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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. In 2012, the legislature passed Act 133,  
2 Session Laws of Hawaii 2012, which sought to add clarity to or  
3 resolve conflicting or inconsistent language among different  
4 sections of law and to amend or repeal various sections of  
5 chapter 302A, Hawaii Revised Statutes.

6           The purpose of this Act is to continue to amend or repeal  
7 various sections of chapter 302A, Hawaii Revised Statutes, that:

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



1 SECTION 2. Section 302A-101, Hawaii Revised Statutes, is  
2 amended by adding three new definitions to be appropriately  
3 inserted and to read as follows:

4 "Attend" or "attendance" means a student is physically  
5 present in school after enrollment.

6 "Enroll" or "enrollment" means a student has met all of the  
7 department's requirements for entrance and is formally put on a  
8 school's roll.

9 "License" means a license issued by the Hawaii teacher  
10 standards board to indicate the subject area and grade level for  
11 which a teacher has met all licensure requirements and is  
12 qualified to teach, and that authorizes the licensee to teach in  
13 the State. This definition shall not apply to the term  
14 "license" as it is used in sections 302A-425, 302A-426, and  
15 302A-427."

16 SECTION 3. Section 37-74, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read as follows:

18 "(d) No appropriation transfers or changes between  
19 programs or agencies shall be made without legislative  
20 authorization; provided that:

21 (1) Authorized transfers or changes, when made, shall be  
22 reported to the legislature;



1           (2) Except with respect to appropriations to fund  
2           financing agreements under chapter 37D, the University  
3           of Hawaii shall have the flexibility to transfer  
4           appropriated funds and positions for the operating  
5           cost category among programs, among cost elements in a  
6           program, and between quarters, as applicable[~~; except~~  
7           ~~with respect to appropriations to fund financing~~  
8           ~~agreements under chapter 37D, the department of~~  
9           ~~education shall have the flexibility to transfer~~  
10          ~~appropriated funds and positions for the operating~~  
11          ~~cost category among programs and among cost elements~~  
12          ~~in a program, and between quarters, as applicable;]~~  
13          and the Hawaii health systems corporation and its  
14          regional system boards shall have the flexibility to  
15          transfer special fund appropriations among regional  
16          system hospital facilities as applicable and as  
17          mutually agreed to by the corporation and the  
18          respective regional system board; provided that the  
19          Hawaii health systems corporation and the regional  
20          system boards shall maintain the integrity and  
21          services of each individual regional system and shall  
22          not transfer appropriations out of any regional system



1 that would result in a reduction of services offered  
2 by the regional system, with due regard for statutory  
3 requirements, changing conditions, the needs of the  
4 programs, and the effective utilization of resources;  
5 and

6 (3) The university [~~and the department of education~~] shall  
7 account for each transfer implemented under this  
8 subsection in quarterly reports to the governor and  
9 annual reports at the end of each fiscal year to the  
10 legislature and the governor, which shall be prepared  
11 in the form and manner prescribed by the governor and  
12 shall include information on the sources and uses of  
13 the transfer."

14 SECTION 4. Section 302A-102, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[+]§302A-102[+] **Smoking prohibited**[, ~~exception~~]. [~~(a)~~]

17 All public schools within the State, from kindergarten through  
18 grade twelve, shall prohibit the use of tobacco at public  
19 schools or at public school functions.

20 [~~(b)~~] ~~The department shall provide affected public employees~~  
21 ~~with breaks throughout the work day during which they may smoke~~



1 ~~at locations off campus. The number and duration of such breaks~~  
2 ~~shall be subject to collective bargaining.~~

3 ~~(c) The department shall provide a smoking cessation~~  
4 ~~program for public employees who are interested in~~  
5 ~~participating; provided that issues relating to the costs of the~~  
6 ~~program shall be subject to collective bargaining.~~

7 ~~(d) This section shall not be subject to part II of chapter~~  
8 ~~328K.] "~~

9 SECTION 5. Section 302A-605, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§302A-605 Principals and vice-principals. (a)**

12 Principals and vice-principals shall meet the department's  
13 certification requirements [~~and shall have at least five years~~  
14 ~~of appropriate school level experience, including at least three~~  
15 ~~years as a teacher, or equivalent experience, as determined by~~  
16 ~~the department]~~.

17 [~~(b) Vice principals shall meet the department's~~  
18 ~~certification requirements and shall have appropriate school~~  
19 ~~level or equivalent experience, as determined by the department.~~

20 ~~(c)]~~ (b) The department shall establish alternative routes  
21 to certification for principals and vice-principals pursuant to  
22 rules adopted under chapter 91.



1           ~~[(d)]~~ (c) For purposes of this section, "alternative  
2 routes to certification" has the same meaning as determined by  
3 United States Department of Education regulations for state  
4 applications for Race to the Top fund allocations under section  
5 14001 of the federal American Recovery and Reinvestment Act of  
6 2009, as amended."

7           SECTION 6. Section 302A-1114, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§302A-1114 Power of appointment, removal.** The  
10 department, from time to time, may appoint and remove such  
11 teachers, educational officers, and other personnel as may be  
12 necessary for carrying out the purposes of sections 302A-201,  
13 302A-401 to 302A-410, ~~[302A-1001]~~ 302A-1002 to 302A-1004, 302A-  
14 1101 to 302A-1122, 302A-1301 to 302A-1305, 302A-1401 to 302A-  
15 1403, and 302A-1503 to 302A-1506, and regulate their duties,  
16 powers, and responsibilities, when not otherwise provided by  
17 law."

18           SECTION 7. Section 302A-1124, Hawaii Revised Statutes, is  
19 amended by amending subsection (e) to read as follows:

20           "(e) Unless otherwise specified, each school community  
21 council shall establish policies governing the council's



1 composition, election, staggered terms of office for members,  
2 operation, and vacancies; provided that:

3 (1) The number of school personnel [+]on[+] any school  
4 community council shall be equal to the number of  
5 primary stakeholders on the school community council;

6 (2) At the elementary and middle school levels, each  
7 school community council shall be composed of the  
8 principal and at least one member representing each of  
9 the following groups:

10 (A) Parents elected by ballots distributed among and  
11 collected from the parents of the school's  
12 students;

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

15 (C) Noncertificated school personnel elected by  
16 ballots distributed among and collected from  
17 noncertificated personnel of the school; and

18 (D) Community representatives elected by ballots  
19 distributed among and collected from parents of  
20 the school's students; [~~and~~

21 ~~(E) Student representatives selected by the student~~  
22 ~~council of the school; and]~~



1        (3) At the elementary and middle school levels, each  
2        school community council may allow for student  
3        representatives selected by the student council<sup>s</sup> of the  
4        school; and

5        [~~3~~] (4) At the high school level, each school community  
6        council shall be composed of the principal and at  
7        least one member representing each of the following  
8        groups:

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

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

13        (C) Noncertificated school personnel elected by  
14        ballots distributed among and collected from  
15        noncertificated personnel of the school;

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

19        (E) Student representatives selected by the student  
20        council of the school.

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





1 SECTION 8. Section 302A-1145, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+]§302A-1145[+]~~ **Transfer to another school.** No school  
4 shall receive any child under eighteen years of age, who has  
5 attended another school of the same class in the same district,  
6 unless the child produces to the school to be ~~[entered,]~~  
7 enrolled, a certificate of release of the school last attended  
8 by the child. If the child applies to attend a school of higher  
9 grade, a certificate of proficiency shall be required or a  
10 lawful excuse for its absence. The children from one ~~[district]~~  
11 service area desiring to enter a school in another ~~[district]~~  
12 service area may be received or ~~[admitted]~~ enrolled upon  
13 producing a certificate of release from the school last attended  
14 in the other ~~[district.]~~ service area."

15 SECTION 9. Section 302A-1154, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By amending the title to read:

18 "**§302A-1154 Immunization upon ~~[entering]~~ attending school;**  
19 **tuberculosis clearance.**"

20 2. By amending subsection (b) to read:

21 "(b) No child shall ~~[be admitted to]~~ attend any school for  
22 the first time in the State unless the child presents to the



1 appropriate school official documentation satisfactory to the  
2 department of health that the child has been examined and tested  
3 according to the rules of the department, and is free from  
4 tuberculosis in a communicable form."

5 SECTION 10. Section 302A-1155, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§302A-1155 Provisional [~~entrance to~~] attendance at**  
8 **school.** (a) A child may [~~enter~~] attend school provisionally  
9 upon submitting written documentation from a licensed physician,  
10 physician assistant, advanced practice registered nurse, or an  
11 authorized representative of the department of health stating  
12 that the child is in the process of receiving the required  
13 immunizations. Further documentation showing that the required  
14 immunizations have been completed shall be submitted to the  
15 appropriate school official no later than three months after the  
16 child first [~~entered~~] attended the school. If all of the  
17 required immunizations cannot be completed within three months  
18 due to the length of the minimum intervals between doses of a  
19 particular vaccine required by the department of health,  
20 provisional [~~admission~~] attendance may be extended so long as  
21 the child's parent or guardian provides documentation that  
22 appointments for required immunizations have been made and that



1 progress toward completing the immunizations continues in  
2 accordance with the requirements of the department of health.

3 (b) Provisional [~~entrance to~~] attendance at school may be  
4 suspended by the department of health when there is danger of an  
5 epidemic from any of the communicable diseases for which  
6 immunization is required."

7 SECTION 11. Section 302A-1159, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§302A-1159 Physical examination required.** No child shall  
10 [~~be admitted to~~] attend any school for the first time in the  
11 State unless the child presents to the appropriate school  
12 official a report from a licensed physician or advanced practice  
13 registered nurse of the results of a physical examination  
14 performed within a year of the date of [~~entry into~~] attendance  
15 at school. A child may [~~enter~~] attend school provisionally upon  
16 submitting written documentation from a licensed physician,  
17 advanced practice registered nurse, or other authorized  
18 representative of the department of health stating that the  
19 child is in the process of undergoing a physical examination.  
20 Further documentation showing that the required physical  
21 examination has been completed shall be submitted to the



1 appropriate school official no later than three months after the  
2 child first ~~entered~~ attended the school."

3 SECTION 12. Section 302A-1161, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§302A-1161 Notification for noncompliance.** If a child  
6 does not complete the immunizations required under section 302A-  
7 1154 or the physical examination required under section 302A-  
8 1159 within the ~~period~~ periods provided by ~~section~~ sections  
9 302A-1155 and 302A-1159 after provisional ~~entry into~~  
10 attendance at school, the administrator of the school shall  
11 cause a notice to be sent to the parent or guardian of the child  
12 stating that if the required immunizations or physical  
13 examination is not completed within thirty days of the date of  
14 the notice, the child shall not be ~~admitted~~ permitted to  
15 attend school."

16 SECTION 13. Section 302A-1301, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§302A-1301 School system financial accountability.** (a)  
19 Beginning with the 1995-1997 fiscal biennium, the department's  
20 administrative expenditures shall not exceed 6.5 per cent of the  
21 total department operating budget, excluding expenditures for



1 agencies administratively attached to the department, unless  
2 approved by the legislature.

3 (b) Not less than seventy per cent of appropriations for  
4 the total budget of the department, excluding debt service and  
5 capital improvement programs[7] and appropriations for agencies  
6 administratively attached to the department, shall be expended  
7 by principals."

8 SECTION 14. Section 302A-1504.5, Hawaii Revised Statutes,  
9 is amended by amending subsection (a) to read as follows:

10 "(a) There is established within the state treasury a  
11 special fund to be known as the school-level minor repairs and  
12 maintenance special fund, into which shall be deposited all  
13 moneys collected pursuant to section 235-102.5(b), and any other  
14 moneys received by the department in the form of grants and  
15 donations for school-level minor repairs and maintenance. The  
16 special fund shall be administered by the department and used to  
17 fund school-level minor repairs and maintenance. The department  
18 shall transfer moneys collected pursuant to section 235-  
19 102.5(b), and any other moneys received in the form of grants  
20 and donations for school-level minor repairs and maintenance, to  
21 the Hawaii 3R's school repair and maintenance fund established  
22 pursuant to section 302A-1502.4."



1 SECTION 15. Section 302A-101, Hawaii Revised Statutes, is  
2 amended by deleting the definition of "early education".

3 [~~"Early education" means a developmentally appropriate  
4 early childhood development and education program for children  
5 from birth to eight years of age."~~]

6 SECTION 16. Section 302A-603, Hawaii Revised Statutes, is  
7 repealed.

8 [~~"**§302A-603 Teaching without certificates or licenses,**  
9 **penalty.** (a) Except as otherwise provided, before the 1997-  
10 1998 school year, whoever serves in the department as a teacher  
11 without holding an unrevoked certificate issued under sections  
12 302A-602 to 302A-639, and 302A-701, shall be fined not more than  
13 \$25.~~

14 ~~(b) Beginning with the 1997-1998 school year, whoever  
15 serves in the department as a teacher, paid under the salary  
16 schedule contained in the unit 5 collective bargaining  
17 agreement, without holding an unrevoked or unsuspended license  
18 or credential issued under sections 302A-801 to 302A-808, shall  
19 be fined not more than \$500.~~

20 ~~(c) Beginning with the 2002-2003 school year, an  
21 individual paid under the salary schedule contained in the unit  
22 5-collective bargaining agreement, without holding an unrevoked~~



1 ~~license issued under sections 302A-801 to 302A-808, shall be~~  
2 ~~fined not more than \$500.~~

3 ~~(d) Beginning with the 2002-2003 school year, emergency~~  
4 ~~hires shall not be subject to this penalty." ]~~

5 SECTION 17. Section 302A-1001, Hawaii Revised Statutes, is  
6 repealed.

7 [~~"[§302A-1001] Student bias. No person in the State, on~~  
8 ~~the basis of sex, shall be excluded from participation in, be~~  
9 ~~denied the benefits of, or be subjected to discrimination under~~  
10 ~~any educational or recreational program or activity receiving~~  
11 ~~state or county financial assistance or utilizing state or~~  
12 ~~county facilities." ]~~

13 SECTION 18. Section 302A-1116, Hawaii Revised Statutes, is  
14 repealed.

15 [~~"[§302A-1116] Authority to create temporary positions.~~  
16 ~~The department may create temporary positions as it deems~~  
17 ~~necessary, provided that:~~

18 ~~(1) The department's expenditures shall not exceed its~~  
19 ~~allocated budget,~~

20 ~~(2) The term of each position shall not exceed one year,~~  
21 ~~and~~



1       ~~(3) The department shall report the creation of temporary~~  
2               ~~positions to the department of budget and finance." ]~~

3       SECTION 19. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5       SECTION 20. This Act shall take effect upon its approval.





**Report Title:**

Education; Statutory Revision

**Description:**

Amends or repeals various provisions of Hawaii's public education law to resolve conflicting and inconsistent language and for housekeeping and efficiency. Repeals the Department of Education's authority to create temporary positions and to transfer certain appropriated funds and positions among programs and cost elements. (SB49 HD2)

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

