

STAND. COM. REP. NO.

2635

Honolulu, Hawaii

MAR 02 2010

RE: H.B. No. 2077
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Education and Housing, to which was referred H.B. No. 2077, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to provide that no person twenty-one years of age or older shall be eligible to attend a public school and to repeal the authority of the Superintendent of Education to grant exceptions for individual cases.

Testimony in support of this measure was submitted by one state agency. Testimony in support of the intent of this measure was submitted by one state organization. Comments were submitted by two private organizations. Written testimony presented to the Committee may be reviewed on the Legislature's website.

In *B.T. v. Department of Education*, December 17, 2009, federal district court Judge Ezra held that the Department of Education's administrative rule requiring that a student be under twenty years of age on the first instructional day of the school year to attend public school is not a valid exception to the federal Individuals with Disabilities Educational Act (IDEA). Judge Ezra ruled:

"The Court is not requiring Hawaii schools to provide special education to every student through 21 years of age in every situation.



Defendant is enjoined from denying special education services based *solely* on a student's attainment of age 20." *B.T. v. Department of Education*, 2009 WL 4884447 at 8 (D.Hawai'i).

Your Committee finds that this measure is an attempt to address Judge Ezra's ruling by providing a consistent age limit for both general education and special education to students to be admitted to Hawaii's public schools.

However, your Committee also finds that the amendments proposed by this measure leave several issues to be further examined, such as ensuring that state laws and practices fully comply with IDEA. Additionally, your Committee is concerned that laws and practices should not extend an age limit for special education and general education students to enter public schools merely for the sake of allowing them to remain in school for a longer period of time. To this end, your Committee strongly encourages the Department of Education to continue its work on students' individualized education plans and plans to improve students' transition from school to higher education and the workforce.

Your Committee has amended this measure by:

- (1) Amending the age limit for admittance to public schools from twenty-one years of age to up to but not including twenty years of age; provided that if a person reaches twenty years of age after the first instructional day of the school year, that person shall be eligible to attend for the full school year; and
- (2) Inserting an effective date of July 1, 2050, to allow for further discussion.

As affirmed by the record of votes of the members of your Committee on Education and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2077, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2077, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Education and
Housing,

Norman Sakamoto

NORMAN SAKAMOTO, Chair



