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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. Research studies consistently demonstrate that  
3 investing in the effectiveness of our teachers is the most  
4 productive means to increase student achievement and ensure that  
5 students are prepared to either continue their education beyond  
6 high school or engage in careers of their choice. The State's  
7 greatest investment in public education is the quality of  
8 personnel in the department of education. Maximizing the impact  
9 of this human capital investment is the greatest point of  
10 leverage Hawaii has to increase student learning and growth to  
11 improve public education outcomes for our children and the  
12 State. The legislature finds that the department of education  
13 must accelerate its efforts to increase the effectiveness of the  
14 State's teachers and educational officers.

15 In 2010, the United States Department of Education awarded  
16 the State a \$74,934,761 race to the top grant. The State's race  
17 to the top plan and the department of education's strategic plan  
18 includes targeted initiatives to develop great teachers and



1 great leaders to the benefit of Hawaii's students. The  
2 legislature endorses the State's race to the top framework to  
3 accomplish these improvements in educator effectiveness,  
4 described in the State's race to the top plan, which outlines  
5 clear principles and policy actions and sets a timetable to  
6 implement a new performance management evaluation system and  
7 related human resource management support.

8 Aligned with the State's race to the top commitments, the  
9 department of education has developed and begun a two-year pilot  
10 effort to establish a performance management system that will  
11 cultivate highly effective teachers and principals through  
12 recruitment, evaluation, support, tenure, and compensation.  
13 Based on an evaluation of the pilot project, including feedback  
14 from pilot participants, the great teachers great leaders task  
15 force, and technical experts, the department of education will  
16 implement a new evaluation system statewide beginning July 1,  
17 2013.

18 The performance management system will keep teaching and  
19 student learning at the heart of teacher and educational officer  
20 evaluations and link educator effectiveness to the facilitation  
21 of student learning and growth. Hawaii's educators deserve a  
22 high quality evaluation system that provides the tools they need



1 to continuously improve their teaching and leadership to advance  
2 student learning. To accomplish this, the evaluations must be  
3 fair, transparent, timely, rigorous, and valid.

4 The purpose of this part, therefore, is to require the  
5 department of education to establish a performance management  
6 system that includes an evaluation component and supports the  
7 development of highly effective educators.

8 SECTION 2. Section 302A-626, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§302A-626 Salary increases; annual, longevity. (a)**

11 Teachers and educational officers who have completed a year's  
12 [~~satisfactory~~] service with a rating of "effective" or "highly  
13 effective" on their annual evaluation pursuant to section 302A-  
14 638 and who have complied with the other requirements of  
15 sections 302A-602 to 302A-640, and 302A-701, shall be entitled  
16 to an annual increment.

17 (b) Teachers and educational officers who have served  
18 [~~satisfactorily~~] for three years and been rated "effective" or  
19 "highly effective" on their annual evaluation pursuant to  
20 section 302A-638, while in their maximum increment step or in  
21 any longevity step, and who have complied with the other  
22 requirements of sections 302A-602 to 302A-640, and 302A-701,



1 shall receive longevity step increases; provided that the board  
2 may grant principals and vice-principals longevity step  
3 increases more frequently than once every three years pursuant  
4 to section 302A-625."

5 SECTION 3. Section 302A-638, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "~~+~~**§302A-638**~~+~~ **Evaluation of teachers and educational**  
8 **officers.** ~~[The department shall establish an evaluation program~~  
9 ~~for all teachers and educational officers. The evaluation shall~~  
10 ~~be performed at least once in each school year. The program~~  
11 ~~shall define the criteria for evaluation and assign~~  
12 ~~responsibilities for the application of the criteria. The~~  
13 ~~evaluation of a teacher or educational officer shall be on the~~  
14 ~~basis of efficiency, ability, and such other criteria as the~~  
15 ~~department shall determine.]~~ (a) The department shall  
16 establish a consistent performance management program that shall  
17 include an evaluation component to provide teachers and  
18 educational officers information necessary to improve their  
19 instructional practice and leadership on a consistent and  
20 continuing basis in order to successfully facilitate student  
21 learning and growth.



1        (b) Each teacher and educational officer shall be  
2 evaluated on efficiency, ability, and contribution to student  
3 learning and growth and the evaluation criteria shall include an  
4 assessment of the effectiveness of individual teachers and  
5 educational officers in supporting:

6        (1) Student learning and growth, which shall consist of  
7 multiple measures, to include student assessment, as  
8 determined by the department;

9        (2) Fiscal accountability and instructional leadership on  
10 the part of educational officers; and

11       (3) Effective classroom practice and student engagement on  
12 the part of teachers.

13 The department may include other criteria at its discretion.

14       (c) The department shall develop a minimum of four  
15 performance levels by which to rate teachers and educational  
16 officers; provided that the two highest performance levels shall  
17 be "highly effective" and "effective"; provided further that to  
18 achieve a rating of "effective":

19       (1) A teacher shall have facilitated, at minimum, one  
20 year's worth of learning growth in the teacher's  
21 students; and



1       (2) A principal shall have developed teachers rated  
2       "effective" and facilitated, at minimum, one year's  
3       worth of learning growth for students at the  
4       principal's school.

5       Each teacher and educational officer shall be evaluated  
6       according to the level of effectiveness in criteria listed in  
7       subsection (b) and shall be assigned a rating according to the  
8       established performance levels; provided that student learning  
9       and growth shall constitute fifty per cent of the evaluation  
10      rating.

11      (d) The department shall ensure timely feedback of  
12      evaluation results to guide professional development and  
13      identify areas of strength and areas requiring improvement for  
14      each evaluated teacher and educational officer.

15      (e) The evaluation component required under subsection (a)  
16      shall be implemented no later than July 1, 2013. Teacher and  
17      educational officer ratings and feedback as required in  
18      subsection (d) shall be used to inform personnel decisions no  
19      later than July 1, 2014.

20      (f) Each teacher and educational officer shall be  
21      evaluated pursuant to this section at least once each school  
22      year.



1        (g) For the purposes of this section, negotiations under  
2 chapter 89 shall be between the superintendent or the  
3 superintendent's designee and the respective exclusive  
4 representative and shall be limited to the impact on personnel  
5 arising from the superintendent's decision to implement the  
6 performance management program. After the initial agreement is  
7 negotiated, provisions on the impact of the performance  
8 management program on personnel may be reopened only upon the  
9 mutual agreement of the parties."

10        SECTION 4. Section 302A-701, Hawaii Revised Statutes, is  
11 amended to read as follows:

12        "~~§302A-701 [Incentive packages for quality teachers,~~  
13 ~~principals, and vice principals.] Incentives for effective and~~  
14 ~~highly effective teachers and educational officers.~~ Teachers[~~7~~  
15 ~~principals, and vice principals]~~ and educational officers in the  
16 public school system may accept incentive packages provided by  
17 local communities for the purpose of retaining those teachers[~~7~~  
18 ~~principals, and vice principals]~~ and educational officers in  
19 schools with high teacher, principal, or vice-principal  
20 turnover[~~-~~], or schools designated by the department as high  
21 need; provided that the teacher or educational officer shall  
22 have been rated "effective" or "highly effective" on their



1 annual evaluation pursuant to section 302A-638. Packages may  
2 include such items as:

- 3 (1) Provision of housing;  
4 (2) Provision of mileage reimbursement;  
5 (3) Provision of discounts at local businesses; and  
6 (4) Other items not covered by chapter 89, and agreed upon  
7 by the community."

8 SECTION 5. Section 302A-703, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 " ~~[+]§302A-703[+]~~ **Educational officers~~[,]~~ and teachers;**  
11 **salary incentives.** (a) The salary ranges for [~~principal and~~  
12 ~~vice principal positions~~] educational officers and teachers  
13 shall be determined by the board, based on the position  
14 classification/compensation plan approved by the board [~~and~~].  
15 The board may establish salary incentives designed to:

- 16 (1) Keep [~~exemplary~~] principals and vice-principals at the  
17 school level;  
18 (2) Encourage [~~exemplary~~] principals and vice-principals  
19 to accept long-term assignments to hard-to-staff  
20 schools, special needs schools, schools designated by  
21 the department as high need, and schools with high  
22 teacher turnover;





1 (3) Encourage [~~exemplary~~] teachers to become vice-  
2 principals~~[+]~~ or to accept other positions of  
3 instructional leadership within the department;

4 (4) [~~Encourage exemplary vice principals to become~~  
5 ~~principals,~~] Attract or retain teachers in schools or  
6 subjects that are hard-to-staff, persistently lowest  
7 achieving, or in shortage areas; and

8 (5) [~~Encourage exemplary educational officers to become~~  
9 ~~vice principals.~~] Reward teachers and educational  
10 officers for meeting or exceeding performance goals  
11 based on an incentive plan for individual or  
12 collective goals approved by the board.

13 (b) A teacher or educational officer shall have been rated  
14 "effective" or "highly effective" on their annual evaluation to  
15 be eligible to receive any incentive pursuant to subsection (a).

16 [~~(b)~~] (c) The department shall [~~develop a~~] use the  
17 [~~definition of "exemplary"~~] rating of "effective" and "highly  
18 effective" as described in section 302A-638 in consultation with  
19 the appropriate collective bargaining representative.

20 Salary ranges and salary incentives for educational  
21 [~~officer positions~~] officers shall be subject to the  
22 requirements of sections 302A-625 and 302A-626. Salary ranges

1 and salary incentives for teachers shall be subject to the  
2 requirements of section 302A-626."

3 SECTION 6. Section 302A-704, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending its title to read:

6 "**§302A-704 Tuition assistance for ~~[exemplary]~~ effective**  
7 **and highly effective teachers to attend the University of**  
8 **Hawaii."**

9 2. By amending subsections (a) and (b) to read:

10 "(a) The superintendent, subject to the availability of  
11 funds, may award tuition assistance to ~~[exemplary]~~ "effective"  
12 and "highly effective" teachers pursuant to section 302A-638 who  
13 want to become vice-principals in Hawaii's public schools, and  
14 who are[+]

15 ~~(1) Residents of the State, as defined by the board of~~  
16 ~~regents pursuant to section [304A-402], and~~

17 ~~(2) Taking] taking courses that will lead to certification~~  
18 ~~as a public school principal, on any campus of the~~  
19 ~~University of Hawaii.~~

20 (b) The superintendent shall adopt rules in accordance  
21 with chapter 91 to carry out the purposes of this section. The  
22 rules shall include:



- 1       ~~[(1) A definition of "exemplary teacher" as determined~~  
2       ~~under section 302A-703(b);~~
- 3       ~~+(2)]~~ (1) Descriptions of the minimum academic  
4       qualification of students who may be awarded full or  
5       partial tuition assistance under this section;
- 6       ~~+(3)]~~ (2) Listings of acceptable fields of study, degrees,  
7       and periods of eligibility for students who may be  
8       awarded tuition assistance under this section;
- 9       ~~+(4)]~~ (3) Procedures for demonstrating the ongoing,  
10       satisfactory academic performance of students who have  
11       accepted tuition assistance under this section;
- 12       ~~+(5)]~~ (4) Explanations of any obligations for students who  
13       have accepted tuition assistance under this section;
- 14       ~~+(6)]~~ (5) Procedures for administratively transferring  
15       moneys for tuition assistance awarded under this  
16       section from the department of education to the  
17       University of Hawaii; and
- 18       ~~+(7)]~~ (6) Procedures for enforcing this subsection."

19       SECTION 7. Section 302A-1004, Hawaii Revised Statutes, is  
20       amended by amending subsection (a) to read as follows:

21       "(a) The department shall implement a comprehensive system  
22       of educational accountability to motivate and support the



1 improved performance of students and the education system. This  
2 accountability system shall:

3 (1) Include student accountability; school or collective  
4 accountability; individual professional accountability  
5 for teachers, principals, and other employees; and  
6 public accounting to parents, community members,  
7 businesses, higher education, media, and political  
8 leadership;

9 (2) Link authority and resources to responsibility;

10 (3) Define clear roles for all parties and lines of  
11 responsibility and mutual obligation and develop a  
12 collaborative process with stakeholders, including  
13 representatives of appropriate bargaining units,  
14 parents, administration, and students;

15 (4) Assess and track measures of academic achievement [~~7~~  
16 ~~safety and well-being, and civic responsibility~~] of  
17 individual students at selected grade levels and  
18 report trend data on these measures over time  
19 annually;

20 (5) Invoke a full and balanced set of appropriate  
21 consequences for observed performance, including  
22 incentives, rewards, and recognition for those



1            schools, teachers, and educational officers that meet  
2            or exceed their goals, assistance to those that fall  
3            short, and sanctions for those that, given adequate  
4            assistance and ample time, continue to fail to meet  
5            goals;

6            (6) Involve an annual statewide assessment program that  
7            provides a report card containing trend data on  
8            school, school complex, and system performance at  
9            selected benchmark grade levels with performance  
10           indicators in areas relating to student achievement [~~7~~  
11           ~~safety and well being, and civic responsibility~~].

12           These performance indicators shall include but not be  
13           limited to:

14           (A) Student performance relative to statewide content  
15           and performance standards [~~7~~ and] including gaps  
16           in achievement between all students and student  
17           groups persistently achieving at lower levels;

18           (B) School attendance and dropout rates;

19           (C) High school completion and graduation rates and  
20           rates of graduates who met benchmarks for college  
21           and career readiness; and



- 1            (D) Rates of students entering and persisting in  
2            postsecondary education and training;
- 3            (7) Require that teachers and administrators engage in the  
4            continuous professional growth and development that  
5            ensure their currency with respect to disciplinary  
6            content, leadership skill, knowledge, or pedagogical  
7            skill, as appropriate to their position. This  
8            requirement may be established by the department in  
9            terms of credit hours earned or their equivalent in  
10           professional development activity certified by the  
11           department as appropriate in focus and rigor;
- 12           (8) Establish an explicit link between professional  
13           evaluation results and individual accountability  
14           through professional development of the knowledge,  
15           skill, and professional behavior necessary to the  
16           position, by requiring that results of the  
17           professional evaluation be used by the department to  
18           prescribe professional development focus and content,  
19           as appropriate;
- 20           (9) Include an annual statewide fiscal accountability  
21           program, which includes a published report card that



- 1 contains trend data on school, school complex, and  
2 systemwide plans and results, including:
- 3 (A) Amounts allocated;
  - 4 (B) Amounts expended;
  - 5 (C) Amounts carried over; and
  - 6 (D) Any significant changes to the budget, with an  
7 explanation for the change; and
- 8 (10) Include an evaluation of [~~the effectiveness of complex~~  
9 ~~area superintendents and principals in supporting:~~
- 10 ~~(A) Students' academic achievement, safety and well-~~  
11 ~~being, and civic responsibility; and~~
  - 12 ~~(B) The satisfaction of stakeholders affected by the~~  
13 ~~work of the complex area superintendents and~~  
14 ~~principals, which may be measured by broadbased~~  
15 ~~surveys; and~~
  - 16 ~~(C) Fiscal accountability.] teachers and educational  
17 officers pursuant to section 302A-638."~~

18 SECTION 8. The department of education shall submit to the  
19 legislature findings, including status of the performance  
20 management system, actions taken by the board of education and  
21 department with respect to the performance management system,



1 and proposed legislation, no later than twenty days prior to the  
2 convening of the regular sessions of 2013, 2014, and 2015.

3 PART II

4 SECTION 9. The legislature finds that Hawaii is one state  
5 among many addressing tenure in response to federal education  
6 reform guidelines and articles in the New York Times, Time  
7 magazine, USA Today, and newspapers across the country reveal  
8 the intensity of the tenure debate. As of August 2001, eighteen  
9 state legislatures have modified various elements of their  
10 tenure or continuing contract policies, with a majority of  
11 states requiring a probationary period of three to five years.  
12 Many states have also integrated performance evaluations in  
13 their tenure statutes, tying teacher impact on student outcomes  
14 to the attainment of tenure.

15 The legislature finds that while it is imperative to  
16 maintain the job security that teacher tenure represents, it is  
17 equally imperative to modify tenure requirements in order to  
18 implement any meaningful education reform in the State.  
19 Specifically, the legislature finds that the current two-year  
20 probationary period required of teachers prior to attaining  
21 tenured status is too short a window in which to adequately  
22 prepare teachers and assess whether an individual teacher is





1 effective. Accordingly, the purpose of this part is to require  
2 that all teachers entering the service of the department of  
3 education for the first time serve a minimum probationary period  
4 of three years prior to obtaining tenure.

5 SECTION 10. Chapter 302A, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§302A- Probationary period of employment. (a) All  
9 teachers entering the service of the department for the first  
10 time shall serve as probationary employees of the department for  
11 a minimum period of three consecutive years; provided that:

12 (1) The consecutive employment may be interrupted by  
13 maternity leave, sick leave, or any other leave  
14 approved by the department not exceeding a period of  
15 three years; by military leave not exceeding a period  
16 of five years; or by termination or nonrenewal of the  
17 probationary employment contract because of a decrease  
18 in the number of pupils or for causes over which the  
19 department has no control, for a period between  
20 employment not to exceed five years, without loss of  
21 credit for the period of probationary employment; and



1       (2) At or prior to the end of the three-year period of  
2                 probation, the department may extend the probationary  
3                 period of a teacher for additional periods not to  
4                 exceed a total probationary period of five years.

5       (b) Any full-time intern teaching period served in the  
6                 State shall be credited toward fulfillment of the probationary  
7                 period. Any annual contract with any teacher during this  
8                 probationary period of employment may or may not be renewed as  
9                 determined by the department. The department, during the  
10                probationary period, may discharge or demote a teacher."

11                                 PART III

12               SECTION 11. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14               SECTION 12. This Act shall take effect upon its approval.



**Report Title:**

Public Schools; Performance Management; Tenure

**Description:**

Requires the Department of Education to establish a performance management program that includes an evaluation component for teachers and educational officers. Requires that teachers entering the service of the Department of Education for the first time serve a minimum probationary period of three years.  
(HB2527 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

