



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

August 19, 2021

TO: The Honorable Bruce Voss  
Chairperson, Finance and Infrastructure Committee

FROM: Keith T. Hayashi  
Interim Superintendent

A handwritten signature in blue ink, appearing to read "Keith T. Hayashi".

SUBJECT: **Committee Action on Recommendation Concerning Priority Allocation of Federal Funds in ESSER II and ESSER ARP to Fund: (1) Increased Student Access to Nursing Services; (2) Planning and Implementing Complex Area Accelerated Learning Plans and Related COVID-19 Impacts; (3) Distribution to Charter Schools; (4) Department Budget Shortfalls; (5) Department Administrative Costs for ESSER Grant Management; (6) Resources for Leilehua High School Cyber Security Academy, (7) Resources for Castle, Kalaheo, and Kailua Complexes Trauma-informed Care Services**

1. EXECUTIVE SUMMARY

The Hawaii State Department of Education (Department) is seeking approval from the Hawaii State Board of Education (Board) Finance and Infrastructure Committee (Committee) for the proposed use in Fiscal Year (FY) 2021-2022 of \$176.9 million of Elementary and Secondary School Emergency Relief funds: \$54.1 million from the balance of the Coronavirus Response and Relief Supplemental Appropriations Act Elementary and Secondary School Emergency Relief (ESSER II) funds and \$122.8 million of the \$412.5 million award of American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER III) funds.

These education stabilization funds are required to implement the Board and U.S. Department of Education-approved *Hawaii State Plan for the American Rescue Plan Elementary and Secondary School Emergency Relief Fund* (State Plan). The State Plan calls for the funds to be obligated for the following purposes:

- Addressing the academic impact of lost instructional time;
- Investing in summer learning and afterschool programs;
- Staffing to support student needs;
- Returning to in-person learning in 2021;
- Safely reopening schools and sustaining safe operations;
- Supporting students most impacted by the pandemic; and
- Avoiding deep and disruptive cuts to education program funding and offerings.

Given the fluid nature of the global pandemic, it will be strategically imperative to anticipate the need to remain flexible to respond to changing public health conditions, best practices, and available financial resources. As such, the Department prepared a presentation on ESSER funds as a separate item on today's Finance and Infrastructure Committee agenda that provides a preliminary and high-level account of the available ESSER II and III funds. Through this agenda item, the Department is seeking Board approval to move forward with allocating funds for the twelve items identified in this recommendation memo.

The Department will be returning to seek Board approval for additional items in September 2021. In addition, the Department anticipates returning to the Board to seek adjustments to this plan in the months and years ahead, as:

- Student assessment data becomes available,
- Health conditions and guidelines evolve,
- Best practices are defined, and
- The fiscal outlook for the Department becomes clearer.

## 2. RECOMMENDATION

It is recommended that the Committee approve the following proposed uses of ESSER II and III funds for FY 2021-2022, for the following twelve items:

Item #	Agenda #	Proposed Uses of ESSER Funds	FY 2021-2022
<b>Accelerated Learning - General Health</b>			
1.03	1	Student Health - Nurse Positions	\$3,638,772
<b>Complex Area Coordinated Accelerated Learning Supports</b>			
2.03	2	Complex Area Accelerated Learning Proposals (partial funding sought)	\$10,000,000
2.04	6	Student Engagement: Cyber Security Equipment (Leilehua)	\$304,400
2.05	7	Social Emotional Learning: Trauma-Informed Care Services (Castle, Kalaheo, and Kailua Complexes)	\$400,000
<b>Charter School Distribution</b>			
3	3	Charter Schools distribution for COVID-19 impacts for Fiscal Biennium (FB) 2021-2023	\$13,808,944
<b>Stabilization for General Fund (Department) Shortfalls</b>			
4.01	4	Offset for \$100.2 million in cuts maintained for FB 21-23 (\$54,069,420 from ESSER II and balance of \$46,130,580 from ESSER III)	\$100,200,000
4.02	4	Offset for Change in MOFs from General to Federal and General Fund Salary Reductions creating unfunded FTEs in HB200 CD1 (FB 2021-2023 Executive Budget)	\$20,664,424
4.03	4	Offset (or direct exp) Pre-existing shortfalls - to maintain existing programs (FY 22-23 Teacher Differentials, Workers' Compensation, Converged Networks, and Aukahi Financial Management System)	\$16,500,000
4.04	4	Off-set for Private Trade, Vocational & Technical School Licensure (Spec Fund Cut and General Funds not provided)	\$24,000

4.05	4	Offset for Challenger Space Center	\$325,241
<b>0.5% Administrative Costs</b>			
6	5	Administrative Costs and Emergency Needs (evaluation, fiscal staffing)	\$1,031,325
<b>Complex Area COVID-19 Impacts Response Funds</b>			
7	2	Complex Area Related COVID-19 Impacts: Staff Well Being & Safe Return to School Proposals (partial funding sought)	\$10,000,000
			\$176,897,106

3. RECOMMENDED EFFECTIVE DATE

Upon Board approval.

4. RECOMMENDED COMPLIANCE DATE

Upon Board approval.

5. DISCUSSION

a. Conditions leading to the recommendation:

The Presentation on ESSER funds on today’s Committee agenda addressed issues related to Congressional action to appropriate funds, federal Department of Education action to distribute ESSER funds and establish guidelines, and the State Legislature’s actions in relation to the Department’s operating budget contained in HB 200 CD1 and efforts to direct the use of ESSER funds via HB 613 CD2.

Specific highlights of these events include:

On June 29, 2021, the Department submitted its State Plan for the ESSER III funds to the U.S. Department of Education.

<https://www.hawaiipublicschools.org/DOE%20Forms/budget/ESSER/Hawaii-State-Plan-ARP-ESSER.pdf>

On July 6, 2021, the Governor vetoed and returned HB613 CD2 to the Legislature. The Legislature did not act to override the Governor’s veto or amend the measure to address the concerns raised by the Governor for HB613 CD2 or Act 88, SLH 2021 (HB200 CD1).

On August 5, 2021, the Department received written notification of the formal approval of its State Plan for ESSER III funds from the U.S. Department of Education.

<https://oese.ed.gov/files/2021/08/Hawaii-ARP-ESSER-State-Plan-Approval-Letter.pdf>

Approved State Plan: <https://oese.ed.gov/files/2021/08/Hawaii-ARP-ESSER-State-Plan-Final.pdf>

What is of significantly greater importance to the core mission of the Department than these procedural, political, and financial events is the fact that the Hawaii Public Schools have

continued to provide education and support services to their students, staff, and communities throughout the duration of the pandemic, all while operating under numerous requirements established by the Governor's Emergency Proclamations and public health directives. For School Year (SY) 2021-2022, the first day for teachers was July 28, 2021 and the first day for students was August 3, 2021, with the exception of the multitrack schools, which began on July 8, 2021. <https://www.hawaiipublicschools.org/DOE%20Forms/2021-22calendar.pdf>

b. Previous action of the Board and Committee(s) on same or similar matter:

During the February 18, 2021 Board General Business Meeting (GBM), the Department proposed "*Board Action on Department's Plan for Use of Federal Funds in the New COVID-19 Relief Package and Annual Federal Spending Bill.*"

[https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/02182021\\_GBM\\_Board%20Action%20on%20Department%27s%20Plan%20for%20Federal%20Funds%20in%20the%20New%20COVID-19%20Relief%20Package%20and%20Annual%20Spending%20Bill.pdf](https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/02182021_GBM_Board%20Action%20on%20Department%27s%20Plan%20for%20Federal%20Funds%20in%20the%20New%20COVID-19%20Relief%20Package%20and%20Annual%20Spending%20Bill.pdf)

The February 18, 2021 GBM minutes indicate the Board approved the use of ESSER II funds for teacher differentials through FY 2021-2022, the school food service projected shortfall, and to provide a proportionate level of support for charter schools for ESSER II funds not intended to be used to support both Department and public charter school students.

<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/105c2470f0f8feb90a2586ba000dab2a?OpenDocument>

During the April 15, 2021 Board Special Meeting, the Department proposed "*Board Action on the Department's plan for use of federal funds in the COVID-19 relief package and annual federal spending bill; 2021 summer learning plan and funding, 2022 summer learning plan and funding, and devices for 2021 summer and 2021-2022 and 2022-2023 School Years.*"

[https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/Special\\_04152021\\_Board%20Action%20on%20the%20Department%e2%80%99s%20plan%20for%20use%20of%20federal%20funds%20in%20the%20COVID-19%20relief%20package.pdf](https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/Special_04152021_Board%20Action%20on%20the%20Department%e2%80%99s%20plan%20for%20use%20of%20federal%20funds%20in%20the%20COVID-19%20relief%20package.pdf)

The April 15, 2021 Special Meeting minutes indicate the Board approved the allocation of ESSER II funds as follows:

- \$13.1 million for summer learning loss programs;
- \$12 million for support services that include transportation and food service;
- \$8.4 million for student computer devices; and
- \$1 million for traditional summer school for FY 2020-2021.

<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/48645f38122232b50a2586d2006c5e95?OpenDocument>

During the May 20, 2021 Finance and Infrastructure Committee meeting, the Department presented to the Committee its analysis of the "*DOE's Operating Biennium Budget Request for Fiscal Year 2021-2023: Legislative Conference Committee Decisions and Next Steps.*" Through this presentation, the Department acknowledged:

- The Legislature's proposed uses for ESSER III funds did not appear to fully conform to the ARP State Plan requirements and

- When considering the two major fiscal measures (HB200 CD1: the Executive Branch Biennium Budget Bill and appropriations made with federal ESSER II and III funds in HB613 CD2), the Department was facing a significant \$123.9 million budget gap.

[https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC\\_05202021\\_Update%20on%20the%20Department%20of%20Education%e2%80%99s%20Operating%20biennium%20budget%20request%20for%20fiscal%20years%202021-2023.pdf](https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC_05202021_Update%20on%20the%20Department%20of%20Education%e2%80%99s%20Operating%20biennium%20budget%20request%20for%20fiscal%20years%202021-2023.pdf)

During the June 17, 2021 Finance and Infrastructure Committee meeting, the Department recommended the Committee take action “*Concerning Department of Education’s Plan for the Use of Federal Funds in Third Round of ESSER Fund Authorized Under the ARP Act of 2021.*” At the meeting, the Department acknowledged that for purposes of the State Plan, it would consider the contents of HB613 CD2 as important stakeholder input. The Department also explained how it sought and received public input including:

- Considering public testimony received by the Board,
- Conducting an online stakeholder convening, and
- Posting an online survey from May 21 through June 4, 2021 that received 4,338 responses.

[https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC\\_06172021\\_Action%20on%20Recommendation%20Concerning%20Department%20of%20Education%27s%20Plan%20for%20Use%20of%20ESSER%20III%20Funds.pdf](https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC_06172021_Action%20on%20Recommendation%20Concerning%20Department%20of%20Education%27s%20Plan%20for%20Use%20of%20ESSER%20III%20Funds.pdf)

The June 17, 2021 Board GBM minutes indicate the Board approved the proposed ESSER III State Plan.

<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/4e4f3f226252ec130a25870d007a46de?OpenDocument>

c. Other policies affected.

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>

Federal guidelines for ESSER II and III allow funds to be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared. The ESSER II funds are available for expenditure through September 30, 2023; ESSER III funds are available for expenditure through September 30, 2024.

Required uses of ESSER III funds include:

- Learning loss mitigation to address the academic impact of lost instructional time (23%)
  - This 23% includes the 5% of the total ESSER III award that state educational agencies (SEAs) are required to use for learning loss and the 20% of the 90% distributed to LEAs that LEAs are required to use for learning loss. As a unitary SEA-LEA, the Department reserves funds as required by the SEA and the LEA.
- Summer learning and enrichment programs (1%)
- Comprehensive afterschool programs (1%)

These learning loss interventions must be evidence-based; address students’ academic, social, and emotional needs; and target subgroups of students who have struggled during the pandemic (students with disabilities, English learners, students from low-income families,

students experiencing homelessness, students in foster care, migratory students, students of particular racial or ethnic groups).

ESSER III funds may also be used for the following activities:

- Implementing strategies and protocols aligned with the Centers for Disease Control and Prevention (CDC) guidance for the reopening and operation of school facilities to effectively maintain the health and safety of students and staff;
- Cleaning and sanitizing (training, supplies);
- Purchasing educational technology for students;
- Providing mental health services and supports;
- Improving indoor air quality;
- Improving school facilities to reduce the risk of virus transmission and exposure to environmental health hazards; and
- Other activities that are necessary to maintain operations and the continuity of services.

Despite indications that additional guidance on reporting requirements would be forthcoming, to date, the U.S. Department of Education has not yet issued requirements for data on student outcomes or results from programs. The Department has been reporting total expenditures by grant award and data in relation to federal monitoring of compliance with the Maintenance of Effort requirements associated with accepting the ESSER funds.

d. Arguments in support of the recommendation:

- ESSER funds are considered to be education stabilization funds intended to:
  - Support the maintenance of education programs and positions impacted by the fiscal fallout created by the pandemic; and
  - Provide additional capacity for the school district to address student learning loss and the safe return to in-person learning.

The proposed uses of ESSER funds are aligned with these intended uses. Approving ESSER funds for the defined funding gaps imposed on the Department's general fund budget that was previously reviewed and approved by the Board would lift for this fiscal year the cloud of uncertainty that can stifle the systems ability to focus on forward-facing strategic planning.

Approving Item 1.03 for additional nurse positions will allow the Office of Student Support Services to initiate a contract to secure additional nurses to be deployed to assist with providing needed health services and advice.

Approving the allocation of funds for a distribution to charter schools (Item 3) will allow charter schools to address the impact that COVID-19 has had on their schools, similar to what the Department has been able to initiate.

Approving the partial funding for the Complex Areas (Items 2.03 and 7) will support immediate needs the students, staff, and the school system may be facing with the reopening of schools earlier this month.

Approving the allocation of the modest level of administrative costs (Item 6) will allow the Department to begin to build the administrative capacity that is appropriate to support the ESSER grant awards.

Approving Items 2.04 and 2.05 that were specifically added by the Legislature for Leilehua High School and Windward area schools as line items in HB200 CD1 will help to demonstrate how the one-time funds can be leveraged to address student engagement and social and emotional learning.

- The proposal made during the on-going pandemic has been made in consideration of:
  - Numerous inputs and alternatives;
  - The one-time nature of the federal fund support;
  - The limited capacity within the Department and the state to find new and qualified employees;
  - The need to quickly scale programs and adjust to student assessment data;
  - The importance of promoting equity across the full span of the statewide school system and our varied student population; and
  - The importance of anticipating that adjustments to this plan will be needed to respond to evolving conditions, best practices, and student assessment results.

e. Arguments against the recommendation:

- In light of the significantly improved fiscal outlook as reflected by both the [State Council on Revenues May 25, 2021 forecast](#) and the preliminary indication that actual FY 2020-2021 tax revenues grew by 8.1%, significantly higher than the Council's 5.0% projection, the proposed uses of ESSER funds may be too cautious in committing to invest in students, staff, and systems in ways that may yield greater results for student achievement.
- Given the precipitous decline in student achievement, on-going pandemic, and the short-term nature of the federal funds, focusing significant attention on building robust accountability systems for temporary programs may prove foolhardy.

f. Other agencies or departments in the State of Hawaii involved in this action:

The Department will continue to rely upon guidance from the Centers for Disease Control and Prevention and the State Department of Health to inform best practices in relation to ensuring a safe return to in-person learning.

The State Legislature, in balancing the State's budget during the pandemic, passed a biennium budget for the public school system that focused on providing the minimal level of State support to comply with the federal ESSER Maintenance of Effort requirements. As such, the Department must rely heavily on these federal funds to maintain existing programs.

g. Possible reaction of the public, professional organizations, unions, DOE staff and/or others to the recommendations:

It is anticipated that unions and employees will welcome the avoidance of deep program and personnel cuts that would be necessary to balance the Department's budget without these Education Stabilization Funds.

Some individuals may not recognize the limited allowable uses of ESSER funds and the sizable gap in State support for education that was contained in the Department's FB 2021-2023 budget. These individuals may advocate for new spending initiatives for purposes that are not directly related to responding to the pandemic and/or may compromise the

Department's ability to meet the requirement to provide learning loss interventions, maintain existing programs and positions, and support the safe return to in-person learning.

h. Educational implications

The purpose of the ESSER III funds is to safely reopen and sustain the safe operation of schools for in-person learning and to address the impact of the COVID-19 pandemic on students. The proposed use of ESSER funds allows the Department to implement strategies and interventions to re-engage students in their education, address learning loss, and provide the necessary academic, social, emotional, and mental health supports to facilitate student success.

i. Personnel implications:

The proposal supports the 120 positions the 2021 Legislature converted from general to federal funds and avoids deep and disruptive position reductions that would otherwise be necessary to balance the Department's general fund budget.

j. Facilities implications:

None. Any additional staff will be worked into existing facilities at the state, complex area, or school levels.

k. Financial implications:

Although the Department sought a degree of assurance from the Legislature that the cuts in State support would be treated as non-recurring cuts, the Legislature was unable to formally provide an indication of this intent. As such, the Department is faced with a high degree of financial insecurity once these federal ESSER funds are expended. This situation is often referred to as a funding cliff. At this point in time, the funding cliff is estimated to be approximately \$130-\$160 million, depending on whether the teacher differentials for Special Education teachers, Hawaiian Immersion Program teachers, and teachers at hard-to-fill schools is maintained beyond SY 2022-2023.

The Department traditionally uses the existing appropriation level to determine schools' tentative Weighted Student Formula (WSF) allocations used for financial planning for the next year. The WSF program in the current FB 2021-2023 budget has been cut by \$23.4 million a year as part of the \$100.2 million non-recurring cut that was not restored this past session. This proposal seeks to offset the full \$100.2 million cut with ESSER funds. Unfortunately, with the long-established State budgeting practice of using the appropriations from the second year of the biennium as the starting point, or "base budget", for the next biennium, in October 2022 when all schools begin their SY 2023-2024 financial planning, the cut to the WSF will be factored into their tentative allocations. This will result in schools seeing their purchasing power reduced. To get a sense of the magnitude of this reduction, \$23.4 million is the equivalent of over 350 teacher positions at the current average teachers salary.



6. OTHER SUPPLEMENTARY RECOMMENDATIONS

It is recommended that the Committee anticipate that adjustments to this planned use of ESSER III funds will be needed as additional information and clarity becomes available on the Department’s fiscal outlook, student needs (total number of students, students’ academic status, students’ social and emotional status), and health guidelines that will evolve in response to the pandemic and best practices. Preliminarily, the following table provides a timeline for periodic reviews of the planned use of ESSER II and III funds, which may need to be adjusted as circumstances warrant.

<u>Date</u>	<u>Action</u>
August 19, 2021	Proposed Expenditure Plan for \$54 million of ESSER II funds and \$412 million of ESSER III funds.
Feb 2022	Revisit Expenditure Plan for ESSER II & III funds as needed
July 2022	Revisit Expenditure Plan for ESSER II & III funds as needed
Feb 2023	Revisit Expenditure Plan for ESSER II & III funds as needed
July 2023	Revisit Expenditure Plan for ESSER II & III funds as needed
<i>Sept 30, 2023</i>	<i>Deadline to obligate ESSER II funds</i>
Feb 2024	Revisit Expenditure Plan for ESSER III funds as needed
July 2024	Revisit Expenditure Plan for ESSER III funds as needed
<i>Sept 30, 2024</i>	<i>Deadline to obligate ESSER III funds</i>

Thank you for your continued support during these unprecedented times as we work towards a plan that best supports our students, our schools, and our communities.

KTH:bh

c: Office of Fiscal Services