).

Preliminarily, it appears that the year over year change in total nationwide funding for the major education programs was approximately +1%. As such, the outlook is minimal for the availability of allocations in excess of what programs, and the schools and offices that the programs fund, already expect in FY 21-22.

### **Major Categories of Possible Uses for the ESSER II funds**

The following four items are known shortfall areas that the ESSER II funds could be programmed for this fiscal year and next based on current information, and the fifth item is the estimated amount required to be allocated to charter schools per state statute.

1. \$83.3 million for current fiscal year (FY 2020-21) shortfall
  - i. \$24.9 million for School Food Service;
  - ii. \$32.5 million for Teacher Differential Pilot Program;
  - iii. \$ 9.9 million for Employees' Unemployment Insurance expenses;
  - iv. \$ 9.5 million for Employees' Workers Compensation expenses;
  - v. \$ 5.0 million for School's Converged Infrastructure License and Maintenance; and
  - vi. \$ 1.5 million for new Financial Management System for annual software as a service licensing and associated maintenance
2. \$100.2 million for FB 2021-23 million per year to off-set the cut to the general fund budget that has not been assigned at the program level
3. \$164.3 million for FB 2021-23 per year to off-set the cut to the general fund budget that has been assigned at the program level
4. \$88.2 million: \$3 million for FY 2020-21 and \$85.2 million for FY 2021-22 for newly identified learning loss mitigation and health & safety COVID-19 Response measures
5. \$9.0 million per state law §302D-28(d), charter schools are eligible for federal financial support to the same extent as department schools. The calculation of this estimated allocation amount for charter schools is contained on Attachment B.

[https://www.capitol.hawaii.gov/hrscurrent/Vol05\\_Ch0261-0319/HRS0302D/HRS\\_0302D-0028.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0302D/HRS_0302D-0028.htm)

The total of these five areas is \$441.9 million, which is in excess of the \$183.6 million federal relief funds. In addition, these cost estimates have not factored in the associated 50% additional expense for fringe benefits required when non-general funds are used for payroll purposes.

IV. DISCUSS ANY FINANCIAL IMPACT

Much of the current year projected shortfalls were accounted for in the Governor's General Fund Financial Plan. If the Legislature does not support current fiscal year Emergency Appropriations for the shortfalls, the expenses will likely carry over into the next fiscal year as deficits. It would be unrealistic to expect savings of that magnitude could be realized over the course of this fiscal year under normal conditions, let alone this fiscal year with the Legislature's \$100.2 million one-time general fund reduction and the Governor's 10% restriction.

If the \$100.2 million FB 2021-23 reduction that was deemed as a "recurring cut" in the Governor's budget request is ultimately maintained for FB 2021-23, the Department will need to assign further cuts to programs. The cuts would again occur across the three levels of the tri-level (school, complex area, and state). The majority of any reductions imposed at the program level, in addition to the \$165.3 million already identified in Department and Board's FB 2021-23 budget request, would likely occur at the school level and be on payroll for positions, given that the vast majority of Department funding is expended at the school level for staff costs.

If the \$164.3 million FB 2021-23 reduction is imposed, there will be significant disruption to school operations and school support capacity. The reductions for the EDN 150, Special Education and Student Support Services area of the budget, are subject to a federal maintenance of effort requirement and will not only reduce the capacity of schools to programs to support special education students, but may have financial implications that are currently under review.

If the \$85.2 million for learning loss mitigation and health and safety measures go unaddressed, schools will be required to either re-prioritize their limited funding to provide for supplemental instructional supports to off-set the negative impacts of the COVID-19 pandemic to school operations and provide personal protective equipment and other health and safety needs. For schools to fund these expenses in the year that their budgets are being reduced by approximately 10% will be difficult.

The pro-rata share for charter schools is an obligation that will need to be met. The ultimate amount distributed to charter schools will depend on whether charter school students will benefit from programs funded with ESSER II funds such as special education programs or learning loss mitigation programs.

V. DESCRIBE ANY COMMUNITY OR PUBLIC ENGAGEMENT

In preparation of the biennium budget proposal, the Department convened three budget program review subcommittees consisting of state, complex area, and school-level representatives to identify the essential functions of the Department that must be preserved as the Department determines where funding can be reduced. The Department has also engaged state office, complex area, and school leadership in

discussions regarding current and potential budget reductions to solicit input on funding priorities.

Externally, the Department sought feedback on the budget reductions from business partners and education advocates via virtual meetings. The Department has also taken into consideration the concerns of the public, as conveyed through testimony for multiple Board meetings during Summer and Fall 2020.

## VI. RECOMMENDATION

The Department is recommending programming of the \$183.6 million for the following:

1. \$32.5 million of the \$83.3 million for FY 2020-21 shortfalls, specifically for teacher differentials;
2. \$0 of the \$100.2 million for Fiscal Biennium (FB) 2021-23 million per year to off-set cut to the general fund budget that has not been assigned at the program level;
3. \$54.0 million of the \$164.3 million for FB 2021-23 per year to off-set cut to the general fund budget that has been assigned at the program level;
4. \$88.2 million: \$3 million for FY 2020-21 and \$85.2 million for FY 2021-22 for newly identified learning loss mitigation and health & safety COVID-19 Response measures; and
5. \$9.0 million per state law §302D-28(d), charter schools are eligible for federal financial support to the same extent as department schools.

Further details for this recommendation are contained in Attachment A.

CMK:bh  
Attachments

c: Office of Fiscal Services

## ESSER II Funding: Potential and Recommended Uses

Recommendation Category	FY	Category	Purpose	Potential Uses for ESSER II funds	Actual or Estimate	Department Recommendation	Comments
1	FY 21	Current Year Shortfall	Employees' Unemployment Insurance	\$9,900,000	Estimate	\$0	COVID-related under-appropriated and non-discretionary / fixed cost cost
1	FY 21	Current Year Shortfall	Teacher Differentials Pilot Program	\$32,500,000	Estimate	\$32,500,000	Second and final year of pilot program (without fringe)
1	FY 21	Current Year Shortfall	School Food Service	\$24,900,000	Estimate	\$0	FY 21 shortfall only at this level, but recurring shortfall in FY 22 & FY 23 likely
1	FY 21	Current Year Shortfall	Employees' Workers' Compensation	\$9,500,000	Estimate	\$0	Recurring under-appropriated and non-discretionary / fixed costs
1	FY 21	Current Year Shortfall	Schools' Converged Infrastructure	\$5,000,000	Actual	\$0	License and maintenance expenses for schools' digital network infrastructure
1	FY 21	Current Year Shortfall	New Financial Management System	\$1,500,000	Actual	\$0	Annual software as a service and associated maintenance
4	FY 21	COVID Response Measure	Health and Safety	\$3,000,000	Estimate	\$3,000,000	Including enhanced school off-hours security contracts and sanitation expenses
5	FY 21	Charter School Share	Pro-rata Share for Charter Schools	\$8,991,457	Estimate	\$8,991,457	Estimate based on SY 20-21 Oct 15th Enrollment and FY 20-21 Appropriations
<b>FY 21 TOTAL</b>				<b>\$95,291,457</b>		<b>\$44,491,457</b>	
2	FY 22	Off-set \$100.2 million Cut	Off-set \$100.2 million Non-Recurring Cut deemed Recurring in Executive Biennium Budget Request	\$100,200,000	Actual	\$0	General fund reductions to meet this cut at the program level have not been identified.
3	FY 22	Off-set \$164.3 million Cut	Off-set \$164.3 million for 10% Program Review cuts	\$164,253,616	Actual	\$53,953,754	Of Weighted Student Formula \$95.3 million Program Review cut off-set 26%: \$24,924,001 Of EDN 150 \$32.3 million Program Review cut off-set 90%: \$29,029,753
4	FY 22	COVID Response Measure	1:1 Tutoring Program - English Language Arts (ELA) & Math	\$53,000,000	Estimate	\$53,000,000	Students in grades 5-8 who are 2 or more years behind in ELA and Math will be offered targeted personalized tutoring services beyond classroom instruction to accelerate learning and minimize learning loss. We are investigating a targeted, one to one, high touch program to prepare students for the rigors of high school for approximately 25,000 students. A focused approach on middle level students to mitigate learning loss can impact individual students who are most in need, and change their trajectory of success as they continue their learning to pursue college and career options.
4	FY 22	COVID Response Measure	Summer Learning	\$9,650,000	Estimate	\$9,650,000	Students who are performing well below in elementary grades or failing courses in middle and high school will be prioritized for summer learning opportunities at school sites to mitigate learning loss. Complex Area Superintendents and principals will consider student performance data to determine areas of supports that students will need, and design the type of summer programs to offer in their complex areas.
4	FY 22	COVID Response Measure	Computer Refresh for Schools	\$7,500,000	Estimate	\$7,500,000	For student devices and associated system infrastructure, with anticipated matching resources from the private sector.
4	FY 22	COVID Response Measure	COVID Emergency Response - Health and Safety	\$15,000,000	Estimate	\$15,000,000	Provision of PPE for schools and offices is estimated to cost about \$12 million per school year. Another \$3 million each year is needed to address school health and security concerns, including concerns associated with the rising homeless presence and vandalism on school campuses.
<b>FY 22 TOTAL</b>				<b>\$349,603,616</b>		<b>\$139,103,754</b>	
<b>FY 21 &amp; FY 22 TOTAL</b>				<b>\$444,895,073</b>		<b>\$183,595,211</b>	
<b>Education Stabilization Funds - ESSER II Grant Award Amount</b>				<b>\$183,595,211</b>		<b>\$183,595,211</b>	
<b>BALANCE</b>				<b>-\$261,299,862</b>		<b>\$0</b>	

<b>Calculation of Estimated ESSER II Allocation for Charter Schools</b>				
<b>Elementary and Secondary Education Emergency Relief Funds (CARES)</b>				
Grant Award Total	(1)	\$183,595,211		
Less State Educational Agency portion per 18003 (c)	(2)	-\$18,359,521		
Balance for Distribution for public school programs	(3) = (1) - (2)	\$165,235,690		
<b>Calc for SPED set aside based on SPED % of budget</b>				
<b>FY 2020-21 General Funds Appropriation (Act 9, SLH 2020)</b>				
EDN 100		\$1,009,225,846		57.45%
EDN 150	(4)	\$390,993,161	(6) = (4) / (5)	22.26%
EDN 200		\$59,188,730		3.37%
EDN 300		\$52,043,672		8.18%
EDN 400		\$143,693,794		5.77%
EDN 600		\$101,405,111		5.77%
	(5)	\$1,756,550,314		
SPED set aside based on % of the gen fund budget for K-12 Education for SPED	(7) = (3) * (6)	\$36,780,059		
<b>Calc to Determine Pro-Rata Share</b>				
Amount of Elem and Secondary Ed Emergency Relief Funds for Public Schools	(8) = (3) - (7)	\$128,455,631		
<b>SY 2020-21 October 15th, 2020 Enrollment for K-12</b>				
DOE	(9)	161,297	(12) = (9) / (11)	93.00%
PCS	(10)	12,140	(13) = (10) / (11)	7.00%
Combined	(11) = (9) + (10)	173,437		
Per pupil amount	(14) = (8) / (11)	\$741		
DOE Share	(15) = (8) * (12)	\$119,464,173		
PCS Share	(16) = (8) * (13)	\$8,991,457		