

ACT 133

S.B. NO. 2540

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the department of education is the largest department in state government and has numerous statutes that it must adhere to.

The legislature also finds that as a result of the constitutional amendment adopted in the 2010 general election, the board of education was required to transform from an elected board to an appointed board, with the appointments being made by the governor. Pursuant to Act 5, Session Laws of Hawaii 2011, the members of the board of education have been appointed and confirmed and have begun their important work. This change in educational governance provides a unique opportunity to review sections of the Hawaii Revised Statutes to determine if amending or reducing statutory constraints and requirements might assist the board of education and department of education in creating a more effective educational delivery system. These statutory changes will not diminish the role of the legislature in overseeing the department of education and holding it accountable for the educational success of students. Nor should the repeal of outdated and duplicative sections of chapter 302A, Hawaii Revised Statutes, suggest that the department of education did not or does not have the proper legal authority to implement the programs or activities covered by the repealed sections. Rather, this Act places decision making over those certain programs or activities at the best level, whether at the board policy level or the department administrative level.

The purpose of this Act is to add clarity to or resolve conflicting or inconsistent language among different sections of law and to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes, that:

- (1) Have been accomplished and are no longer necessary;
- (2) Impede rather than assist the department of education in meeting its core mission;
- (3) Fall under the purview of the board of education, such as policy, staffing, and programmatic decisions;
- (4) Are mandated by federal law and do not require codification in state law; or
- (5) Are covered by another section of the Hawaii Revised Statutes, administrative rules, or board of education policy.

SECTION 2. Section 4-1, Hawaii Revised Statutes, is amended to read as follows:

“§4-1 Districts, generally. For election, taxation, [education,] city, county, and all other purposes, the State shall be divided into the following dis-

tricts; provided that the establishment of election districts shall be exclusively governed by article IV of the constitution of the State of Hawaii and chapter 25:

- (1) The island and county of Hawaii shall be divided into nine districts as follows:
 - (A) Puna, to be styled the Puna district;
 - (B) From the Hakalau stream to the boundary of South Hilo and Puna, to be styled the South Hilo district;
 - (C) From the boundary of Hamakua and North Hilo to the Hakalau stream, to be styled the North Hilo district;
 - (D) Hamakua, to be styled the Hamakua district;
 - (E) North Kohala, to be styled the North Kohala district;
 - (F) South Kohala, to be styled the South Kohala district;
 - (G) North Kona, to be styled the North Kona district;
 - (H) South Kona, to be styled the South Kona district; and
 - (I) Kau, to be styled the Kau district.
- (2) The islands of Maui, Molokai, Lanai, and Kahoolawe and the counties of Maui and Kalawao shall be divided into seven districts as follows:
 - (A) Kahikinui, Kaupo, Kipahulu, Hana, and Koolau, to be styled the Hana district;
 - (B) Hamakualoa, Hamakuapoko, portion of Kula, and Honu-aula, the western boundary being a line starting from the sea at Kapukaulua on the boundary between the ahupuaas of Haliimaile and Wailuku, thence running inland following the boundary to the mauka side of the Lowrie ditch, thence following the mauka side of the ditch and its projected extension to the Waiakoa gulch which is the boundary between the ahupuaas of Pulehunui and Waiakoa, thence down along the boundary to the mauka boundary of the Waiakoa Homesteads (makai section), thence along the boundary to the ahupuaa of Kaonoulu, thence across the ahupuaa of Kaonoulu to the mauka boundary of the Waiohuli-Keokea Beach Homesteads, thence along the boundary to the mauka boundary of the Kamaole Homesteads, thence along the boundary and the extension thereof to the north boundary of the ahupuaa of Paeahu, thence along the boundary to the sea, and including the island of Kahoolawe, to be styled the Makawao district;
 - (C) All that portion of central Maui lying east of a line along the boundary of the ahupuaas of Kahakuloa and Honokohau to the peak of Eke crater, thence along the ridge of mountains and down the bottom of Manawainui gulch to the sea, and west of the boundary of Makawao district, to be styled Wailuku district;
 - (D) All that portion of Maui lying west of Wailuku district, to be styled the Lahaina district;
 - (E) The island of Molokai, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known or designated as the Settlement for Hansen's disease sufferers, to be styled the Molokai district;
 - (F) All that portion of the island of Molokai known as Kalaupapa, Kalawao, and Waikolu forming the county of Kalawao, to be styled the Kalawao district; and
 - (G) The island of Lanai, to be styled the Lanai district.

- (3) For judicial purposes, the island of Oahu shall be divided into seven districts as follows:
- (A) From Makapuu Head in Maunaloa to Moanalua inclusive, and the islands not included in any other district, to be styled the Honolulu district;
 - (B) Ewa, excluding Waikakalaua, Waipio Acres, and Mililani Town, to be styled the Ewa district;
 - (C) Waianae excluding Waianae Uka, to be styled the Waianae district;
 - (D) From Kaena point to and including Waiale Stream excluding Wahiawa, hereinafter described, to be styled the Waialua district;
 - (E) From Waiale Stream to Lae o ka Oio, to be styled the Koolauloa district;
 - (F) From Lae o ka Oio to Makapuu Head in Waimanalo, to be styled the Koolaupoko district; and
 - (G) Wahiawa and Waianae Uka, including Waikakalaua, Waipio Acres, and Mililani Town, lying between Ewa and Waialua districts and more particularly described in the following manner: Beginning at Puu Kaaumakua in the Koolau range and running to and along the south boundary of Waianae Uka (which is also the south boundary of Schofield Barracks Military Reservation) to Puu Hapapa in the Waianae range; thence continuing along Schofield Barracks Military Reservation northerly along the Waianae range to Puu Kaala, easterly along Mokuleia down ridge to Puu Pane, continuing to Maili Trig. station, and down ridge to Haleauau stream and down Haleauau stream to Kaukonahua gulch, and easterly along the gulch to the west boundary of the ahupuaa of Wahiawa; thence leaving Schofield Barracks Military Reservation and following up and along the west and north boundaries of the ahupuaa of Wahiawa to the Koolau range; thence along the Koolau range to the beginning; to be styled the Wahiawa district.
- (4) For all purposes except for judicial, the island of Oahu shall be divided into seven districts as follows:
- (A) From Makapuu Head in Maunaloa to Moanalua inclusive, and the islands not included in any other district, to be styled the Honolulu district;
 - (B) Ewa, to be styled the Ewa district;
 - (C) Waianae excluding Waianae Uka, to be styled the Waianae district;
 - (D) From Kaena point to and including the ahupuaa of Waimea excluding Wahiawa, hereinafter described, to be styled the Waialua district;
 - (E) From Waimea to Lae o ka Oio, to be styled the Koolauloa district;
 - (F) From Lae o ka Oio to Makapuu Head in Waimanalo, to be styled the Koolaupoko district; and
 - (G) Wahiawa and Waianae Uka, lying between Ewa and Waialua districts and more particularly described in the following manner: Beginning at Puu Kaaumakua in the Koolau range and running to and along the south boundary of Waianae Uka (which is also the south boundary of Schofield Barracks Military Reservation) to Puu Hapapa in the Waianae range;

thence continuing along Schofield Barracks Military Reservation northerly along the Waianae range to Puu Kaala, easterly along Mokuleia down ridge to Puu Pane, continuing to Maili Trig. station, and down ridge to Haleauau stream and down Haleauau stream to Kaukonahua gulch, and easterly along the gulch to the west boundary of the ahupuaa of Wahiawa; thence leaving Schofield Barracks Military Reservation and following up and along the west and north boundaries of the ahupuaa of Wahiawa to the Koolau range; thence along the Koolau range to the beginning; to be styled the Wahiawa district.

- (5) The islands of Kauai, Niihau, Kaula, and county of Kauai, shall be divided into five districts as follows:
- (A) From Puanaaiea point to the ili of Eleele, including the islands of Niihau and Kaula, to be styled the Waimea district;
 - (B) From and including the ili of Eleele to and including Mahaulupu, to be styled the Koloa district;
 - (C) From and including Kipu to the northerly bank of the north fork and the main Wailua river, to be styled the Lihue district;
 - (D) From the northerly bank of the north fork and the main Wailua river to Kealaakaiole, to be styled the Kawaihau district; and
 - (E) From and including Kealaakaiole to Puanaaiea point to be styled the Hanalei district.”

SECTION 3. Section 36-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the state general fund under EDN 400 (school support) the state educational facilities repair and maintenance account, into which shall be deposited legislative appropriations to the account designated for use solely to eliminate the backlog of school repair and maintenance projects, including the repair or replacement of fixtures, furnishings, and equipment, existing on June 30, 2000. Expenditures from the account shall be subject to sections 37-31 and 37-33 to 37-40. Based on the prioritization approved by the department of education [as prescribed by section 302A-1505], appropriations or authorizations from the account shall be expended by the superintendent of education.”

SECTION 4. Section 36-36, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the state general fund under EDN 400 (school support) the school physical plant operations and maintenance account, into which shall be deposited all legislative appropriations to the account.

The moneys in the account shall be used solely for school repairs and preventive maintenance projects scheduled after June 30, 2001. Expenditures from the account shall be subject to sections 37-31 and 37-33 to 37-40. Based on the prioritization approved by the department of education [as prescribed by section 302A-1505], appropriations or authorizations from the account shall be expended by the superintendent of education.”

SECTION 5. Section 92F-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any other provision in this chapter to the contrary notwithstanding, each agency shall make available for public inspection and duplication during regular business hours:

- (1) Rules of procedure, substantive rules of general applicability, statements of general policy, and interpretations of general applicability adopted by the agency;
- (2) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases, except to the extent protected by section 92F-13(1);
- (3) Government purchasing information, including all bid results, except to the extent prohibited by section 92F-13;
- (4) Pardons and commutations, as well as directory information concerning an individual's presence at any correctional facility;
- (5) Land ownership, transfer, and lien records, including real property tax information and leases of state land;
- (6) Results of environmental tests;
- (7) Minutes of all agency meetings required by law to be public;
- (8) Name, address, and occupation of any person borrowing funds from a state or county loan program, and the amount, purpose, and current status of the loan;
- (9) Certified payroll records on public works contracts except social security numbers and home addresses;
- (10) Regarding contract hires and consultants employed by agencies:
 - (A) The contract itself, the amount of compensation;
 - (B) The duration of the contract; and
 - (C) The objectives of the contract, except social security numbers and home addresses;
- (11) Building permit information within the control of the agency;
- (12) Water service consumption data maintained by the boards of water supply;
- (13) Rosters of persons holding licenses or permits granted by an agency that may include name, business address, type of license held, and status of the license;
- (14) The name, compensation (but only the salary range for employees covered by or included in chapter 76, and sections 302A-602 to [302A-640,] 302A-639, and 302A-701, or bargaining unit (8)), job title, business address, business telephone number, job description, education and training background, previous work experience, dates of first and last employment, position number, type of appointment, service computation date, occupational group or class code, bargaining unit code, employing agency name and code, department, division, branch, office, section, unit, and island of employment, of present or former officers or employees of the agency; provided that this paragraph shall not require the creation of a roster of employees; and provided further that this paragraph shall not apply to information regarding present or former employees involved in an undercover capacity in a law enforcement agency;
- (15) Information collected and maintained for the purpose of making information available to the general public; and
- (16) Information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public."

SECTION 6. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

“Complex” means the high school and those elementary, middle, and intermediate schools that feed into the high school as designated by the department.

“Complex area” means the administrative unit that includes one or more complexes as designated by the department.

“District” means the state public education system as a whole, except as used by the department for federal compliance and reporting requirements.”

2. By amending the definition of “complex area superintendent” to read:

“Complex area superintendent” means the chief administrative officer of a complex area and the [school] complexes therein.”

3. By deleting the definitions of “gifted and talented children”, “job-sharing”, “regional administrative unit”, and “school complex”.

[“Gifted and talented children” means students residing in the State who are of compulsory school age and are enrolled in, and attending, a public school, and whose superior performance or potential indicates exceptional ability or talent. This ability or talent may occur singly in or in combination with any of the following areas: intellectual, creative or specific academic abilities, leadership capabilities, psychomotor abilities, or abilities in the performing or visual arts.

“Job-sharing” means the voluntary sharing of a full-time, permanent employee’s position with another employee, with each employee working one-half of the total number of hours of work required per week and performing one-half of the work required of the respective full-time position, and with each employee receiving one-half of the salary to which each employee is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

“Regional administrative unit” means a grouping of complexes established by the department for administrative support and organizational purposes.

“School complex” means a grouping of schools established by the department for instructional, administrative, and organizational purposes.”]

SECTION 7. Section 302A-412, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each secondary public school, upon the approval of the principal [and the complex area superintendent], may allow on the premises vending machines operated as a concession; provided that the concession shall be operated only by a blind or visually handicapped person, as defined in sections 235-1, 347-1, and 347-2. The location and operation of the vending machines and the items dispensed shall be approved by the [department.] principal.”

SECTION 8. Section 302A-431, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board and the board of regents of the University of Hawaii may adopt necessary rules under chapter 91 to administer and implement sections [302A-429 to] 302A-430 and 302A-431, including the adoption of safety guidelines and safety inspection procedures of facilities where students are placed. The department and the University of Hawaii shall inspect each facility annually prior to the placement of students with these facilities.”

SECTION 9. Section 302A-461, Hawaii Revised Statutes, is amended to read as follows:

“[H]§302A-461[H] Gender equity in athletics. (a) No person, on the basis of sex, shall be excluded from participating in, be denied the benefits of, or be

subjected to discrimination in athletics offered by a public high school, pursuant to Public Law 92-318, Title IX of the federal Education Amendments of 1972.

(b) This section shall apply to public schools as defined in section 302A-101; provided that it shall apply to grades nine to twelve only.

(c) No private right of action at law shall arise under this section."

SECTION 10. Section 302A-603, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided, before the 1997-1998 school year, whoever serves in the department as a teacher without holding an unrevoked certificate issued under sections 302A-602 to ~~[302A-640,]~~ 302A-639, and 302A-701, shall be fined not more than \$25."

SECTION 11. Section 302A-604, Hawaii Revised Statutes, is amended to read as follows:

"§302A-604 Complex area superintendents. The superintendent of education, with the approval of the board, shall appoint complex area superintendents for schools. The complex area superintendents shall supervise the delivery of administrative and instructional support services within their respective complex areas, including:

- (1) Personnel, fiscal, and facilities support;
- (2) Monitoring of compliance with applicable state and federal laws;
~~[and]~~
- (3) Curriculum development, student assessment, and staff development services~~[-]; and~~
- (4) Special education programs and special schools within the complex area."

SECTION 12. Section 302A-626, Hawaii Revised Statutes, is amended to read as follows:

"§302A-626 Salary increases; annual, longevity. (a) Teachers and educational officers who have completed a year's satisfactory service and who have complied with the other requirements of sections 302A-602 to ~~[302A-640,]~~ 302A-639, and 302A-701, shall be entitled to an annual increment.

(b) Teachers and educational officers who have served satisfactorily for three years in their maximum increment step or in any longevity step and who have complied with the other requirements of sections 302A-602 to ~~[302A-640,]~~ 302A-639, and 302A-701, shall receive longevity step increases; provided that the board may grant principals and vice-principals longevity step increases more frequently than once every three years pursuant to section 302A-625."

SECTION 13. Section 302A-1102, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§302A-1102]]~~ Department of education; statewide ~~[and regional]~~ administrative services. The department shall serve as the central support system responsible for the overall administration of statewide educational policy, interpretation, and development of standards for compliance with state and federal laws, and coordination and preparation of a systemwide budget for the public schools. ~~[The department may establish regional administrative units to provide administrative support to the schools for personnel, fiscal, and procurement services. The regional administrative units may also be assigned responsibility~~

for the administration and operation of special education programs and special schools.]”

SECTION 14. Section 302A-1114, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1114 **Power of appointment, removal.** The department, from time to time, may appoint and remove such teachers, educational officers, and other personnel as may be necessary for carrying out the purposes of sections 302A-201, [302A-301,] 302A-401 to 302A-410, [302A-601,] 302A-1001 to 302A-1004, 302A-1101 to 302A-1122, 302A-1301 to 302A-1305, 302A-1401 to 302A-1403, and [302A-1504] 302A-1503 to 302A-1506, and regulate their duties, powers, and responsibilities, when not otherwise provided by law.”

SECTION 15. Section 302A-1125, Hawaii Revised Statutes, is amended to read as follows:

“[§302A-1125] **Educational objectives.** The board shall formulate [such] policy and exercise [such] control as may be necessary to define a common set of educational goals that the schools [subject to the school/community-based management system] shall be responsible for fulfilling. The board shall also be responsible for formulating standards for measuring the efforts of each participating school toward achieving those goals each year. The participating schools shall be free to use all reasonable means to accomplish those goals with the resources available to them.”

SECTION 16. Section 302A-1128, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1128 **Department powers and duties.** [(a)] The department shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction in the public schools the department establishes and operates, including operating and maintaining the capital improvement and repair and maintenance programs for department and school facilities. The department may establish and maintain schools for secular instruction at such places and for such terms as in its discretion it may deem advisable and the funds at its disposal may permit. The schools may include high schools, kindergarten schools, schools or classes for [pregrade] early education, boarding schools, Hawaiian language medium education schools, and evening and day schools. The department may also maintain classes for technical and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for these purposes.

[(b)] The department shall regulate the courses of study to be pursued in all grades of the public schools it establishes and operates, and classify them by methods the department deems proper; provided that:

- (1) The course of study and instruction shall be regulated in accordance with the statewide performance standards established under section 302A-201;
- (2) All pupils shall be progressively competent in the use of computer technology; and
- (3) The course of study and instruction for the first twelve grades shall provide opportunities for all students to develop competency in a language in addition to English.

The department shall develop statewide educational policies and guidelines based on this subsection without regard to chapter 91.

For the purposes of this subsection, the terms “progressively competent in the use of computer technology” and “competency in a language in addition to English” shall be defined by policies adopted by the board. The board shall formulate statewide educational policies allowing the superintendent to exempt certain students from the requirements of paragraphs (2) and (3) without regard to chapter 91.

(e) Nothing in this section shall interfere with those persons attending a summer school.]”

SECTION 17. Section 302A-1130, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1130 Public schools special fees and charges[; grouping of students]. (a) The department may assess and collect special fees and charges from students for co-curricular activities.

(b) Special fees and charges collected from students for co-curricular activities shall be deposited into insured checking or savings accounts and expended by each individual school.

[e) The department may group students within any public school in accordance with their abilities and educational needs.]”

SECTION 18. Section 302A-1130.6, Hawaii Revised Statutes, is amended to read as follows:

“[§§302A-1130.6]] Textbook and instructional materials fee special account. There is established within the department a textbook and instructional materials fee special account, into which shall be deposited all fees and charges collected from students or their parents or guardians [pursuant to section 302A-1130.5] for the loss, destruction, breakage, or damage of school textbooks, instructional materials, library books, equipment, or supplies. Disbursements from this special account shall be expended by the department for the purposes of purchasing, replacing, or repairing school textbooks, instructional materials, library books, equipment, or supplies.”

SECTION 19. Section 302A-1133.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The failure of a student to meet the requirements for regular attendance and punctuality shall subject the student’s parent, parents, or guardian to the penalties provided in section 302A-1135. Destruction of school property by a student, in addition to all other legal action that may be taken, shall subject the student’s parent, parents, or guardian to proceedings under section [302A-1130.5 or] 302A-1153, as appropriate.”

SECTION 20. Section 302A-1143, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1143 [Attend] Attending school in what [district.] service area. [All persons] A person of school age shall be required to attend the school of the [district] service area, as determined by the department, in which [they reside,] the person resides, unless [enrolled];

(1) The person is enrolled in a Hawaiian language medium education program[, or unless it appears to the department to be desirable to allow the attendance of pupils at a school in some other district, in

~~which case the department may grant this permission.] or charter school;~~

- (2) A geographic exception to attend a school in another service area is requested and granted at the discretion of the department; or
- (3) Out-of-service-area attendance is mandated by the department or by federal law.”

SECTION 21. Section 302A-1149.5, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1149.5 After-school plus program revolving fund. (a) There is established in the state treasury the after-school plus program, hereinafter A+, revolving fund to be administered by the department.

(b) The ~~[after-school plus program]~~ A+ revolving fund shall consist of fees collected by the department for ~~[the after-school plus program]~~ A+ and all interest earned on the deposit or investment of moneys in the after-school plus program revolving fund.

(c) The department may establish appropriate fees and other charges to be assessed to each participant for ~~[the after-school plus program.]~~ A+. The revenues from those fees and charges shall be deposited into the revolving fund to be used for the program.”

SECTION 22. Section 302A-1151.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302A-1151.5]]~~ Use of vacant public school facilities ~~[by charter schools]~~. (a) When the department considers whether to close any particular public school, it shall simultaneously give reasonable consideration to making all or portions of the facilities of the public school available ~~[for the exclusive occupancy and use by a charter school or joint occupancy and use by the charter school and the department; provided that the department may elect to use the facilities for the support of public education programs, with preference given to instructional uses over administrative uses.]~~ to charter schools and pre-plus programs; provided that the facilities may be used for any other purpose the board deems appropriate.

~~[(b) The department shall submit a notice of possible availability of a public school to the charter school review panel as early as possible; provided that if a vacancy is established, a notice of vacancy shall be submitted to the charter school review panel no later than thirty days after the establishment of the vacancy.~~

~~(c) Pursuant to section 302B-3.6 and upon receipt of a notice pursuant to subsection (b), the charter school review panel shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the public school and submit a prioritized list of charter schools to the department for final determination of which charter school, if any, shall be authorized to use and occupy the public school facilities.~~

~~(d) Upon the selection of a charter school to use a vacant school facility or portion of a school facility, the department and the charter school review panel shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section.~~

~~(e) After receipt by the charter school review panel of a notice pursuant to subsection (b), if the charter school review panel does not provide a prioritized list of charter schools because no charter school has requested to use the facilities of the public school, or if the department receives the prioritized list~~

but determines that no charter school on the list is an appropriate candidate to occupy and use the facilities, the department shall give reasonable consideration to making all or portions of the facilities of the public school, if closed, available for occupancy and use for other educational purposes.]

(b) The department shall identify unused public school facilities that may be appropriate for:

- (1) Charter schools;
- (2) Early learning programs, such as the pre-plus program; and
- (3) Any other purpose the board deems appropriate.

Suitable empty classrooms, as determined by the department, shall be inventoried for potential use by charter schools, early learning programs, such as the pre-plus program, or for any other purpose the board deems appropriate. Priority shall be given to facilities on sites with sufficient space for three or more classrooms.

~~(f)~~ (c) The department shall adopt rules necessary to carry out the purposes of this section.

~~(g)~~ (d) For purposes of this section, "public school" means any school that falls within the definition of public schools in section 302A-101, except for charter schools."

SECTION 23. Section 302A-1303.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established within the department of education the committee on weights to develop a weighted student formula pursuant to section 302A-1303.6. The committee ~~[shall:]~~ may:

- (1) Create a list of student characteristics that will be weighted;
- (2) Create a system of weights based upon the student characteristics that may be applied to determine the relative cost of educating any student;
- (3) Determine specific student weights, including their unit value;
- (4) Determine which moneys shall be included in the amount of funds to be allocated through the weighted student formula;
- (5) Recommend a weighted student formula to the board of education;
- (6) Perform any other function that may facilitate the implementation of the weighted student formula; and
- (7) Meet not less than once every odd-numbered year, to review the weighted student formula and, if the committee deems it necessary, recommend a new weighted student formula for adoption by the board of education."

SECTION 24. Section 302A-1303.6, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1303.6 Weighted student formula. Based upon recommendations from the committee on weights, the board of education~~[-, not less than once every odd-numbered year, shall]~~ may adopt a weighted student formula for the allocation of moneys to public schools that takes into account the educational needs of each student. The department, upon the receipt of appropriated moneys, shall use the weighted student formula to allocate funds to public schools. Principals shall expend moneys provided to the principals' schools. This section shall only apply to charter schools for fiscal years in which the charter schools elect pursuant to section 302B-13 to receive allocations according to the

procedures and methodology used to calculate the weighted student formula allocation.”

SECTION 25. Section 302A-1305, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-1305]~~ **Inactive student activity accounts.** Student activity funds that are left in the school for a period of five years after the graduation of the class shall be deposited into the nonappropriated local school fund account unless the graduating class donates, in writing, the funds to the school within the five-year period. Moneys in the nonappropriated local school fund account may be used by the school.”

SECTION 26. Section 302A-1312, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) For the purposes of this section, the superintendent of education shall develop and implement appropriate planning procedures and follow-up accountability reports to ensure sound planning, control, and accountability in the use of moneys allocated by the legislature~~], as prescribed by section 302A-1309].~~ The department of education shall submit an annual report to the legislature that shall include:

- ~~[(1) The priority listing established by section 302A-1505;~~
~~(2) (1) List of projects initiated by the department of education; and~~
~~[(3) (2) List of projects completed with associated actual cost.”~~

SECTION 27. Section 302A-1401, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

~~“[§302A-1401]~~ **Administration and use of federal funds, including ~~pre-grade~~ early education.**”

2. By amending subsection (b) to read:

“(b) The board shall organize and conduct a program of public ~~pre-grade~~ early education to the extent that funds provided therefor by the United States government are, or from time to time may become, available. In establishing and carrying on the ~~pregrade~~ early education, any such federal funds shall be expended during any school year as nearly as practicable in each of the school supervisory districts of the State in the proportion that the number of inhabitants of each district of less than six years of age bears to the total number of the inhabitants of the entire State within the age limits, as shown by the latest report of the department of health preceding the opening of the school year.”

SECTION 28. Section 302A-1404, Hawaii Revised Statutes, is amended to read as follows:

§302A-1404 Federal ~~indirect overhead reimbursements.~~ impact aid military liaison. (a) The department and the charter school administrative office, as appropriate, may retain and expend federal indirect overhead reimbursements for discretionary grants in excess of the negotiated rate for such reimbursements as determined by the director of finance and the superintendent or the director of finance and the executive director of the charter school administrative office.

(b) ~~[Beginning July 1, 2004, and for each]~~ Each fiscal year ~~[thereafter,]~~ the department of education may set aside \$100,000 of federal impact aid moneys received pursuant to this section to:

- (1) Establish and fund a permanent, full-time military liaison position within the department of education; and
- (2) Fund the joint venture education [program] forum to facilitate interaction between the military community and the department of education.

The military liaison position established under paragraph (1) shall be exempt from chapter 76 but shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.”

SECTION 29. Section 302A-1502.4, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1502.4 **Hawaii 3R’s school repair and maintenance fund.** (a) There is established the Hawaii 3R’s school repair and maintenance fund (hereinafter, “fund”) as a separate fund of Hawaii 3R’s, a Hawaii nonprofit organization. Moneys received from the State, county, or federal government, private contributions of cash or other property, and the income and capital gains earned by the fund shall constitute its assets.

(b) Hawaii 3R’s shall expend moneys from the fund in the form of either grants to organizations or contracts with private vendors for the repair and maintenance of public schools in Hawaii in accordance with this section.

(c) The fund may receive contributions, grants, endowments, or gifts in cash or otherwise from all sources, including corporations or other businesses, foundations, government, individuals, and other interested parties. The fund shall also receive moneys transferred to it from the school-level minor repairs and maintenance special fund established under section 302A-1504.5. The legislature intends that public and private sectors review and investigate all potential funding sources. The State may appropriate moneys to the fund; provided that any appropriations made by the State are not intended to supplant the funding of any existing school-level minor repairs and maintenance programs.

~~(d) Hawaii 3R’s shall appoint the members of the Hawaii 3R’s school maintenance and repair advisory board, which shall be responsible for:~~

- ~~(1) Soliciting and otherwise raising funds for the fund;~~
- ~~(2) Establishing criteria for the expenditure of funds;~~
- ~~(3) Reviewing grant proposals using criteria established by Hawaii 3R’s; and~~
- ~~(4) Making recommendations for grants and other specific expenditures.~~

~~Members of the advisory board shall be stakeholders in Hawaii’s public educational system, including students, parents, alumni, principals, community and business leaders, and representatives from the department of education and the department of accounting and general services, who shall be represented on the advisory board.~~

~~(e) In managing the moneys in the fund, Hawaii 3R’s shall exercise ordinary business care and prudence given the facts and circumstances prevailing at the time of action or decision. In doing so, Hawaii 3R’s shall consider its long- and short-term needs in carrying out its purposes, its present and anticipated financial requirements, expected total return on its investments, price trends, and general economic conditions.~~

~~(f) There may be an endowment component of the fund, and Hawaii 3R’s may accumulate net income and add the same to the principal.~~

~~(g) The use of any state moneys may be restricted by the legislation appropriating these moneys to the fund.~~

~~(h) Hawaii 3R's may expend principal from the fund for the purposes of the fund.~~

~~(i) Any organization submitting a proposal to Hawaii 3R's for moneys shall meet the following standards at the time of application:~~

- ~~(1) Be a for-profit organization duly registered under the laws of the State, or be a nonprofit organization determined by the Internal Revenue Service to be exempt from the federal income tax, or be an agency of the State or a county;~~
- ~~(2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;~~
- ~~(3) In the case of an applicant that is not a state or county government agency, have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of a potential situation involving a conflict of interest;~~
- ~~(4) Have experience with the project or in the program area for which the proposal is being made; and~~
- ~~(5) Be licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments.~~

~~(j) All proposals submitted to Hawaii 3R's for moneys shall be approved by the department for consistency in meeting design and materials standards for public schools.~~

~~(k) Organizations or agencies to which moneys are awarded shall agree to comply with the following conditions before receiving the award:~~

- ~~(1) Use persons qualified to engage in the activity to be funded;~~
- ~~(2) Comply with the applicable federal, state, and county laws; and~~
- ~~(3) Comply with any other requirements prescribed by Hawaii 3R's to ensure adherence by the recipient of the award with applicable federal, state, and county laws and with the purposes of this section.~~

~~(l) (d) Chapter 103D shall not apply to organizations or agencies that apply for grants or contracts under this section; provided that Hawaii 3R's shall be held accountable for the use of the funds under a contract with the department.~~

~~[(m) Any contract awarded by Hawaii 3R's shall be made with as much competition as is practical to execute its purposes.~~

~~(n) The fund shall be audited annually by an independent auditor. The results of each annual audit shall be submitted to the department not later than thirty days from the date Hawaii 3R's receives the audit results. In addition, Hawaii 3R's shall retain for a period of three years and permit the department, state legislators, and the auditor, or their duly authorized representatives, to inspect and have access to any documents, papers, books, records and other evidence that is pertinent to the fund.~~

~~(o) (e) The fund shall not be placed in the state treasury, and the State shall not administer the fund, nor shall the State be liable for the operation or solvency of the fund or Hawaii 3R's.~~

~~[(p) For every dollar of state moneys granted by the fund to the project, there shall be a minimum of \$1 in value matched by Hawaii 3R's from private, federal, county, or community service.~~

~~(q) The superintendent of education shall submit an annual report of the progress of the Hawaii 3R's school repair and maintenance fund no later than twenty days prior to the convening of each regular session of the legislature.]”~~

SECTION 30. Section 302A-1507, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1507 Classroom cleaning project; established. (a) There is established a classroom cleaning project in all public schools, excluding charter schools. Each school, through its school community council, may develop mechanisms to provide for classroom cleaning, including but not limited to having parent, student, or other community groups clean the classrooms on a regular, continuing basis.

(b) Schools may use any available resources to achieve the purposes of this section; provided that no full-time custodial staff employed at the school shall be displaced.

(c) Nothing in this section shall prohibit the use of volunteers for classroom cleaning.”

SECTION 31. Section 302A-301, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 302A-401.5, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 302A-429, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 302A-431.5, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 302A-431.6, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 302A-431.7, Hawaii Revised Statutes, is repealed.

SECTION 37. Section 302A-431.8, Hawaii Revised Statutes, is repealed.

SECTION 38. Section 302A-431.9, Hawaii Revised Statutes, is repealed.

SECTION 39. Section 302A-444, Hawaii Revised Statutes, is repealed.

SECTION 40. Section 302A-445, Hawaii Revised Statutes, is amended¹ to read as follows:

~~["§302A-445]—Rules. The board shall adopt necessary rules under chapter 91 to administer and implement sections 302A-444 and 302A-445.”]~~

SECTION 41. Section 302A-446, Hawaii Revised Statutes, is repealed.

SECTION 42. Section 302A-462, Hawaii Revised Statutes, is repealed.

SECTION 43. Section 302A-464, Hawaii Revised Statutes, is repealed.

SECTION 44. Section 302A-465, Hawaii Revised Statutes, is repealed.

SECTION 45. Section 302A-466, Hawaii Revised Statutes, is repealed.

SECTION 46. Section 302A-467, Hawaii Revised Statutes, is repealed.

SECTION 47. Section 302A-601.3, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 302A-606, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 302A-633.5, Hawaii Revised Statutes, is repealed.

SECTION 50. Section 302A-638.5, Hawaii Revised Statutes, is repealed.

SECTION 51. Section 302A-640, Hawaii Revised Statutes, is repealed.

SECTION 52. Section 302A-705, Hawaii Revised Statutes, is repealed.

SECTION 53. Section 302A-831, Hawaii Revised Statutes, is repealed.

SECTION 54. Section 302A-1104, Hawaii Revised Statutes, is repealed.

SECTION 55. Section 302A-1127, Hawaii Revised Statutes, is repealed.

SECTION 56. Section 302A-1130.5, Hawaii Revised Statutes, is repealed.

SECTION 57. Section 302A-1142, Hawaii Revised Statutes, is repealed.

SECTION 58. Section 302A-1144, Hawaii Revised Statutes, is repealed.

SECTION 59. Section 302A-1146, Hawaii Revised Statutes, is repealed.

SECTION 60. Section 302A-1150, Hawaii Revised Statutes, is repealed.

SECTION 61. Subpart A of part V of chapter 302A, Hawaii Revised Statutes, is repealed.

SECTION 62. Section 302A-1302, Hawaii Revised Statutes, is repealed.

SECTION 63. Section 302A-1303, Hawaii Revised Statutes, is repealed.

SECTION 64. Section 302A-1308, Hawaii Revised Statutes, is repealed.

SECTION 65. Section 302A-1313, Hawaii Revised Statutes, is repealed.

SECTION 66. Section 302A-1501, Hawaii Revised Statutes, is repealed.

SECTION 67. Section 302A-1501.5, Hawaii Revised Statutes, is repealed.

SECTION 68. Section 302A-1502, Hawaii Revised Statutes, is repealed.

SECTION 69. Section 302A-1502.6, Hawaii Revised Statutes, is repealed.

SECTION 70. Section 302A-1505, Hawaii Revised Statutes, is repealed.

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SECTION 71. Section 302A-1506.5, Hawaii Revised Statutes, is repealed.

SECTION 72. Section 302B-3.6, Hawaii Revised Statutes, is repealed.

SECTION 73. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 74. Statutory material to be repealed is bracketed and stricken.² New statutory material is underscored.

SECTION 75. This Act shall take effect upon its approval; provided that section 38 shall take effect on June 30, 2015.

(Approved June 19, 2012.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.