

Honolulu, Hawaii

FEB 17

, 2006

RE: S.B. No. 2733
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Education and Military Affairs, to which was referred S.B. No. 2733 entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to place the burden of proof on the Department of Education in the initial administrative hearing brought pursuant to the IDEA, and to clarify the statute of limitations for an action to recover costs of a unilateral private education placement.

Your Committee received testimony in support of this measure from the State Council on Development Disabilities, the Disability and Communication Access Board, the Special Education Advisory Council, the Hawaii Disability Rights Center, the Ko'olauloa Community Children's Council Parent Group, Hawaii Families As Allies, Learning Disabilities Association of Hawaii, the Autism Society of Hawai'i, and seven individuals. Comments in support of the intent of this measure were received from the Department of Education. Comments in opposition to this measure were received from the Hawaii State Teachers Association. Comments were received from the Department of the Attorney General.

Your Committee finds that while the initial burden of proof in an IDEA hearing should rest with the department, upon satisfaction of this burden and disposition of an initial proceeding, it is not unjust to shift the burden of proof to a



parent or guardian in the event that the parent or guardian brings a subsequent proceeding against the department.

Your Committee further finds that a ninety-day statute of limitations ensures that the determination of a child's educational placement is made in an expedited manner, and that an affirmative date upon which the limitations period begins to toll must be established in fairness to parents and guardians.

Your Committee has amended this measure to reflect these findings.

As affirmed by the record of votes of the members of your Committee on Education and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2733, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Education and
Military Affairs,




NORMAN SAKAMOTO, Chair



The Senate
Twenty-Third Legislature
State of Hawaii

Record of Votes of the
Committee on Education and Military Affairs
(Bills and Resolutions)

| | | |
|--|--------------------------|----------------------------------|
| Measure:* | Committee Referral: | Date: |
| SB 2733 | EDM, JHW | 02/15/06 |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | |
| The Recommendation is to: | | |
| <input type="checkbox"/> Pass, unamended (2312) <input checked="" type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313) | | |
| Members | Ayes | Ayes(WR) |
| SAKAMOTO, Norman (C) | ✓ | |
| HOOSER, Gary L. (VC) | ✓ | |
| CHUN OAKLAND, Suzanne | | |
| NISHIHARA, Clarence K. | ✓ | |
| TSUTSUI, Shan S. | ✓ | |
| HOGUE, Bob | ✓ | |
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| TOTAL | 5 | 1 |
| Recommendation: | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | |
| Chair's or Designer's Signature: | | |
|  | | |
| Distribution: | | |
| Original File with Committee Report | Yellow Clerk's Office | Pink Drafting Agency |
| | | Goldenrod Committee File Copy |

*Do not list more than one measure per Record of Votes.