
A BILL FOR AN ACT

RELATING TO EDUCATION GOVERNANCE.

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

1 SECTION 1. The governance structure of Hawaii's public
2 education system is unique compared to other states across the
3 nation. Hawaii is the only state in the union with a single
4 statewide school district. The department of education is
5 managed by a superintendent, serving as its chief executive, who
6 is appointed and overseen by a thirteen-member publicly elected
7 board of education. The board theoretically sets statewide
8 education policy to the extent allowed by law. The Hawaii state
9 legislature controls the budgetary appropriations made to the
10 department each year and establishes educational policy and
11 procedures through the adoption of laws. The governor, who
12 serves as the chief executive of the State, has the authority to
13 release or withhold funds appropriated by the legislature to the
14 department of education, but has no other direct powers over the
15 department of education. This system results in a diffusion of
16 control, a diffusion of accountability, and the inability of the
17 public to hold one person accountable for the success or failure
18 of public education in Hawaii.

1 It is critical that steps be taken to improve the
2 performance of Hawaii's schools. Every year since 1992,
3 Hawaii's fourth and eighth graders have scored below the
4 national average on math and reading tests developed by the
5 National Assessment of Education Progress, which is also known
6 as the Nation's Report Card. According to the department of
7 education, sixty-four per cent of schools failed to meet
8 Adequate Yearly Progress standards as measured by the Hawaii
9 State Assessment for the 2008-2009 school year. Local labor
10 unions report that many department of education graduates have
11 difficulty passing apprentice tests. Similarly, the University
12 of Hawaii system reports they have had to increase remediation
13 courses for Hawaii public school graduates who want to attend
14 college to bridge the learning gap in students who are
15 unprepared to deal with the rigor of college-level course work.

16 The legislature finds that the failure of the State to
17 develop a high-performing public school system is not due to a
18 lack of fiscal investment, nor a lack of commitment to education
19 by the residents of the State. The high regard with which
20 education is held in Hawaii is evidenced by the nearly
21 \$2,000,000,000 dollars in state general funds appropriated to

1 the department of education each year and the diligent work of
2 teachers in classrooms across the state.

3 The legislature further finds that the slow progress to
4 improve Hawaii's public education system is due to a lack of
5 clear governance. The poor outcomes are a result of an
6 educational governance system that lacks accountability.

7 Accordingly, the purpose of this bill is to restructure
8 Hawaii's public education system to set forth clear lines of
9 accountability among state entities and officials, in order to
10 create an effective public education system for the children of
11 Hawaii. This is accomplished by:

- 12 (1) Repealing the powers and duties of the board of
13 education;
- 14 (2) Authorizing the governor to appoint the superintendent
15 of education with the advice and consent of the
16 senate;
- 17 (3) Realigning the department of education within the
18 state administration as a cabinet-level department;
19 and
- 20 (4) Authorizing the superintendent to appoint three
21 deputy directors to oversee the department's

1 administration, student achievement, and public
2 charter schools.

3 PART I.

4 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§302A- Deputy directors; appointment. The
8 superintendent shall appoint, without regard to chapter 76,
9 three deputy superintendents to serve at the superintendent's
10 pleasure. Unless otherwise assigned by the superintendent, one
11 deputy superintendent shall oversee the administration and
12 operations of the department, one deputy superintendent shall
13 oversee student achievement, and one deputy superintendent shall
14 oversee public charter schools in accordance with chapter 302B."

15 SECTION 2. Section 26-12, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§26-12 Department of education. (a) The department of
18 education shall be headed by [an executive board to be known as
19 the board of education.

20 Under policies established by the board,] a single
21 executive to be known as the superintendent of education.

1 The department of education shall administer programs of
2 education and public instruction throughout the State, including
3 education at the preschool, primary, and secondary school
4 levels, adult education, school library services, health
5 education and instruction (not including dental health treatment
6 transferred to the department of health), and such other
7 programs as may be established by law.

8 (c) ~~The [state librarian, under policies established by~~
9 ~~the board of education,]~~ department of education, through the
10 state librarian, shall be responsible for the administration of
11 programs relating to public library services and transcribing
12 services for the blind.

13 The functions and authority heretofore exercised by the
14 ~~[department of education (except dental health treatment~~
15 ~~transferred to the department of health),]~~ library of Hawaii,
16 Hawaii county library, Maui county library, and the transcribing
17 services program of the bureau of sight conservation and work
18 with the blind, as heretofore constituted are transferred to the
19 public library system established by this chapter.

20 The management contract between the board of supervisors of
21 the county of Kauai and the Kauai public library association
22 shall be terminated at the earliest time after November 25,

1 1959, permissible under the terms of the contract and the
2 provisions of this paragraph shall constitute notice of
3 termination, and the functions and authority heretofore
4 exercised by the Kauai county library as heretofore constituted
5 and the Kauai public library association over the public
6 libraries in the county of Kauai shall thereupon be transferred
7 to the public library system established by this chapter.

8 The management contracts between the trustees of the
9 library of Hawaii and the Friends of the Library of Hawaii, and
10 between the library of Hawaii and the Hilo library and reading
11 room association, shall be terminated at the earliest time after
12 November 25, 1959, permissible under the terms of the contracts,
13 and the provisions of this paragraph shall constitute notice of
14 termination.

15 Upon the termination of the contracts, the State or the
16 counties shall not enter into any library management contracts
17 with any private association; provided that in providing library
18 services the [~~board~~] department of education may enter into
19 contracts approved by the governor for the use of lands,
20 buildings, equipment, and facilities owned by any private
21 association.

1 Notwithstanding any law to the contrary, the [~~board of~~
2 ~~education~~] superintendent may establish, specify the membership
3 number and quorum requirements for, appoint members to, and
4 disestablish a commission in each county to be known as the
5 library advisory commission, which shall in each case sit in an
6 advisory capacity to the [~~board of education~~] superintendent on
7 matters relating to public library services in their respective
8 county. The members of a library advisory commission shall
9 serve at the pleasure of the superintendent and shall not be
10 subject to section 26-34."

11 SECTION 3. Section 76-11, Hawaii Revised Statutes, is
12 amended by amending the definition of "employer" or "public
13 employer" to read as follows:

14 ""Employer" or "public employer" means the governor in the
15 case of the State, the respective mayors in the case of the
16 counties, the chief justice of the supreme court in the case of
17 the judiciary, [~~the board of education in the case of the~~
18 ~~department of education,~~] the board of regents in the case of
19 the University of Hawaii, the Hawaii health systems corporation
20 board in the case of the Hawaii health systems corporation, and
21 any individual who represents one of the employers or acts in
22 their interest in dealing with public employees. In the case of

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1 the judiciary, the administrative director of the courts shall
2 be the employer in lieu of the chief justice for purposes which
3 the chief justice determines would be prudent or necessary to
4 avoid conflict."

5 SECTION 4. Section 89-2, Hawaii Revised Statutes, is
6 amended by amending the definition of "employer" or "public
7 employer" to read as follows:

8 "Employer" or "public employer" means the governor in the
9 case of the State, the respective mayors in the case of the
10 counties, the chief justice of the supreme court in the case of
11 the judiciary, [~~the board of education in the case of the~~
12 ~~department of education,~~] the board of regents in the case of
13 the University of Hawaii, the Hawaii health systems corporation
14 board in the case of the Hawaii health systems corporation, and
15 any individual who represents one of these employers or acts in
16 their interest in dealing with public employees. In the case of
17 the judiciary, the administrative director of the courts shall
18 be the employer in lieu of the chief justice for purposes which
19 the chief justice determines would be prudent or necessary to
20 avoid conflict."

21 SECTION 5. Section 89-6, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:

1 "(d) For the purpose of negotiating a collective
2 bargaining agreement, the public employer of an appropriate
3 bargaining unit shall mean the governor together with the
4 following employers:

5 (1) For bargaining units (1), (2), (3), (4), (5),
6 (6), (9), (10), and (13), the governor shall have six
7 votes and the mayors, the chief justice, and the
8 Hawaii health systems corporation board shall each
9 have one vote if they have employees in the particular
10 bargaining unit;

11 (2) For bargaining units (11) and (12), the governor shall
12 have four votes and the mayors shall each have one
13 vote;

14 ~~[(3) For bargaining units (5) and (6), the governor shall~~
15 ~~have three votes, the board of education shall have~~
16 ~~two votes, and the superintendent of education shall~~
17 ~~have one vote;~~

18 ~~(4)]~~ (3) For bargaining units (7) and (8), the
19 governor shall have three votes, the board of regents
20 of the University of Hawaii shall have two votes, and
21 the president of the University of Hawaii shall have
22 one vote.

1 Any decision to be reached by the applicable employer group
2 shall be on the basis of simple majority, except when a
3 bargaining unit includes county employees from more than one
4 county. In such case, the simple majority shall include at
5 least one county."

6 SECTION 6. Section 302A-619, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§302A-619 Classification, educational officers.** The
9 [~~board~~] department of human resources development shall classify
10 all educational officer positions of the department and shall
11 adopt two separate classification/compensation plans for
12 educational officers. One classification/compensation plan
13 shall be for principals and vice-principals and shall be based
14 on the general pattern of a school administrator's career
15 development and associated school administrator's qualification
16 requirements. A separate classification/compensation plan shall
17 be for all other educational officers and shall be reflective of
18 the career development pattern and qualification requirements
19 for the respective professional field of expertise; provided
20 that both classification/compensation plans shall include
21 classification appeals procedures."

1 SECTION 7. Section 302A-621, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§302A-621 Salary; [~~deputy superintendent, assistant~~
4 ~~superintendents, complex area superintendents.~~] department
5 employees. The salaries of [~~the deputy superintendent,~~
6 ~~assistant superintendents, and complex area superintendents]~~
7 department employees shall be set [~~by the board; provided that~~
8 ~~the salaries of the deputy superintendent, assistant~~
9 ~~superintendents, and the complex area superintendents shall not~~
10 ~~exceed eighty per cent of the superintendent's salary.] in
11 accordance with any applicable classification law or collective
12 bargaining agreement."~~

13 SECTION 8. Section 302A-801, Hawaii Revised Statutes, is
14 amended to read as follows:

15 ^P "§302A-801 Hawaii teacher standards board established.

16 (a) There is established the Hawaii teacher standards board,
17 which shall be placed within the department for administrative
18 purposes only. The board shall consist of [~~fifteen~~] fourteen
19 members, including not less than six licensed teachers regularly
20 engaged in teaching at the time of the appointment, three
21 educational officers employed at the time of the appointment,
22 [~~the chairperson of the board of education or the chairperson's~~

1 ~~designee,~~] the superintendent or the superintendent's designee,
2 a representative of independent schools, the dean of the
3 University of Hawaii college of education or the dean's
4 designee, and two members of the public; provided that the
5 dean's designee shall be chosen from the member institutions of
6 the teacher education coordinating committee established under
7 section 304A-1202.

8 (b) Except for the [~~chairperson of the board of~~
9 ~~education,~~] superintendent[~~,~~] and dean of the college of
10 education, the governor shall appoint the members of the board
11 pursuant to section 26-34, from a list of qualified nominees
12 submitted to the governor by the departments, agencies,
13 organizations representative of the constituencies of the board,
14 and current members of the board; provided that the two members
15 of the public shall be from lists of qualified nominees
16 submitted to the governor by the Hawaii Business Roundtable,
17 Hawaii P-20 council, and Hawaii workforce development council.
18 To the extent possible, the board membership shall reflect
19 representation of elementary and secondary school personnel from
20 all islands.

21 (c) Appointed board members shall serve not more than
22 three consecutive three-year terms.

1 (d) Board members shall receive no compensation. When
2 board duties require that a board member take leave of the board
3 member's duties as a state employee, the appropriate state
4 department shall allow the board member to be placed on
5 administrative leave with pay and shall provide substitutes,
6 when necessary, to perform that board member's duties. Board
7 members shall be reimbursed for necessary travel expenses
8 incurred in the conduct of official board business.

9 (e) The chairperson of the board shall be designated by
10 the members of the board.

11 ~~[(f) The board may employ an executive director for a term
12 of up to four years, who shall be appointed by the board of
13 education without regard to chapters 76 and 89; provided that
14 the board shall submit a nominee to the board of education for
15 approval or disapproval; provided further that if the nominee is
16 disapproved, the board shall submit another nominee to the board
17 of education for approval or disapproval.]~~

18 ~~The board may terminate the executive director's contract
19 for cause; provided that the board shall submit the
20 recommendation for termination to the board of education for
21 approval or disapproval.] "~~

1 SECTION 9. Section 302A-803, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to establishing standards for the
4 issuance and renewal of licenses and any other powers and duties
5 authorized by law, the board's powers shall also include:

- 6 (1) Setting and administering its own budget;
- 7 (2) Adopting, amending, or repealing the rules of the
8 board in accordance with chapter 91;
- 9 (3) Receiving grants or donations from private
10 foundations, and state and federal funds;
- 11 (4) Submitting an annual report to the governor, the
12 legislature, and the [~~board of education~~]
13 superintendent on the board's operations and from the
14 2007-2008 school year, submitting a summary report
15 every five years of the board's accomplishment of
16 objectives, efforts to improve or maintain teacher
17 quality, and efforts to keep its operations responsive
18 and efficient;
- 19 (5) Conducting a cyclical review of standards and
20 suggesting revisions for their improvement;
- 21 (6) Establishing licensing fees in accordance with chapter
22 91 and determining the manner by which fees are

- 1 collected and subsequently deposited into the state
2 treasury and credited to the Hawaii teacher standards
3 board special fund;
- 4 (7) Establishing penalties in accordance with chapter 91;
- 5 (8) Issuing, renewing, revoking, suspending, and
6 reinstating licenses;
- 7 (9) Reviewing reports from the department on
8 individuals hired on an emergency basis;
- 9 (10) Applying licensing standards on a case-by-case basis
10 and conducting licensing evaluations;
- 11 (11) Preparing and disseminating teacher licensing
12 information to schools and operational personnel;
- 13 (12) Approving teacher preparation programs;
- 14 (13) Administering reciprocity agreements with other
15 states relative to licensing;
- 16 (14) Conducting research and development on teacher
17 licensure systems, beginning teacher programs, the
18 assessment of teaching skills, and other related
19 topics;
- 20 (15) Participating in efforts relating to teacher
21 quality issues, professional development related to

1 the board's standards, and promotion of high teacher
2 standards and accomplished teaching;

3 (16) Adopting applicable rules and procedures; and

4 (17) Adopting, amending, repealing, or suspending the
5 policies and standards of the board."

6 SECTION 10. Section 302A-1101, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§302A-1101 Department of education; ~~[board of education,]~~
9 superintendent of education. (a) There shall be a principal
10 executive department to be known as the department of education,
11 which shall be headed by ~~[an elected policy making board to be~~
12 ~~known as the board of education. The board shall have power in~~
13 ~~accordance with law to formulate statewide educational policy,~~
14 ~~adopt student performance standards and assessment models,~~
15 ~~monitor school success, and to appoint the superintendent of~~
16 ~~education as the chief executive officer of the public school~~
17 ~~system.] a single executive to be known as the superintendent of
18 education, who shall be appointed by the governor pursuant to
19 section 26-31.~~

20 ~~[(b) The board shall appoint, and may remove, the~~
21 ~~superintendent by a majority vote of its members. The~~
22 ~~superintendent.~~

1 ~~(1) May be appointed without regard to the~~
2 ~~state residency provisions of section 78-1(b);~~
3 ~~(2) May be appointed for a term of up to four~~
4 ~~years; and~~
5 ~~(3) May be terminated only for cause.~~
6 ~~(c) The board]~~ (b) The governor shall invite the senior
7 military commander in Hawaii to appoint a ~~[nonvoting]~~ military
8 representative to ~~[the board, who shall]~~ serve ~~[for a two-year~~
9 ~~term]~~ without compensation~~[-. As]~~ as a ~~[the]~~ liaison to the
10 ~~[board, the]~~ department. The military representative shall
11 advise the ~~[board]~~ department regarding state education policies
12 and departmental actions affecting students who are enrolled in
13 public schools as family members of military personnel. The
14 military representative shall carry out these duties as part of
15 the representative's official military duties and shall be
16 guided by applicable state and federal statutes, regulations,
17 and policies ~~[and may be removed only for cause by a majority~~
18 ~~vote of the members of the board]~~.
19 ~~[(d)]~~ (c) The ~~[board]~~ governor shall appoint the charter
20 school review panel~~[, which]~~ pursuant to section 26-34. The
21 charter school review panel shall serve as ~~[the]~~ a charter
22 authorizer for charter schools, with the power and duty to issue

1 charters, oversee and monitor charter schools, hold charter
2 schools accountable for their performance, and revoke charters."

3 SECTION 11. Section 302A-1111, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " **§302A-1111 Duties of superintendent.** (a) [~~Under~~
6 ~~policies established by the board, the~~] The superintendent shall
7 be designated as the chief executive officer of the public
8 school system having jurisdiction over the internal
9 organization, operation, and management of the public school
10 system, as provided by law; and shall administer programs of
11 education and public instruction throughout the State, including
12 education at the preschool, primary, and secondary school
13 levels, and such other programs as may be established by law.

14 (b) Except as otherwise provided, the superintendent shall
15 sign all drafts for the payment of moneys, all commissions and
16 appointments, all deeds, official acts, or other documents of
17 the department. The superintendent may use a printed facsimile
18 signature in approving appointments, contracts, and other
19 documents."

20 SECTION 12. Section 302A-1112, Hawaii Revised Statutes, is
21 amended to read as follows:

1 " **§302A-1112 Rules.** Subject to chapter 91, the [board]
2 department may adopt rules for the government of all teachers,
3 educational officers, other personnel, and pupils, and for
4 carrying out the transaction of its business."

5 SECTION 13. Section 302A-1120, Hawaii Revised Statutes, is
6 amended to read as follows:

7 " **§302A-1120 Public library system**[~~, board control~~]. The
8 [board] department, through the state librarian, shall have
9 direct control of the public library system, but not including
10 school libraries. The [board] department may adopt rules under
11 chapter 91 for the purpose of this section."

12 SECTION 14. Section 302A-1124, Hawaii Revised Statutes, is
13 amended to read as follows:

14 " **§302A-1124 Mandate to initiate school community**
15 **councils.** (a) The department, through the [~~board and its~~]
16 superintendent, shall establish a school community council
17 system under which each public school, excluding public charter
18 schools, shall create and maintain a school community council.
19 Each school community council shall:

20 (1) Review and evaluate the school's academic plan and
21 financial plan, and either recommend revisions of the

1 plans to the principal, or recommend the plans for
2 approval by the complex area superintendent;

3 (2) Ensure that the school's academic and financial plans
4 are consistent with the educational accountability
5 system under section 302A-1004;

6 (3) Participate in principal selection and evaluation, and
7 transmit any such evaluations to the complex area
8 superintendent; and

9 (4) Provide collaborative opportunities for input and
10 consultation.

11 (b) School community councils shall be exempt from the
12 requirements of chapters 91 and 92. The school community
13 councils shall:

14 (1) Make available the notices and agendas of public
15 meetings:

16 (A) At a publicly accessible area in the school's
17 administrative office so as to be available for
18 review during regular business hours; and

19 (B) On the school's internet web site, not less than
20 six calendar days prior to the public meeting,
21 unless a waiver is granted by the superintendent
22 in the case of an emergency; and

1 (2) Make available the minutes from public meetings on a
2 timely basis in:

3 (A) The school's administrative office so as to be
4 available for review during regular business
5 hours; and

6 (B) On the school's internet web site.

7 (c) Complex area superintendents may require revisions to
8 a school's academic and financial plans if the plans are in
9 violation of law or conflict with statewide educational policies
10 and standards, or are otherwise in the best interests of the
11 school.

12 (d) The superintendent of education may [~~recommend to the~~
13 ~~board of education~~] facilitate the dissolution of a school
14 community council [~~and establish~~] by establishing an interim
15 school community council if the school community council engages
16 in any act or omission that would constitute gross negligence,
17 wilful and wanton misconduct, or intentional misconduct. The
18 superintendent may [~~recommend to the board the removal of~~]
19 remove any member of a school community council[-] for cause.
20 The superintendent shall appoint or facilitate the creation of
21 an interim school community council at any school that has not
22 established a council or has had its council dissolved. In

1 appointing or facilitating the creation of an interim school
2 community council at any school that has had its council
3 dissolved, the superintendent may appoint individuals who were
4 previously members of the council.

5 (e) Unless otherwise specified, each school community
6 council shall establish policies governing the council's
7 composition, election, staggered terms of office for members,
8 operation, and vacancies; provided that:

9 (1) The number of school personnel [+]on[+] any school
10 community council shall be equal to the number of
11 primary stakeholders on the school community council;

12 (2) At the elementary and middle school levels, each
13 school community council shall be composed of the
14 principal and at least one member representing each of
15 the following groups:

16 (A) Parents elected by ballots distributed among and
17 collected from the parents of the school's
18 students;

19 (B) Teachers elected by ballots distributed among and
20 collected from teachers of the school;

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- 1 (C) Noncertificated school personnel elected by
- 2 ballots distributed among and collected from
- 3 noncertificated personnel of the school;
- 4 (D) Community representatives elected by ballots
- 5 distributed among and collected from parents of
- 6 the school's students; and
- 7 (E) Student representatives selected by the student
- 8 council of the school; and
- 9 (3) At the high school level, each school community
- 10 council shall be composed of the principal and at
- 11 least one member representing each of the following
- 12 groups:
- 13 (A) Parents elected by ballots distributed among and
- 14 collected from parents of the school's students;
- 15 (B) Teachers elected by ballots distributed among and
- 16 collected from teachers of the school;
- 17 (C) Noncertificated school personnel elected by
- 18 ballots distributed among and collected from
- 19 noncertificated personnel of the school;
- 20 (D) Community representatives elected by ballots
- 21 distributed among and collected from the parents
- 22 of the school's students; and

1 (E) Student representatives selected by the student
2 council of the school.

3 For the purposes of this subsection, "primary stakeholders"
4 means students, parents, and community members.

5 (f) School community councils shall elect officers,
6 including:

7 (1) A chairperson;

8 (2) A vice-chairperson;

9 (3) A secretary; and

10 (4) Other officers as needed to perform stated duties in
11 support of the work of the council.

12 (g) The principal shall have the authority to set aside
13 any decision made by the school community council if the
14 principal determines it to be in the best interests of the
15 school; provided that the principal notifies the school
16 community council. If the school community council opposes a
17 decision of the principal, an appeal shall first be brought to
18 the complex area superintendent for resolution and, if
19 necessary, to the superintendent. ~~[and, finally, to the board of~~
20 ~~education.]~~

1 (h) Complex area superintendents shall assist the school
2 community councils and principals within their respective
3 complex areas in:

4 (1) Obtaining the support and services of the
5 department; and

6 (2) Ensuring the progress and success of the school's
7 academic and financial plan."

8 SECTION 15. Section 302A-1126, Hawaii Revised Statutes, is
9 amended to read as follows:

10 " **§302A-1126 Waiver of policy, rule, or procedures.** Any
11 state agency that may be required to act under state law on a
12 matter affecting an individual school or its school community,
13 shall waive otherwise applicable policies, rules, or procedures
14 when requested to do so by a school community council unless the
15 agency, within thirty days, can justify a denial to the
16 appropriate authority. The [~~board~~] department shall adopt
17 procedures necessary to process waivers initiated by a school
18 community council. Any general waiver of policy, rule, or
19 procedures granted by the [~~board~~] superintendent to a specific
20 school or schools may be extended by the [~~board~~] superintendent
21 to apply to other schools under comparable circumstances. This
22 section shall apply to collective bargaining agreements as

1 provided for in all relevant collective bargaining agreements
2 negotiated pursuant to chapter 89."

3 SECTION 16. Section 302A-1134, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 " (b) Any child who, while attending school, is found to be
6 in possession of a firearm, shall be excluded from attending
7 school for not less than one year. The due process procedures
8 of chapter 19 of the Department of Education, Hawaii
9 Administrative Rules, shall apply to any child who, while
10 attending school, is alleged to be in possession of a firearm.
11 The superintendent, on a case-by-case basis, may modify the
12 exclusion of a child found to be in possession of a firearm
13 while attending school. If a child is excluded from attending
14 school, the superintendent shall ensure that substitute
15 educational activities or other appropriate assistance shall be
16 provided. The superintendent shall submit to the United States
17 Department of Education, the [~~state board of education,~~
18 governor, and the legislature an annual report indicating the
19 number of students excluded, the types of firearms found in
20 their possession, and the schools from which they were
21 excluded."

1 SECTION 17. Section 302A-1303.5, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§302A-1303.5 Committee on weights. (a) There is
4 established within the department of education the committee on
5 weights to develop a weighted student formula pursuant to
6 section 302A-1303.6. The committee shall:

7 (1) Create a list of student characteristics that will be
8 weighted;

9 (2) Create a system of weights based upon the student
10 characteristics that may be applied to determine the
11 relative cost of educating any student;

12 (3) Determine specific student weights, including their
13 unit value;

14 (4) Determine which moneys shall be included in the amount
15 of funds to be allocated through the weighted student
16 formula;

17 (5) Recommend a weighted student formula to the [~~board of~~
18 ~~education,~~] department;

19 (6) Perform any other function that may facilitate the
20 implementation of the weighted student formula; and

21 (7) Meet not less than annually to review the weighted
22 student formula and, if the committee deems it

1 necessary, recommend a new weighted student formula
2 for adoption by the [~~board of education.~~] department.

3 (b) The composition of the committee on weights shall be
4 determined by the [~~board of education~~] governor based on
5 recommendations from the superintendent of education and dean of
6 the University of Hawaii at Manoa college of education and
7 include principals, teachers, and other members with the
8 appropriate professional skills, experiences, and qualifications
9 needed to facilitate the work of the committee. The
10 superintendent or the superintendent's designee shall chair the
11 committee on weights.

12 (c) The committee on weights may form advisory
13 subcommittees to obtain input from key stakeholders as
14 determined necessary by the committee.

15 (d) The members of the committee on weights shall serve at
16 the pleasure of the [~~board of education~~] governor and shall not
17 be subject to section 26-34. Members of the committee on
18 weights shall serve without compensation but shall be reimbursed
19 for expenses, including travel expenses, necessary for the
20 performance of their duties."

21 SECTION 18. Section 302A-1402, Hawaii Revised Statutes, is
22 amended to read as follows:

1 " **§302A-1402 Custodian of federal funds.** The director of
2 finance is designated as custodian of all funds received as the
3 state apportionment under any federal appropriations for public
4 educational purposes and the director shall disburse the funds,
5 pursuant to the requirements, restrictions, and regulations of
6 the federal acts under which the funds may be provided, on
7 vouchers approved by the [~~board,~~] superintendent, or by any
8 subordinate thereunto duly authorized by the [~~board~~]
9 superintendent."

10 SECTION 19. Section 302A-1607, Hawaii Revised Statutes, is
11 amended to read as follows:

12 " **§302A-1607 Impact fee: construction cost component -**
13 **determining the cost per unit.** (a) The construction cost
14 component of the school impact fees shall be calculated using
15 the following factors:

16 (1) For new school construction, the cost per student for
17 each school type (elementary, middle or intermediate,
18 and high school) is based on the ten-year average
19 construction of a new school facility using the
20 Honolulu assessment district in 2006 as the base.
21 Costs for construction completed earlier than 2006

1 shall be escalated to 2006 using the engineering news-
2 record construction cost index;

3 (2) For expansion of existing school facilities, the cost
4 per student for each school type (elementary, middle
5 or intermediate, and high school) is based on the ten-
6 year average construction of whatever components are
7 required to expand the school using the Honolulu
8 assessment district in 2006 as the base;

9 (3) The cost per student in other assessment districts
10 shall be the cost per student in the Honolulu
11 assessment district multiplied by the appropriate cost
12 factor in subsection (c). At least every three years,
13 the department shall update the cost per student based
14 on the construction of a new permanent school
15 facility[~~and present the written analysis to the~~
16 ~~board for review~~]; and

17 (4) Student generation rates, as defined in section
18 302A-1602.

19 (b) The student generation rate for each school type
20 (elementary, middle or intermediate, and high school) shall be
21 multiplied by the cost per student for each school type

1 (elementary, middle or intermediate, and high school) to
 2 determine the cost/unit in the development.

3 (c) The State shall be divided into the following twenty-
 4 six geographically limited cost districts:

5	Cost District	School District	Cost Factor
6	Honolulu	Honolulu	1.00
7	Ewa	Leeward/Central	1.00
8	Wahiawa	Central	1.05
9	Waialua	Central	1.10
10	Koolaupoko	Windward	1.00
11	Koolauloa	Windward	1.00
12	Waianae	Leeward	1.10
13	Hilo	Hawaii	1.15
14	Puna	Hawaii	1.20
15	Kona	Hawaii	1.20
16	Hamakua	Hawaii	1.20
17	South Kohala	Hawaii	1.20
18	North Kohala	Hawaii	1.25
19	Pohakuloa	Hawaii	1.25
20	Kau	Hawaii	1.30
21	Wailuku	Maui	1.15
22	Makawao	Maui	1.25

1	Lahaina	Maui	1.30
2	Hana	Maui	1.35
3	Molokai	Molokai	1.30
4	Lanai	Lanai	1.35
5	Lihue	Kauai	1.15
6	Koloa	Kauai	1.20
7	Kawaihau	Kauai	1.20
8	Waimea	Kauai	1.25
9	Hanalei	Kauai	1.25

10 (d) At least every three years, and concurrent with any
 11 update of the costs per student, the department shall update the
 12 revenue credits [~~and present the written analysis to the board~~
 13 ~~for review~~]. The calculation of revenue credits shall be
 14 reviewed and calculated recognizing that the impact fee shall be
 15 set at one hundred per cent of the fair market value of the land
 16 and ten per cent of the total school construction cost.

17 (e) The construction cost component of the impact fees per
 18 dwelling unit shall be ten per cent of the amounts calculated
 19 according to the following formula:

20 Cost per dwelling unit from [subsection (b)] minus any
 21 amount by which the revenue credit per dwelling unit from

1 subsection (d) exceeds ninety per cent of the per unit
2 construction cost.

3 (f) The amount of the fee shall be increased from the date
4 it was determined to the date it is paid using the engineering
5 news-record construction cost index, or an equivalent index if
6 that index is discontinued.

7 (g) Any new residential development shall be required to
8 obtain a written agreement between the owner or developer of the
9 property and the department, under which the owner or developer
10 has agreed to a time specified for payment, for its school
11 impact fee construction cost component prior to the issuance of
12 the building permit."

13 SECTION 20. Section 302B-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§302B-3 [Charter] Public charter school review panel;**
16 **establishment; powers and duties.** (a) There is established the
17 public charter school review panel, that shall be placed within
18 the department for administrative purposes only. [~~The panel~~
19 ~~shall be accountable to the charter schools and the board.~~]
20 Notwithstanding section 302B-9 and any other law to the
21 contrary, the panel shall be subject to chapter 92.

1 (b) The panel shall consist of [~~twelve~~] eleven members,
2 and shall include:

3 (1) Two licensed teachers regularly engaged in teaching;
4 provided that one teacher is employed at a start-up
5 public charter school, and one teacher is employed at
6 a public conversion charter school;

7 (2) Two educational officers; provided that one
8 educational officer is employed at a start-up public
9 charter school, and one educational officer is
10 employed at a public conversion charter school;

11 (3) One member or former member of a public charter school
12 local school board;

13 [~~(4)~~] ~~The chair of the board of education or the chair's~~
14 ~~designee;~~

15 ~~(5)]~~ (4) A representative of Hawaiian culture-focused
16 public charter schools;

17 [~~(6)]~~ (5) Two representatives of the University of Hawaii
18 who are not affiliated with charter schools;

19 [~~(7)]~~ (6) One member with a background in business or
20 accounting who is not affiliated with public charter
21 schools;

1 ~~[(8)]~~ (7) One member with a background in the building
2 trades or real estate who is not affiliated with
3 public charter schools; and
4 ~~[(9)]~~ (8) A representative from the Hawaii Association of
5 Independent Schools;
6 provided that the initial appointments for representatives in
7 paragraphs ~~[(7) to (9)]~~ (6) to (8) shall be made by September 1,
8 2007. From June 1, 2007, until such time that the panel has
9 ~~[twelve]~~ eleven members, five members of the panel shall
10 constitute a quorum to conduct business and a concurrence of at
11 least five members shall be necessary to make any action of the
12 panel valid; provided that, upon filling the ~~[twelve]~~ eleven
13 seats as required under this subsection, a majority of the panel
14 shall constitute a quorum to conduct business, and the
15 concurrence of a majority of all the members to which the panel
16 is entitled shall be necessary to make any action of the panel
17 valid.

18 (c) The ~~[board]~~ governor shall appoint the remaining
19 members of the panel ~~[other than the chair of the board]~~.

20 (d) Appointed panel members shall serve not more than
21 three consecutive three-year terms, with each term beginning on
22 July 1; provided that the initial terms of the appointed members

1 that commence after June 30, 2006, shall be staggered as
2 follows:

3 (1) Four members to serve three-year terms;

4 (2) Four members to serve two-year terms; and

5 (3) Three members to serve a one-year term.

6 (e) Notwithstanding the terms of members, the [~~board~~]
7 governor may add panel members at any time and replace panel
8 members at any time when their positions become vacant through
9 resignation, through non-participation, upon request of a
10 majority of panel members, or upon termination by the [~~board~~]
11 governor for cause.

12 (f) Panel members shall receive no compensation. When
13 panel duties require that a panel member take leave of the panel
14 member's duties as a state employee, the appropriate state
15 department shall allow the panel member to be placed on
16 administrative leave with pay and shall provide substitutes,
17 when necessary, to perform that panel member's duties. Panel
18 members shall be reimbursed for necessary travel expenses
19 incurred in the conduct of official panel business.

20 (g) The panel shall establish operating procedures that
21 shall include conflict of interest provisions for any member

1 whose school of employment or local school board membership is
2 before the panel.

3 (h) The chair of the panel shall be designated by the
4 members of the panel for each school year beginning July 1 and
5 whenever there is a vacancy. If the panel does not designate
6 its chair for the next school year by July 1, the [board]
7 governor shall designate the panel chair. When the panel chair
8 is vacant, the [board] governor shall designate an interim chair
9 to serve until the panel designates its chair.

10 (i) The powers and duties of the panel shall be to:

11 [~~1~~] ~~Appoint and evaluate the executive director and~~
12 ~~approve staff and salary levels for the charter school~~
13 ~~administrative office;~~

14 [~~2~~] (1) Review, approve, or deny charter applications
15 for new public charter schools in accordance with
16 section 302B-5 for the issuance of new charters;
17 provided that applicants that are denied a charter may
18 appeal to the [board] superintendent for a final
19 decision pursuant to section 302B-3.5;

20 [~~3~~] (2) Review, approve, or deny significant amendments
21 to detailed implementation plans to maximize the
22 school's financial and academic success, long-term

1 organizational viability, and accountability.

2 [~~Charter~~] Public charter schools that are denied a
3 significant amendment to their detailed implementation
4 plan may appeal to the [~~board~~] superintendent for a
5 final decision pursuant to section 302B-3.5;

6 [~~+4~~] (3) Adopt reporting requirements for public charter
7 schools;

8 [~~+5~~] (4) Review [~~annual~~] self-evaluation reports from
9 public charter schools and take appropriate action;

10 [~~+6~~] (5) Evaluate any aspect of a public charter school
11 that the panel may have concerns with and take
12 appropriate action, which may include probation or
13 revocation;

14 [~~+7~~] (6) Periodically adopt improvements in the panel's
15 monitoring and oversight of public charter schools;

16 [~~+8~~] (7) Periodically adopt improvements [~~in the~~
17 ~~office's~~] to support [~~of~~] public charter schools and
18 management of the charter school system;

19 [~~+9~~] ~~Review, modify, and approve charter schools' all~~
20 ~~means of finance budget, based upon criteria and an~~
21 ~~approval process established by the panel; and~~

1 ~~(10) Survey all charter school facilities prior to, and in~~
2 ~~preparation for, determining recommendations to allocate~~
3 ~~non per pupil facilities funds to charter schools with~~
4 ~~facilities needs. The survey shall include, at minimum,~~
5 ~~for each charter school facility.~~

6 ~~(A) The current status of the facility;~~

7 ~~(B) Facilities costs, including all rents, leases,~~
8 ~~purchases, and repair and maintenance for lands~~
9 ~~and buildings;~~

10 ~~(C) A prioritized list of facilities needs;~~

11 ~~(D) Any capital improvement projects underway or~~
12 ~~scheduled; and~~

13 ~~(E) Whether the facility is a conversion or start up~~
14 ~~charter school, and current and projected~~
15 ~~enrollment.]~~

16 (j) In the case that the panel decides not to issue a new
17 charter, or to approve significant amendments to detailed
18 implementation plans, the [board] superintendent may adopt rules
19 for an appeals process pursuant to section 302B-3.5.

20 (k) The [~~office shall provide for the staff support and~~
21 ~~expenses of the]~~ panel shall be administratively attached to the
22 department of education."

1 SECTION 21. Section 302B-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§302B-8 Charter school administrative office.** (a) There
4 is established a charter school administrative office[7] which
5 shall be attached to the department [~~for administrative purposes~~
6 ~~only. The office shall be~~] and administered by [~~an executive~~
7 ~~director, who shall be appointed without regard to chapters 76~~
8 ~~and 89 by the panel based upon the recommendations of an~~
9 ~~organization of charter schools operating within the State or~~
10 ~~from a list of nominees submitted by the charter schools. The~~
11 ~~panel shall hire the executive director, who may be contracted~~
12 ~~for a term of up to four years; shall offer the executive~~
13 ~~director a written contract; and may terminate the executive~~
14 ~~director's contract only for cause.] a deputy superintendent
15 assigned by the superintendent to oversee public charter
16 schools.~~

17 The [~~executive director, with the approval of the panel,]~~
18 deputy superintendent of public charter schools may hire
19 necessary staff without regard to chapters 76 and 89 to assist
20 in the administration of the office and public charter schools.

21 (b) The [~~executive director, under the direction of the~~
22 ~~panel and]~~ deputy superintendent of public charter schools, in

1 consultation with the authorizers and local school boards of
2 charter schools, shall be responsible for the internal
3 organization, operation, and management of the public charter
4 school system, including:

5 (1) Preparing and executing the budget and the capital
6 improvement projects request for the public charter
7 schools; ~~[, including submission of the all means of~~
8 ~~finance budget request that reflects all anticipated~~
9 ~~expenditures to the panel, the board, the governor,~~
10 ~~and the legislature; provided that, in preparing the~~
11 ~~budget request with regard to facilities funding, the~~
12 ~~executive director shall ensure that, as a budget item~~
13 ~~separate from other operating costs, the request~~
14 ~~provides+]~~

15 [~~(A) Funding for projected enrollment for the next~~
16 ~~school year for each charter school,]~~

17 [~~(B) A calculation showing the per pupil funding~~
18 ~~based on the department of budget and finance's~~
19 ~~debt service appropriation for the department of~~
20 ~~education divided by the department of~~
21 ~~education's actual enrollment that school year;~~
22 ~~and]~~

1 ~~[(C) That no less than seventy per cent of the amount~~
2 ~~appropriated shall be allocated by the office to~~
3 ~~start up charter schools on a per pupil basis,~~
4 ~~provided that the funds remaining shall be~~
5 ~~allocated to charter schools with facilities~~
6 ~~needs as recommended by the office and approved~~
7 ~~by the panel;]~~

8 (2) Allocating annual appropriations to the public charter
9 schools and distribution of federal funds to public
10 charter schools;

11 (3) Complying with applicable state laws related to the
12 administration of the public charter schools;

13 (4) Preparing contracts between the public charter schools
14 and the department for centralized services to be
15 provided by the department;

16 (5) Preparing contracts between the public charter schools
17 and other state agencies for financial or personnel
18 services to be provided by the agencies to the public
19 charter schools;

20 (6) Providing independent analysis and recommendations on
21 public charter school issues;

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- 1 (7) Representing public charter schools and the public
2 charter school system in communications with the
3 ~~[board,]~~ superintendent, the governor, and the
4 legislature;
- 5 (8) Providing advocacy, assistance, and support for the
6 development, growth, progress, and success of public
7 charter schools and the public charter school system;
- 8 (9) Providing guidance and assistance to charter
9 applicants and public charter schools to enhance the
10 completeness and accuracy of information for ~~[panel]~~
11 authorizer review;
- 12 (10) Assisting charter applicants and public charter
13 schools in coordinating their interactions with the
14 ~~[panel]~~ authorizer as needed;
- 15 (11) Assisting the ~~[panel]~~ authorizers to coordinate
16 with public charter schools in ~~[panel]~~ investigations
17 and evaluations of public charter schools;
- 18 (12) Serving as the conduit to disseminate communications
19 from ~~[the panel, the board, and]~~ the department to all
20 public charter schools;

1 (13) Determining public charter school system needs and
2 communicating those needs to authorizers [~~the panel~~
3 ~~the board,~~] and the department;

4 [~~(14) Establishing a dispute resolution and mediation~~
5 ~~process,~~] and

6 [(15)] (14) Upon request by one or more public charter
7 schools, assisting in the negotiation of a collective
8 bargaining agreement with the exclusive representative
9 of its employees.

10 [~~(c) The executive director shall be evaluated annually by~~
11 ~~the panel. The annual evaluation shall be conducted~~
12 ~~sufficiently in advance of the end of a term to provide the~~
13 ~~executive director the opportunity to respond to concerns and~~
14 ~~improve performance.~~

15 (d) ~~The salary of the executive director and staff shall~~
16 ~~be set by the panel based upon the recommendations of charter~~
17 ~~schools within the State; provided that the salaries and~~
18 ~~operational expenses of the office shall be paid from the annual~~
19 ~~charter school appropriation and shall not exceed two per cent~~
20 ~~of the total general fund allocation at an amount to be~~
21 ~~determined annually by the panel.~~

1 ~~(e) The office shall include in its annual budget request~~
2 ~~additional funds to cover the estimated costs of:~~

3 ~~(1) Vacation and sick leave accrued by employees~~
4 ~~transferring to a charter school from another state-~~
5 ~~agency or department;~~

6 ~~(2) Substitute teachers needed when a teacher is out~~
7 ~~on vacation or sick leave;~~

8 ~~(3) Adjustments to enrollments; and~~

9 ~~(4) Arbitration in the grievance process.~~

10 ~~(f)]~~ (c) The ~~[office shall]~~ deputy superintendent may
11 withhold funds for charter school enrollments that are
12 inconsistent with approved detailed implementation plans.

13 ~~[(g)]~~ (d) The ~~[office shall]~~ deputy superintendent may
14 withhold funds to repay overpayments or over-allocations
15 received by charter schools when not repaid in a timely manner
16 in accordance with rules adopted by the ~~[board.]~~ superintendent.

17 ~~[(h)]~~ (e) The ~~[office]~~ deputy superintendent may carry
18 over funds from previous year allocations. Funds distributed to
19 charter schools shall be considered expended."

20 SECTION 22. Section 312-1, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "§312-1 Duties of the [~~board~~] department of education.

2 The [~~board~~] department of education shall care for, manage, and
3 control all property set apart, donated, loaned to, or in any
4 manner acquired for the use of libraries; receive, care for,
5 expend, and account for any money which may be received for the
6 purpose of erecting buildings for libraries or for any other
7 purposes of the libraries; collect, purchase, receive gifts of,
8 and otherwise acquire all books and other publications proper
9 for libraries, and arrange, classify, and catalogue the same;
10 provide for their safekeeping; expend moneys appropriated by the
11 legislature and otherwise acquired for the development, use,
12 support, and maintenance of libraries; provide ways and means
13 for placing libraries within reach of all residents throughout
14 the State and particularly of all public and private school
15 children; provide and maintain branch libraries, offices, or
16 places for the distribution of books and periodicals throughout
17 the State; make such contracts as may be necessary to carry into
18 effect the general duties herein imposed; appoint such officers
19 and employees as it deems necessary; and make rules for the
20 management and use of libraries, and for the control of the
21 property under its management."

1 SECTION 23. Section 312-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§312-2 Powers of [~~board~~]; department; special fund.** The
4 [~~board~~] department of education may:

- 5 (1) Except as provided in section 312-3.9, make
6 arrangements or contracts as are approved by the
7 governor, with any county, city, association, society,
8 person, or persons, for the purpose of benefiting the
9 libraries and increasing their facilities and use;
- 10 (2) Subject to section 26-12, enter into such arrangement
11 or contract as is approved by the governor, with the
12 Friends of the Library of Hawaii, for the purpose of
13 obtaining the use of the books and property and income
14 of the Friends of the Library of Hawaii;
- 15 (3) Cooperate by exchange and otherwise with libraries now
16 existing or hereafter to be formed;
- 17 (4) Receive, use, manage, or invest moneys or other
18 property, real, personal, or mixed which may be given,
19 bequeathed, devised, or in any manner received from
20 sources other than the legislature or any federal
21 appropriation for any or all purposes of the
22 libraries;

1 (5) Deposit with the director of finance in a special fund
2 all moneys donated [~~to the board~~] for library
3 services;

4 (6) Unless otherwise provided for by the terms and
5 conditions of the donation, convert, at such time as
6 the [~~board~~] department may at its sole discretion
7 determine, any or all donations of property, real,
8 personal, or mixed, into money to be deposited into
9 the special fund; and

10 (7) Expend the moneys in the special fund in accordance
11 with the terms and conditions of each donation for the
12 purposes of the libraries.

13 The [~~board~~] department shall be the trustee of the special
14 fund and all moneys therein shall be deemed to have been
15 appropriated to the use and for the purposes of the [~~board~~]
16 department in providing library services. Nothing in this
17 section shall be construed to limit the powers and duties of the
18 [~~board~~] department hereinbefore expressed, or to empower the
19 [~~board~~] department to obligate the State financially in any sum
20 which shall not have been appropriated by the legislature for
21 the use of the [~~board~~] department."

1 SECTION 24. Section 312-2.1, Hawaii Revised Statutes, is
2 amended to read:

3 **"§312-2.1 Appointment of state librarian; duties; salary.**

4 (a) The state librarian shall be appointed by the [~~board~~
5 superintendent of education[, ~~without regard to chapter 76,~~
6 pursuant to section 302A-], shall be under the direction of the
7 [~~board,~~] superintendent, shall be responsible for the operation,
8 planning, programming, and budgeting of all community/school and
9 public libraries within the State, and may be removed by [~~a~~
10 ~~majority vote of its members.~~] the superintendent. The state
11 librarian may be appointed:

12 (1) Without regard to the state residency provisions of
13 section 78-1(b); and

14 (2) For a term of up to four years.

15 (b) The salary of the state librarian shall be set by the
16 [~~board of education~~] superintendent at a rate no greater than
17 \$120,000 a year."

18 SECTION 25. Section 312-21, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read:

20 "(c) The state librarian, with the approval of the [~~board~~
21 ~~of education,~~] superintendent, shall determine the types and
22 kinds of enhanced services to be included under the fee for

1 enhanced services program; provided that a schedule of fees for
2 these enhanced services shall be adopted in accordance with
3 chapter 91. Libraries shall not be obligated to offer all of
4 the services specified in the fee for enhanced services program,
5 and each public library shall determine which services it will
6 provide."

7 PART II.

8 SECTION 26. Section 11-157, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§11-157 In case of tie.** In case of the failure of an
11 election by reason of the equality of vote between two or more
12 candidates, the tie shall be decided by the chief election
13 officer or county clerk in the case of county elections in
14 accordance with the following procedure:

15 (1) In the case of an election involving a seat for the
16 senate, house of representatives, [~~board of~~
17 ~~education,~~] or county council where only voters within
18 a specified district are allowed to cast a vote, the
19 winner shall be declared as follows:

20 (A) For each precinct in the affected district, an
21 election rate point shall be calculated by
22 dividing the total voter turnout in that precinct

1 by the total voter turnout in the district. For
2 the purpose of this subparagraph, the absentee
3 votes cast for the affected district shall be
4 treated as a precinct. The election rate point
5 shall be calculated by dividing the total
6 absentee votes cast for the affected district by
7 the total voter turnout in that district. All
8 election rate points shall be expressed as
9 decimal fractions rounded to the nearest hundred
10 thousandth.

11 (B) The candidate with the highest number of votes in
12 a precinct shall be allocated the election rate
13 point calculated under subparagraph (A) for that
14 precinct. In the event that two or more persons
15 are tied in receiving the highest number of votes
16 for that precinct, the election rate point shall
17 be equally apportioned among those candidates
18 involved in that precinct tie.

19 (C) After the election rate points calculated under
20 subparagraph (A) for all the precincts have been
21 allocated as provided under subparagraph (B), the
22 election rate points allocated to each candidate

1 shall be tallied and the candidate with the
2 highest election rate point total shall be
3 declared the winner.

4 (D) If there is a tie between two or more candidates
5 in the election rate point total, the candidate
6 who is allocated the highest election rate points
7 from the precinct with the largest voter turnout
8 shall be declared the winner.

9 (2) In the case of an election involving a federal office
10 or an elective office where the voters in the entire
11 State or in an entire county are allowed to cast a
12 vote, the winner shall be declared as follows:

13 (A) For each representative district in the State or
14 county, as the case may be, an election rate
15 point shall be calculated by dividing the total
16 voter turnout in that representative district by
17 the total voter turnout in the state, county, or
18 federal office district, as the case may be;
19 provided that for purposes of this subparagraph:

20 (i) The absentee votes cast for a statewide,
21 countywide, or federal office shall be
22 treated as a separate representative

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1 district and the election rate point shall
2 be calculated by dividing the total absentee
3 votes cast for the statewide, countywide, or
4 federal office by the total voter turnout in
5 the state, county, or federal office
6 district, as the case may be.

7 (ii) The overseas votes cast for any election in
8 the State for a federal office shall be
9 treated as a separate representative
10 district and the election rate point shall
11 be calculated by dividing the total number
12 of overseas votes cast for the affected
13 federal office by the total voter turnout in
14 the affected federal office district. The
15 term "overseas votes" means those votes cast
16 by absentee ballots for a presidential
17 election as provided in section 15-3.

18 All election rate points shall be expressed
19 as decimal fractions rounded to the nearest
20 hundred thousandth.

21 (B) The candidate with the highest number of votes in
22 a representative district shall be allocated the

1 election rate point calculated under subparagraph
2 (A) for that district. In the event that two or
3 more persons are tied in receiving the highest
4 number of votes for that district, the election
5 rate point shall be equally apportioned among
6 those candidates involved in that district tie.

7 (C) After the election rate points calculated under
8 subparagraph (A) for all the precincts have been
9 allocated as prescribed under subparagraph (B),
10 the election rate points allocated to each
11 candidate shall be tallied and the candidate with
12 the election rate point total shall be declared
13 the winner.

14 (D) If there is a tie between two or more candidates
15 in the election rate point total, the candidate
16 who is allocated the highest election rate points
17 from the representative district with the largest
18 voter turnout shall be declared the winner."

19 SECTION 27. Section 11-195, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) For purposes of this subpart, whenever a report is
22 required to be filed with the commission, "filed" means

1 electronically filed on the commission's electronic filing
2 system by the date and time specified for the filing of the
3 report by the:

4 (1) Candidate or the committee of a candidate who is
5 seeking election to the:

- 6 (A) Office of governor;
- 7 (B) Office of lieutenant governor;
- 8 (C) Office of mayor;
- 9 (D) Office of prosecuting attorney;
- 10 (E) County council;
- 11 (F) Senate;
- 12 (G) House of representatives; or
- 13 (H) Office of Hawaiian affairs; or
- 14 [~~(I) Board of education; or~~]

15 (2) Noncandidate committee required to be registered with
16 the commission pursuant to section 11-194."

17 SECTION 28. Section 11-209, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) From January 1 of the year of any primary, special,
20 or general election, the total expenditures for each election
21 for candidates who voluntarily agree to limit their campaign
22 expenditures, inclusive of all expenditures made or authorized

1 by the candidate alone and all campaign treasurers and
2 committees in the candidate's behalf, shall not exceed the
3 following amounts expressed respectively multiplied by the
4 number of voters in the last preceding general election
5 registered to vote in each respective voting district:

- 6 (1) For the office of governor--\$2.50;
- 7 (2) For the office of lieutenant governor--\$1.40;
- 8 (3) For the office of mayor--\$2.00;
- 9 (4) For the offices of state senator, state
10 representative, and county council member--\$1.40; and
- 11 (5) For [~~the offices of the board of education and~~] all
12 other offices--20 cents."

13 SECTION 29. Section 11-218, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) For [~~the board of education and~~] all other offices,
16 the maximum amount of public funds available to a candidate
17 shall not exceed \$100 in any election year."

18 SECTION 30. Section 12-5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Nomination papers for candidates for members of
21 Congress, governor, and lieutenant governor[~~, and the board of~~
22 ~~education~~] shall be signed by not less than twenty-five

1 registered voters of the State or of the Congressional district
2 [~~or school board district~~] from which the candidates are running
3 in the case of candidates for the United States House of
4 Representatives [~~or for the board of education~~]."

5 SECTION 31. Section 26-35.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§26-35.5 Members of boards and commissions; immunity from**
8 **or indemnification for civil liability; defense of members.**

9 (a) For purposes of this section, "member" means any person who
10 is appointed, in accordance with the law, to serve on a
11 temporary or permanent state board, including members of the
12 local school board of any public charter school established
13 under chapter 302B, council, authority, committee, or
14 commission, established by law or elected to [~~the board of~~
15 ~~education, or~~] the board of trustees of the employees'
16 retirement system under section 88-24, or the corporation board
17 of the Hawaii health systems corporation under section 323F-3
18 and its regional system boards under section 323F-3.5; provided
19 that "member" shall not include any person elected to serve on a
20 board or commission in accordance with chapter 11 [~~other than a~~
21 ~~person elected to serve on the board of education~~]."

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1 SECTION 32. Section 26-52, Hawaii Revised Statutes, is
2 amended to read:

3 "**§26-52 Department heads and executive officers.** The
4 salaries of the following state officers shall be as follows:

5 [~~(1)~~] ~~The salary of the superintendent of education shall~~
6 ~~be set by the board of education at a rate no greater~~
7 ~~than \$150,000 a year;~~

8 ~~(2)]~~ (1) The salary of the president of the University of
9 Hawaii shall be set by the board of regents;

10 [~~(3)]~~ (2) Effective July 1, 2004, the salaries of all
11 department heads or executive officers of the
12 departments of accounting and general services,
13 agriculture, attorney general, budget and finance,
14 business, economic development, and tourism, commerce
15 and consumer affairs, education, Hawaiian home lands,
16 health, human resources development, human services,
17 labor and industrial relations, land and natural
18 resources, public safety, taxation, and transportation
19 shall be as last recommended by the executive salary
20 commission. Effective July 1, 2007, and every six
21 years thereafter, the salaries shall be as last

1 recommended by the commission on salaries pursuant to
2 section 26-56, unless rejected by the legislature; and
3 ~~[(4)]~~ (3) The salary of the adjutant general shall be
4 \$85,302 a year. Effective July 1, 2007, and every six
5 years thereafter, the salary of the adjutant general
6 shall be as last recommended by the commission on
7 salaries pursuant to section 26-56, unless rejected by
8 the legislature, except that if the state salary is in
9 conflict with the pay and allowance fixed by the
10 tables of the regular army or air force of the United
11 States, the latter shall prevail."

12 SECTION 33. Section 26-53, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§26-53 Deputies or assistants to department heads.**

15 Effective July 1, 2004, the salaries of deputies or assistants
16 to the head of any department of the State, ~~[other than the~~
17 ~~department of education,]~~ shall be within the range or ranges for
18 the specific positions as last recommended by the executive
19 salary commission. Effective July 1, 2007, and every six years
20 thereafter, the salaries shall be as last recommended by the
21 commission on salaries and specified by the appointing official,

1 if appropriate, pursuant to section 26-56, unless rejected by
2 the legislature."

3 SECTION 34. Section 26-56, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The commission shall review and recommend an
6 appropriate salary for the governor, lieutenant governor,
7 members of the legislature, justices and judges of all state
8 courts, administrative director of the State or an equivalent
9 position, and department heads or executive officers and the
10 deputies or assistants to the department heads of the
11 departments of:

- 12 (1) Accounting and general services;
- 13 (2) Agriculture;
- 14 (3) The attorney general;
- 15 (4) Budget and finance;
- 16 (5) Business, economic development, and tourism;
- 17 (6) Commerce and consumer affairs;
- 18 (7) Defense;
- 19 (8) Education;
- 20 [~~+8~~] (9) Hawaiian home lands;
- 21 [~~+9~~] (10) Health;
- 22 [~~+10~~] (11) Human resources development;

- 1 [~~(11)~~] (12) Human services;
- 2 [~~(12)~~] (13) Labor and industrial relations;
- 3 [~~(13)~~] (14) Land and natural resources;
- 4 [~~(14)~~] (15) Public safety;
- 5 [~~(15)~~] (16) Taxation; and
- 6 [~~(16)~~] (17) Transportation.

7 The commission shall not review the salary of any position
8 in the [~~department of education or the~~] University of Hawaii.

9 The commission may recommend different salaries for
10 department heads and executive officers and different salary
11 ranges for deputies or assistants to department heads; provided
12 that the commission shall recommend the same salary range for
13 deputies or assistants to department heads within the same
14 department; provided further that the appointing official shall
15 specify the salary for a particular position within the
16 applicable range.

17 The commission shall not recommend salaries lower than
18 salary amounts recommended by prior commissions replaced by this
19 section."

20 SECTION 35. Section 76-16, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

1 "(b) The civil service to which this chapter applies shall
2 comprise all positions in the State now existing or hereafter
3 established and embrace all personal services performed for the
4 State, except the following:

- 5 (1) Commissioned and enlisted personnel of the Hawaii
6 national guard as such, and positions in the Hawaii
7 national guard that are required by state or federal
8 laws or regulations or orders of the national guard to
9 be filled from those commissioned or enlisted
10 personnel;
- 11 (2) Positions filled by persons employed by contract where
12 the director of human resources development has
13 certified that the service is special or unique or is
14 essential to the public interest and that, because of
15 circumstances surrounding its fulfillment, personnel
16 to perform the service cannot be obtained through
17 normal civil service recruitment procedures. Any such
18 contract may be for any period not exceeding one year;
- 19 (3) Positions that must be filled without delay to comply
20 with a court order or decree if the director
21 determines that recruitment through normal recruitment
22 civil service procedures would result in delay or

- 1 noncompliance, such as the Felix-Cayetano consent
2 decree;
- 3 (4) Positions filled by the legislature or by either house
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of
6 the lieutenant governor, and household employees at
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,
10 commission, or other state agency whose appointments
11 are made by the governor or are required by law to be
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries
14 public, land court examiners, court commissioners, and
15 attorneys appointed by a state court for a special
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court
18 who shall have the powers and duties of a court
19 officer and bailiff under section 606-14; one
20 secretary or clerk for each justice of the supreme
21 court, each judge of the intermediate appellate court,
22 and each judge of the circuit court; one secretary for

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1 the judicial council; one deputy administrative
2 director of the courts; three law clerks for the chief
3 justice of the supreme court, two law clerks for each
4 associate justice of the supreme court and each judge
5 of the intermediate appellate court, one law clerk for
6 each judge of the circuit court, two additional law
7 clerks for the civil administrative judge of the
8 circuit court of the first circuit, two additional law
9 clerks for the criminal administrative judge of the
10 circuit court of the first circuit, one additional law
11 clerk for the senior judge of the family court of the
12 first circuit, two additional law clerks for the civil
13 motions judge of the circuit court of the first
14 circuit, two additional law clerks for the criminal
15 motions judge of the circuit court of the first
16 circuit, and two law clerks for the administrative
17 judge of the district court of the first circuit; and
18 one private secretary for the administrative director
19 of the courts, the deputy administrative director of
20 the courts, each department head, each deputy or first
21 assistant, and each additional deputy, or assistant
22 deputy, or assistant defined in paragraph (16);

- 1 (10) First deputy and deputy attorneys general, the
2 administrative services manager of the department of
3 the attorney general, one secretary for the
4 administrative services manager, an administrator and
5 any support staff for the criminal and juvenile
6 justice resources coordination functions, and law
7 clerks;

- 8 (11) (A) Teachers, principals, vice-principals, complex
9 area superintendents, deputy and assistant
10 superintendents, other certificated personnel,
11 not more than twenty noncertificated
12 administrative, professional, and technical
13 personnel not engaged in instructional work;
- 14 (B) Effective July 1, 2003, teaching assistants,
15 educational assistants, bilingual/bicultural
16 school-home assistants, school psychologists,
17 psychological examiners, speech pathologists,
18 athletic health care trainers, alternative school
19 work study assistants, alternative school
20 educational/supportive services specialists,
21 alternative school project coordinators, and

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- 1 communications aides in the department of
2 education;
- 3 (C) The special assistant to the state librarian and
4 one secretary for the special assistant to the
5 state librarian; and
- 6 (D) Members of the faculty of the University of
7 Hawaii, including research workers, extension
8 agents, personnel engaged in instructional work,
9 and administrative, professional, and technical
10 personnel of the university;
- 11 (12) Employees engaged in special, research, or
12 demonstration projects approved by the governor;
- 13 (13) Positions filled by inmates, kokuas, patients of state
14 institutions, persons with severe physical or mental
15 handicaps participating in the work experience
16 training programs, and students and positions filled
17 through federally funded programs that provide
18 temporary public service employment such as the
19 federal Comprehensive Employment and Training Act of
20 1973;
- 21 (14) A custodian or guide at Iolani Palace, the Royal
22 Mausoleum, and Hulihee Palace;

1 (15) Positions filled by persons employed on a fee,
2 contract, or piecework basis, who may lawfully perform
3 their duties concurrently with their private business
4 or profession or other private employment and whose
5 duties require only a portion of their time, if it is
6 impracticable to ascertain or anticipate the portion
7 of time to be devoted to the service of the State;

8 (16) Positions of first deputies or first assistants of
9 each department head appointed under or in the manner
10 provided in section 6, Article V, of the State
11 Constitution; three additional deputies or assistants
12 either in charge of the highways, harbors, and
13 airports divisions or other functions within the
14 department of transportation as may be assigned by the
15 director of transportation, with the approval of the
16 governor; four additional deputies in the department
17 of health, each in charge of one of the following:
18 behavioral health, environmental health, hospitals,
19 and health resources administration, including other
20 functions within the department as may be assigned by
21 the director of health, with the approval of the
22 governor; an administrative assistant to the state

- 1 librarian; and an administrative assistant to the
2 superintendent of education;
- 3 (17) Positions specifically exempted from this part by any
4 other law; provided that all of the positions defined
5 by paragraph (9) shall be included in the position
6 classification plan;
- 7 (18) Positions in the state foster grandparent program and
8 positions for temporary employment of senior citizens
9 in occupations in which there is a severe personnel
10 shortage or in special projects;
- 11 (19) Household employees at the official residence of the
12 president of the University of Hawaii;
- 13 (20) Employees in the department of education engaged in
14 the supervision of students during meal periods in the
15 distribution, collection, and counting of meal
16 tickets, and in the cleaning of classrooms after
17 school hours on a less than half-time basis;
- 18 (21) Employees hired under the tenant hire program of the
19 Hawaii public housing authority; provided that not
20 more than twenty-six per cent of the authority's work
21 force in any housing project maintained or operated by

- 1 the authority shall be hired under the tenant hire
2 program;
- 3 (22) Positions of the federally funded expanded food and
4 nutrition program of the University of Hawaii that
5 require the hiring of nutrition program assistants who
6 live in the areas they serve;
- 7 (23) Positions filled by severely handicapped persons who
8 are certified by the state vocational rehabilitation
9 office that they are able to perform safely the duties
10 of the positions;
- 11 ~~[(24) One public high school student to be selected by the
12 Hawaii state student council as a nonvoting member on
13 the board of education as authorized by the State
14 Constitution;~~
- 15 ~~(25)]~~ (24) Sheriff, first deputy sheriff, and second deputy
16 sheriff;
- 17 ~~[(26)]~~ (25) A gender and other fairness coordinator hired
18 by the judiciary; and
- 19 ~~[(27)]~~ (26) Positions in the Hawaii national guard youth
20 and adult education programs.
- 21 The director shall determine the applicability of this
22 section to specific positions.

1 Nothing in this section shall be deemed to affect the civil
2 service status of any incumbent as it existed on July 1, 1955."

3 SECTION 36. Section 84-17, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The financial disclosure statements of the following
6 persons shall be public records and available for inspection and
7 duplication:

8 (1) The governor, the lieutenant governor, the members of
9 the legislature, candidates for and delegates to the
10 constitutional convention, [~~the members of the board~~
11 ~~of education,~~] the trustees of the office of Hawaiian
12 affairs, and candidates for state elective offices;

13 (2) The directors of the state departments and their
14 deputies, regardless of the titles by which the
15 foregoing persons are designated; provided that with
16 respect to the department of the attorney general, the
17 foregoing shall apply only to the attorney general and
18 the first deputy attorney general;

19 (3) The administrative director of the State;

20 (4) The president, the vice presidents, the assistant vice
21 presidents, the chancellors, and the provosts of the
22 University of Hawaii;

- 1 (5) The superintendent, the deputy superintendent, the
- 2 state librarian, and the deputy state librarian of the
- 3 department of education;
- 4 (6) The administrative director and the deputy director of
- 5 the courts; and
- 6 (7) The administrator and the assistant administrator of
- 7 the office of Hawaiian affairs."

8 SECTION 37. Section 84-41, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§84-41~~ **Applicability of part.** This part applies to
11 legislators, ~~[elected members of the board of education,~~
12 trustees of the office of Hawaiian affairs, the governor, the
13 lieutenant governor, and executive department heads and
14 deputies. This part does not apply to any other officer or
15 employee of the State."

16 SECTION 38. Section 88-21, Hawaii Revised Statutes, is
17 amended by amending the definition of "elective officer" or
18 "elective official" to read as follows:

19 "Elective officer" or "elective official": any person
20 elected to a public office or appointed to fill a vacancy of an
21 elective office, except as a delegate to a constitutional
22 convention ~~[or member of the board of education]~~, in accordance

1 with an election duly held in the State or counties under
2 chapter 11; provided that the person receives compensation, pay,
3 or salary for such office."

4 SECTION 39. Section 89C-1.5, Hawaii Revised Statutes, is
5 amended by amending the definition of "appropriate authority" to
6 read as follows:

7 "Appropriate authority" means the governor, the respective
8 mayors, the chief justice of the supreme court, [~~the board of~~
9 ~~education,~~] the board of regents, the Hawaii health
10 [+]systems[+] corporation board, the auditor, the ombudsman, and
11 the director of the legislative reference bureau. These
12 individuals or boards may make adjustments for their respective
13 excluded employees."

14 SECTION 40. Section 202-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§202-2 Duties of council.** The workforce development
17 council shall:

18 (1) Prepare and update periodically a comprehensive state
19 plan for workforce development with strategic goals
20 and measurable outcomes. The comprehensive state plan
21 shall include:

- 1 (A) Strategic goals of workforce development programs,
2 including the identification of the desired number
3 of highly skilled workers in the workforce, the
4 number of placements of individuals into higher-
5 skilled jobs, the identification of high-demand
6 areas for job growth, the need for skilled workers
7 in the next five and ten years, and the time frame
8 for training and development;
- 9 (B) Methods to educate the private sector about state,
10 federal, and private financial assistance
11 available for workforce development;
- 12 (C) Methods to facilitate access to workforce
13 development resources, including the reduction of
14 regulatory burdens for employers and employees;
- 15 (D) The creation and improvement of educational
16 opportunities for individuals to learn and develop
17 new skills, including mentoring, project-based
18 learning, and internships;
- 19 (E) Methods to facilitate the department of
20 education's development of curriculum in the
21 public schools to prepare students for employment
22 in the private sector;

- 1 (F) Recommendations to change and improve existing
2 state programs, including the elimination of
3 ineffective programs and the creation of new
4 programs to improve workforce development;
- 5 (G) The identification of resources required,
6 obstacles to overcome, and best practice models to
7 implement the comprehensive state strategic plan;
8 and
- 9 (H) A detailed budget for the comprehensive state plan
10 with a justification for each expenditure;
- 11 (2) Review and assess the coordination between the State's
12 workforce development programs, including programs of
13 the federal government operating in the State, and
14 placements in higher-skilled jobs to expand economic
15 development and diversification; and consider:
- 16 (A) The State's employment and training requirements
17 and resources;
- 18 (B) Practices of employers and unions that impede or
19 facilitate the mobility of workers; and
- 20 (C) The special problems of untrained and
21 inexperienced youth, immigrants, persons with
22 disabilities, welfare clients, single parents,

1 disadvantaged minorities, and other groups facing
2 barriers in the labor force;

3 (3) Serve as an information clearinghouse for all
4 workforce development programs in the State, including
5 workforce training and education programs;

6 (4) Analyze and interpret workforce information,
7 particularly changes which are likely to occur during
8 the next ten years; the specific industries,
9 occupations, and geographic areas which are most
10 likely to be involved; and the social and economic
11 effects of these developments on the State's economy,
12 labor force, communities, families, social structure,
13 and human values;

14 (5) Define those areas of unmet workforce and economic
15 development needs and describe how private and public
16 agencies can coordinate their efforts and collaborate
17 with each other to address those needs;

18 (6) Recommend to the governor and the legislature, state
19 policies and funding priorities based on local
20 community input that it believes should be adopted by
21 the state government in meeting its workforce
22 development responsibilities to:

- 1 (A) Establish a workforce development system in the
2 State in which resources are pooled and programs
3 are coordinated and streamlined;
- 4 (B) Establish reporting requirements for job
5 placement results by category of occupations in
6 high-demand and high-growth areas;
- 7 (C) Encourage a program of useful research into the
8 State's workforce requirements, development, and
9 utilization; and
- 10 (D) Support recommended workforce policies that
11 promote economic development, diversification,
12 and well-being of the people in this State;
- 13 provided that the duties and responsibilities of the
14 workforce development council shall not impinge on the
15 constitutional and statutory authority of the board of
16 regents [~~and the board of education, and the statutory
17 authority of the state board for career and technical
18 education~~];
- 19 (7) Create public awareness and understanding of the
20 State's workforce development plans, policies,
21 programs, and activities, and promoting them as
22 economic investments;

- 1 (8) Submit annual reports of its activities and
2 recommendations to the governor and the legislature,
3 and post the annual reports electronically on the
4 Internet no later than twenty days before the
5 convening of each regular session. Annual reports
6 shall include:
- 7 (A) The status of the comprehensive state plan for
8 workforce development; and
- 9 (B) Information regarding the workforce development
10 programs offered throughout the State, the number
11 of individuals placed in high-demand or high-
12 growth employment through workforce development
13 programs by departments, the type or category of
14 employment garnered, and allocations of state,
15 federal, and other funding to achieve placements
16 into higher-skilled jobs;
- 17 (9) Evaluate the state workforce development plan in terms
18 of how its purposes, goals, and objectives have been
19 carried out throughout the State;
- 20 (10) Provide technical assistance to local workforce
21 development boards and other similar organizations;

- 1 (11) Carry out required functions and duties related to
2 workforce development of any advisory body required or
3 made optional by federal legislation, including the
4 Job Training Partnership Act of 1982, as amended, and
5 the Wagner-Peyser Act of 1933, as amended;
- 6 (12) In accordance with the federal Workforce Investment
7 Act of 1998, Public Law 105-220, assist the governor
8 in the following functions:
- 9 (A) The development of the State's plan for the use
10 of federal workforce investment funds, which is
11 required under Public Law 105-220;
- 12 (B) The development and continuous improvement of the
13 statewide and local workforce investment systems
14 described in subtitle B of Public Law 105-220,
15 and the one-stop delivery systems described in
16 section 134(c) of Public Law 105-220, including:
- 17 (i) The development of linkages referred to in
18 Public Law 105-220, to assure coordination
19 and non-duplication among the programs and
20 activities in section 121(b) of Public Law
21 105-220; and

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- 1 (ii) The review of plans prepared by local
- 2 workforce investment boards for the use of
- 3 federal workforce investment funds which is
- 4 required under Public Law 105-220;
- 5 (C) Commenting at least once annually on the measures
- 6 taken pursuant to section 122(c)(16) of the Carl
- 7 D. Perkins Vocational and Technical Education
- 8 Amendments of 1998, Public Law 105-332;
- 9 (D) The designation of local areas as required in
- 10 section 116 of Public Law 105-220;
- 11 (E) The development of allocation formulas for the
- 12 distribution of funds for adult employment and
- 13 training activities and youth activities to local
- 14 areas as permitted under sections 128(b)(3)(B)(i)
- 15 and 133(b)(3)(B)(i) of Public Law 105-220;
- 16 (F) The development and continuous improvement of
- 17 comprehensive state performance measures,
- 18 including state-adjusted levels of performance,
- 19 to assess the effectiveness of the workforce
- 20 investment activities in the State as required
- 21 under section 136(b)(1) of Public Law 105-220;

1 (G) The preparation of the annual report to the
2 United States Secretary of Labor described in
3 section 136(d)(1) of Public Law 105-220;

4 (H) The development of the statewide employment
5 statistics system described in section 15(e) of
6 the Wagner-Peyser Act; and

7 (I) The development of an application for an
8 incentive grant under section 503 of Public Law
9 105-220; and

10 (13) Act as the designated state entity to conduct
11 activities relating to occupational and employment
12 information for vocational and technical education
13 programs in compliance with section 118 of the Carl D.
14 Perkins Vocational and Technical Education Amendments
15 of 1998, Public Law 105-332."

16 SECTION 41. Section 302A-101, Hawaii Revised Statutes, is
17 amended:

18 (1) By amending the definition of "public schools" to read
19 as follows:

20 "Public schools" means all academic and noncollege type
21 schools established and maintained by the department [~~and~~],

1 including public charter schools [~~chartered by the board of~~
2 ~~education~~], in accordance with law."

3 (2) By repealing the definition of "board" as follows:

4 [~~"Board" means the board of education.~~]

5 SECTION 42. Section 302A-301, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 " (c) The [~~board~~] superintendent shall establish and
8 appoint the members of a grant award panel, which shall consist
9 of at least one representative from each of the following
10 groups:

- 11 (1) Parents;
- 12 (2) Students;
- 13 (3) Teachers;
- 14 (4) School administrators;
- 15 (5) School support staff;
- 16 (6) Businesspersons; and
- 17 (7) The military; whose participation shall be
18 requested.

19 The panel shall include a representative from each school
20 district among its members.

21 The panel shall review proposals and make recommendations
22 to the superintendent on grant awards. Panel members shall

1 serve for a term of two years without compensation, but shall be
2 entitled to reimbursement for necessary expenses while attending
3 meetings and while in the discharge of their duties. A portion
4 of the moneys in the incentive and innovation grant trust fund,
5 not to exceed one per cent, shall be used to offset the expenses
6 incurred by the review panel."

7 SECTION 43. Section 302A-447, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§302A-447 State student council.** (a) There is
10 established within the department for administrative purposes
11 the state student council, which shall consist of representation
12 from each departmental school district.

13 [~~(b) The council shall determine whether it shall directly~~
14 ~~select the student member of the board or whether it shall run~~
15 ~~an election to select that individual.~~

16 ~~(e)]~~ (b) The council shall establish policies and
17 procedures governing its operations, including the selection and
18 number of council members, without regard to the public notice,
19 public hearing, and gubernatorial approval requirements of
20 chapter 91, but subject to the open meeting requirements of
21 chapter 92.

1 ~~(d)~~ (c) The state student council shall cooperate with
2 the student conference committee established under section 317-2
3 in planning the annual secondary school students conference
4 established under chapter 317."

5 SECTION 44. Section 302A-1106.5, Hawaii Revised Statutes,
6 is amended to read as follows:

7 " **§302A-1106.5** ~~[Board of education; community meetings.]~~
8 **Meetings.** The ~~[board]~~ department shall hold not less than ~~[two~~
9 ~~community meetings]~~ one meeting annually in each ~~[departmental~~
10 ~~school district]~~ county to ~~[discuss and]~~ receive input from the
11 community on public education and public library issues. ~~[The~~
12 ~~board chairperson shall designate board members to attend the~~
13 ~~community meetings. These community meetings shall not be held~~
14 ~~for the purpose of formulating educational policy. The~~
15 ~~community meetings shall be exempt from sections 92-2.5, 92-7,~~
16 ~~92-9, and 92-41, provided that the board shall give written~~
17 ~~public notice of each community meeting.]~~ The meeting notice
18 shall indicate the date, time, and place of the meeting, and
19 shall be filed in the office of the lieutenant governor and in
20 the ~~[board's]~~ superintendent's office for public inspection six
21 calendar days before the meeting. The notice shall also be
22 posted at the site of the meeting."

1 SECTION 45. Section 302A-1110, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " **§302A-1110 Educational districts not applicable.** The
4 educational districts established by section 4-1 shall not be
5 applicable to, nor alter, [~~the school board or departmental~~
6 ~~school districts, established by section 13-1, or~~] the school
7 districts established for administrative purposes by the
8 department."

9 SECTION 46. Section 302A-1122, Hawaii Revised Statutes, is
10 amended to read as follows:

11 " **§302A-1122 Gifts.** The [~~board~~] department may receive and
12 manage moneys or other property, real, personal, or mixed, that
13 may be given, bequeathed, devised, or in any manner received
14 from sources other than the legislature or any federal
15 appropriation for the purposes of the department. All such
16 moneys received by[~~, or on behalf of,~~] the department shall be
17 paid into the state treasury, and all such moneys are
18 appropriated for the use of the department. The [~~board~~]
19 department shall cause to be kept suitable books of accounts
20 wherein shall be recorded each gift, the essential facts of its
21 management, and the expenditure of the income."

1 SECTION 47. Section 304A-303, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§304A-303 Career and technical education coordinating**
4 **advisory council.** (a) There is established a career and
5 technical education coordinating advisory council which shall
6 serve in an advisory capacity to the board of regents. The
7 council shall consist of eleven members, nine appointed and two
8 ex officio voting members. Of the nine appointed members:

- 9 (1) Three shall be appointed from the board of regents by
10 the chairperson of that body;
- 11 (2) Three shall be appointed [~~from the board of education~~
12 ~~by the chairperson of that body;~~] by the governor; and
- 13 (3) Three shall be appointed from the workforce
14 development council by that council.

15 Of the three members appointed from the workforce
16 development council, one member shall represent management, one
17 member shall represent labor, and the third shall represent the
18 public. Of the two ex officio members, one shall be the
19 president of the university and the other shall be the
20 superintendent of education.

21 (b) Of the three members first appointed by each
22 appointing authority, [~~other than the chairperson of the board~~

1 ~~of education,]~~ one shall be appointed for two years, one shall
2 be appointed for three years, and one shall be appointed for
3 four years. [~~In the case of the members appointed from the~~
4 ~~board of education, the terms of such members shall be for their~~
5 ~~remaining terms as members of the board of education.] Upon the~~
6 expiration of the terms of the first members, their successors
7 shall serve for a term of four years. Vacancies shall be filled
8 by the appropriate appointing authority for the unexpired term.

9 (c) The council shall elect a chairperson and such other
10 officers as it deems necessary. Section 92-15 shall apply. The
11 members of the council shall serve without compensation but
12 shall be entitled to their travel expenses within the State when
13 attending meetings of the council or when actually engaged in
14 business relating to the work of the council."

15 SECTION 48. Chapter 13, Hawaii Revised Statutes, is
16 repealed.

17 SECTION 49. Section 17-6, Hawaii Revised Statutes, is
18 repealed.

19 [~~"§17-6 Board of education members. (a) The governor~~
20 ~~shall make an appointment to fill any vacancy in the membership~~
21 ~~of the board of education for the unexpired term of that vacancy~~

1 ~~whenever a vacancy occurs and the term of that vacancy ends at~~
2 ~~the time of the next succeeding general election.~~

3 ~~(b) In the case of a vacancy, the term of which does not~~
4 ~~end at the next succeeding general election:~~

5 ~~(1) If it occurs not later than on the sixtieth day prior~~
6 ~~to the next succeeding general election, the vacancy~~
7 ~~shall be filled for the unexpired term at the next~~
8 ~~succeeding general election. The chief election~~
9 ~~officer shall issue a proclamation designating the~~
10 ~~election for filling the vacancy. All candidates for~~
11 ~~the unexpired term shall file nomination papers not~~
12 ~~later than 4:30 p.m. on the fiftieth day prior to the~~
13 ~~general election (but if such day is a Saturday,~~
14 ~~Sunday, or holiday then not later than 4:30 p.m. on~~
15 ~~the first working day immediately preceding) and shall~~
16 ~~be elected in accordance with this title. Pending the~~
17 ~~election the governor shall make a temporary~~
18 ~~appointment to fill the vacancy and the person so~~
19 ~~appointed shall serve until the election of the person~~
20 ~~duly elected to fill such vacancy.~~

21 ~~(2) If it occurs after the sixtieth day prior to the next~~
22 ~~succeeding general election, the governor shall make~~

1 ~~an appointment to fill the vacancy for the unexpired~~
2 ~~term.~~

3 ~~(c) All appointments made by the governor under this~~
4 ~~section shall be made without consideration of the appointee's~~
5 ~~party affiliation or preference or nonpartisanship, however the~~
6 ~~persons so appointed shall meet the residency requirement~~
7 ~~specified in section 13 1."]~~

8 SECTION 50. Section 302A-620, Hawaii Revised Statutes, is
9 repealed.

10 ~~["**§302A-620 Classification/compensation appeals board,**~~
11 ~~**adjustments to classification/compensation plan.** (a) There~~
12 ~~shall be established a classification/compensation appeals board~~
13 ~~within the department for administrative purposes. The appeals~~
14 ~~board shall be composed of three members. One member shall be~~
15 ~~appointed by the board of education and one member appointed by~~
16 ~~the exclusive bargaining unit representing educational~~
17 ~~officers. The third member shall be appointed by the governor~~
18 ~~and shall serve as chairperson. No member shall be an employee~~
19 ~~of the department, a member of the board of education, or an~~
20 ~~employee of the organization representing educational officers.~~
21 ~~The appeals board shall sit as an appellate body on matters of~~

1 ~~classification/compensation. All decisions of the appeals board~~
2 ~~shall be by majority vote and be binding on both parties.~~

3 ~~(b) The appeals board shall meet biennially every even-~~
4 ~~numbered year to receive pricing appeals from affected persons~~
5 ~~and parties relating to the classification/compensation plan.~~
6 ~~All petitions for appeal shall be filed with the appeals board~~
7 ~~within twenty days from the date set by the appeals board for~~
8 ~~receipt of these appeals.~~

9 ~~The appeals board shall meet on a quarterly basis as needed~~
10 ~~to receive classification appeals. All petitions for~~
11 ~~educational officer classification appeals shall be filed with~~
12 ~~the appeals board within twenty working days from the date of~~
13 ~~receipt of notification of the classification action or twenty~~
14 ~~working days from the date of receipt of the superintendent's~~
15 ~~written decision on the employee's internal administrative~~
16 ~~review appeal.~~

17 ~~(c) The appeals board shall function independently of the~~
18 ~~board of education and the department, but may procure office~~
19 ~~facilities and clerical assistance from them. Neither the~~
20 ~~appeals board nor any of its members or staff shall consult with~~
21 ~~any member of the board of education or department except on~~

1 ~~notice and opportunity for the appealing employee or the~~
2 ~~employee's representative to participate.~~

3 ~~The appeals board shall adopt policies and standards~~
4 ~~relative to classification/compensation. The appeals board may~~
5 ~~adopt rules pursuant to chapter 91 for the conduct of appeal~~
6 ~~hearings.~~

7 ~~(d) The appeals board shall make whatever adjustments that~~
8 ~~are necessary to the affected classes where the appeals have~~
9 ~~been filed in the classification/compensation plan.~~

10 ~~The appeals board shall hear pricing appeals and complete~~
11 ~~the final adjustment to the classification/compensation plan by~~
12 ~~the first Wednesday of December of all even numbered years.~~
13 ~~Following the final pricing adjustment to the~~
14 ~~classification/compensation plan, the superintendent shall~~
15 ~~submit to the legislature, through the office of the governor, a~~
16 ~~report setting forth the classification/compensation plan and~~
17 ~~the cost thereof for its information and approval. The approved~~
18 ~~classification/compensation plan shall be effective as of July 1~~
19 ~~of each odd numbered year.~~

20 ~~The appeals board shall hear classification appeals on a~~
21 ~~quarterly basis upon receipt of the appeals. The effective date~~
22 ~~of the appeals for twelve month educational officers shall be~~

1 ~~the first pay period immediately following the receipt of the~~
2 ~~current position description by the classification/compensation~~
3 ~~section of the department. The effective date for ten month~~
4 ~~officers shall be the beginning of the appropriate semester~~
5 ~~(September or January).~~

6 ~~(e) Notwithstanding any other laws to the contrary, each~~
7 ~~member of the appeals board shall receive \$50 per day for each~~
8 ~~day on which work is done by them in connection with authorized~~
9 ~~activities of the appeals board. The cost thereof shall be met~~
10 ~~by legislative appropriations for the appeals board."]~~

11 SECTION 51. Section 302A-623, Hawaii Revised Statutes, is
12 repealed.

13 [~~" §302A-623 Salary ranges, educational officers. Salary~~
14 ~~ranges for educational officer positions of the department shall~~
15 ~~be determined by the board based on the position~~
16 ~~classification/compensation plan approved by the board. Salary~~
17 ~~ranges for educational officer positions shall be subject to the~~
18 ~~requirements of sections 302A-625 and 302A-626.] "~~

19 SECTION 52. Section 302A-1105, Hawaii Revised Statutes, is
20 repealed.

21 [~~" §302A-1105 Compensation; expenses. Board of education~~
22 ~~members shall be allowed.~~

- 1 ~~(1) Compensation at the rate of \$100 per day for each~~
2 ~~day's actual attendance at meetings;~~
- 3 ~~(2) Transportation fares between islands and abroad; and~~
- 4 ~~(3) Personal expenses at the rates specified by the board~~
5 ~~while attending board meetings or while on official business as~~
6 ~~authorized by the chairperson, when the board meetings or~~
7 ~~official business require a board member to leave the island~~
8 ~~upon which the board member resides."]~~

9 SECTION 53. Section 302A-1106, Hawaii Revised Statutes, is
10 repealed.

11 ~~["**§302A-1106 Organization; quorum; meetings.** (a) The~~
12 ~~board shall elect from its own membership a chairperson and a~~
13 ~~vice chairperson. A majority of all members to which the board~~
14 ~~is entitled shall constitute a quorum to do business and the~~
15 ~~concurrence of a majority of all members to which the board is~~
16 ~~entitled shall be necessary to make any action of the board~~
17 ~~valid; provided that due notice shall have been given to all~~
18 ~~members of the board or a bona fide attempt shall have been made~~
19 ~~to give due notice to all members of the board to whom it was~~
20 ~~reasonably practicable to give due notice. Meetings shall be~~
21 ~~called and held, at the call of the chairperson or by a quorum,~~

1 ~~as often as may be necessary for the transaction of the~~
2 ~~department's business.~~

3 ~~(b) Chapter 92 notwithstanding, from the convening of~~
4 ~~the legislature in regular session to adjournment sine die of~~
5 ~~each regular session, and during each special session of the~~
6 ~~legislature, the board may file any notice that specifies only~~
7 ~~legislation or legislation related agenda items, no fewer than~~
8 ~~two calendar days before the meeting."]~~

9 SECTION 54. Act 85, Session Laws of Hawaii 2009, is
10 amended by amending subsection (a) of section 2 to read as
11 follows:

12 "(a) Notwithstanding any law to the contrary and
13 notwithstanding the recommendations of the commission on
14 salaries for salary increases, beginning July 1, 2009, and until
15 June 30, 2011, the annual salaries of the governor, the
16 lieutenant governor, the justices and judges of all state
17 courts, the administrative director of the State or an
18 equivalent position, and the department heads or executive
19 officers and the deputies or assistants to the department heads
20 or executive officers of the departments of:

- 21 (1) Accounting and general services;
22 (2) Agriculture;

- 1 (3) The attorney general;
 - 2 (4) Budget and finance;
 - 3 (5) Business, economic development, and tourism;
 - 4 (6) Commerce and consumer affairs;
 - 5 (7) Defense;
 - 6 (8) Education;
 - 7 ~~[(8)]~~ (9) Hawaiian home lands;
 - 8 ~~[(9)]~~ (10) Health;
 - 9 ~~[(10)]~~ (11) Human resources development;
 - 10 ~~[(11)]~~ (12) Human services;
 - 11 ~~[(12)]~~ (13) Labor and industrial relations;
 - 12 ~~[(13)]~~ (14) Land and natural resources;
 - 13 ~~[(14)]~~ (15) Public safety;
 - 14 ~~[(15)]~~ (16) Taxation; and
 - 15 ~~[(16)]~~ (17) Transportation,
- 16 shall be reduced by five per cent from what the salary is as of
17 June 30, 2009, and shall remain at that salary rate until
18 June 30, 2011; provided that on July 1, 2011, the salaries of
19 these positions shall be restored to the level they would have
20 been on July 1, 2009, without the salary decrease under this
21 Act; provided further that the recommendations of the commission
22 on salaries for salary increases for these positions effective

1 July 1, 2012, shall become effective on that date in accordance
2 with the recommendations."

3 PART III.

4 SECTION 55. Upon the effective date of this Act the
5 governor may appoint an interim superintendent of education to
6 serve pending the governor's appointment of a superintendent of
7 education pursuant to section 10 of this Act.

8 All rules, policies, procedures, guidelines, and other
9 material adopted or developed by the board of education prior to
10 the effective date of this Act, shall remain in full force and
11 effect until amended or repealed by the superintendent of
12 education pursuant to chapter 91, Hawaii Revised Statutes.

13 All appropriations, records, equipment, machines, files,
14 supplies, contracts, books, papers, documents, maps, and other
15 personal property heretofore made, used, acquired, or held by
16 the board of education relating to the functions transferred to
17 the governor and the superintendent of education shall be
18 transferred with the functions to which they relate.

19 All deeds, leases, contracts, loans, agreements, permits,
20 or other documents executed or entered into by or on behalf of
21 the board of education prior to the effective date of this Act,

1 shall remain in full force and effect until amended or
2 renegotiated by the superintendent of education.

3 SECTION 56. No officer or employee of the State shall
4 suffer any loss of salary, seniority, prior service credit,
5 vacation, sick leave, or other employee benefit or privilege as
6 a consequence of this Act.

7 In the event that an office or position held by an officer
8 or employee having tenure is abolished, the officer or employee
9 shall not thereby be separated from public employment, but shall
10 remain in the employment of the State with the same pay and
11 classification and shall be transferred to some other office or
12 position for which the officer or employee is eligible under the
13 personnel laws of the State as determined by the director of
14 human resources development.

15 SECTION 57. The revisor of statutes shall replace the term
16 "board of education" or like term, as appropriate, whenever it
17 may appear in the Hawaii Revised Statutes, with the term
18 "department of education," or like term, as the context
19 requires.

20 SECTION 58. All acts passed by the legislature during this
21 regular session of 2010, whether enacted before or after the
22 effective date of this Act, shall be amended to conform to this

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1 Act unless such acts specifically provide that this Act is being
2 amended.

3 SECTION 59. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

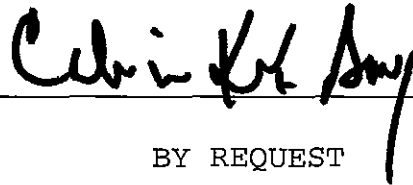
5 SECTION 60. This Act shall take effect upon the
6 ratification of a constitutional amendment to make the
7 department of education into a cabinet-level department with a
8 superintendent appointed by the governor.

9

10

11

INTRODUCED BY:



BY REQUEST

JAN 25 2010

Report Title:

Education; Governance

Description:

Restructures the governance system of the State's public education system in order to create greater accountability; and repeals the powers and duties of the Board of Education. Authorizes the Governor to appoint the Superintendent of Education subject to confirmation by the Senate.

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE GOVERNOR

TITLE: A BILL FOR AN ACT RELATING TO EDUCATION GOVERNANCE.

PURPOSE: Amend statutory provisions to repeal the publicly elected Board of Education; restructure the Department of Education within the State Administration as an agency; and create greater accountability and efficiency in the delivery of quality education in Hawaii's public schools.

MEANS: Add a new section to chapter 302A, Hawaii Revised Statutes (HRS); amend sections 11-157, 11-195(d), 11-209(a), 11-218(d), 12-5(a), 26-12, 26-35.5, 26-52, 26-53, 26-56(b), 76-11, 76-16(b), 84-17(d), 84-41, 88-21, 89-2, 89-6(d), 89C-1.5, 202-2, 302A-101, 302A-301(c), 302A-447, 302A-619, 302A-621, 302A-801, 302A-803(a), 302A-1101, 302A-1106.5, 302A-1110, 302A-1111, 302A-1112, 302A-1120, 302A-1122, 302A-1124, 302A-1126, 302A-1134, 302A-1303.5, 302A-1402, 302A-1607, 302B-3, 302b-8, 304A-303, 312-1, 312-2, 312-2.1, 312-21(c), HRS; repeals chapter 13 and sections 17-6, 302A-620, 302A-623, 302A-1105, 302A-1106, HRS; and amends section 2(a) of Act 85, Session Laws of Hawaii 2009.

JUSTIFICATION: The current governance structure of public education in Hawaii has proven over the years that it is incapable of effectively managing the resources or producing the results necessary to meet the educational needs of Hawaii's children.

Accordingly, this bill amends state law in order to create an educational system with clear lines of accountability. This bill includes the following provisions:

- (1) Repeals the powers and duties of the publicly elected Board of Education;
- (2) Establishes the Department of Education within the state administration to serve as a cabinet-level department; and
- (3) Authorizes the governor to appoint the superintendent of education, subject to confirmation by the State Senate.

These amendments will allow parents, teachers, students, and the public at large to hold the governor, as the State's chief executive as provided by law, directly accountable for the condition of public education within the State. This will improve the State's ability to effectively and expeditiously manage educational resources and execute policies and procedures.

Impact on the public: Increased government accountability that allows students, teachers, families, and the community to hold the senior elected official of the State responsible for the performance of our public education system.

Impact on the department and other agencies: Clear lines of authority in the governance structure of public education will create greater stability and allow for a more expedient execution of policies and procedures that govern the Department of Education.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Office of the Governor, Department of Education, Board of Education, Hawaii

Teachers Standards Board, State Salary
Commission.

EFFECTIVE DATE:

Takes effect upon the ratification of a
constitutional amendment to make the
Department of Education into a cabinet-level
department.