

**STATE OF HAWAII
BOARD OF EDUCATION**
P.O. BOX 2360
HONOLULU, HAWAII 96804

House Committee on Finance
Wednesday, March 27, 2024
2:00 p.m.
Hawaii State Capitol, Room 308

Measure: SB3207 SD2 HD1 Relating to Education

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Board of Education (“Board”) is in **strong support** of Senate Bill 3207 SD2 HD1.

Ten years ago, Act 90, SLH 2014, increased the salary cap of the superintendent of education and required that the superintendent be subject to an annual performance evaluation, based on outcomes determined by the Board, and which are in alignment with other employee evaluations within the Department of Education.

However, these changes are scheduled to be repealed. As a result, beginning July 1, 2024, if statute is not amended, the current \$250,000 cap will revert to the previously set amount of \$150,000, and the statutory requirement for an evaluation of the superintendent will be eliminated.

The Board respectfully offers the following:

- If current statutory language is not made permanent, there will be impacts on future contracts with the superintendent and hindrances to future recruitment.
- If current statutory language is not made permanent, there will be impacts on the salaries of the deputy superintendents, assistant superintendents, and complex area superintendents, which cannot exceed that of the superintendent, pursuant to statute.

- The Board has utilized an annual evaluation process to review the superintendent's performance against a set of approved targeted goals and would like to continue with this process.

This version of the bill would conform to the stated requests of the Board. It reaffirms that the Board shall establish the superintendent's salary, removes the cap, deletes the sunset provision that would have resulted in adverse impacts to many of the top Department leaders, and retains the annual performance evaluation based on outcomes determined by the Board.

We would also like to note that if this legislation passes, the act should take effect on June 29, 2024, to avoid the currently scheduled repeal date of June 30, 2024.

We request the Committee's consideration to advance this measure. Mahalo for this opportunity to testify on behalf of the Board.

SB-3207-HD-1

Submitted on: 3/25/2024 5:47:25 PM

Testimony for FIN on 3/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I **oppose** this Bill and urge all committee members to vote **NO**.

SB-3207-HD-1

Submitted on: 3/26/2024 11:07:41 AM

Testimony for FIN on 3/27/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julie Reyes Oda	Individual	Oppose	Remotely Via Zoom

Comments:

OPPOSE OPPOSE OPPOSE

Why do the Board of Ed and Complex Area Superintendents support this? Why do regular people: citizens, parents, teachers, whoever is submitting testimony oppose this? Please have that discussion and try to figure it out. The discussion on raising the cap to now, anything, is coming at the same time the DOE is estimating 10%-15% cuts and gave the example of that being equivalent to 3,000 teachers. This is just plain ridiculous.

If the legislature wants to discuss attracting top-tier talent to work for our government, we have a medical doctor for a governor who is only paid around \$185,000. We need top-tier talent for more positions than just the DOE superintendent. There are many government positions worthy of this same discussion. Simultaneously, the legislature and Board of Education need to be good stewards of taxpayer money. The Board of Education does not answer to the taxpayers nor do they answer to the legislators. The same Board of Ed tried to max out the Superintendent in December 2023 in the middle of his contract when his pay was locked in for 3 years. Don't trust the Board of Ed to make decisions on salary for the superintendent. They don't answer to the taxpayers. Taxpayers deserve better than this and you are our only defense. The only thing we can do as citizens is provide testimony and we have. Let that count for something.

VOTE NO ON SB3207!!



March 26, 2024

To: House Finance Committee

Testimony re: **SB3207 (HD1)** – Removes the salary cap of Superintendent of Education. Makes permanent the annual performance evaluation requirements for the Superintendent of Education. Effective 7/1/3000.

Position: **OPPOSE**

Aloha Chair Yamashita, Vice Chair Kitagawa, and Esteemed Members of the House FIC,

Some form of SB3207 must pass. If it doesn't, the law reverts to the 2014 Superintendent salary cap of \$150,000. Not only is that limit outdated, this reversion would undo a lot of time that's been spent raising Department of Education high level administrators' salaries. If the Superintendent's salary reverts to \$150,000 after his contract expires in 2025, then anyone making more than that would also have a salary reduction because there's a rule that none of the Superintendent's subordinates can earn more than the boss.

Keep this Amendment Intact
<p>"SECTION 4. This Act shall take effect upon its approval[; provided that this Act shall be repealed on June 30, 2024, and section 26-52, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the approval date of this Act; provided further that any contracts entered into prior to June 30, 2024, shall remain in effect for the duration of the contract]."</p>

However, I **strongly oppose removing a salary cap**, and propose the following amendment to HRS §26-52 to provide op accountability in government, not less.

PROPOSED: A BETTER LAW	SB3207 HD-1 Currently reads....
<p>HRS §26-52 Department heads and executive officers. (1) The salaries of the following state officers shall be as follows: The salary of the superintendent of education shall be set by the board of education at a rate no greater than \$250,000 a year. The superintendent shall be subject to an annual performance evaluation that is in alignment with other employee evaluations within the department of education and are based on outcomes determined by the board of education; provided that nothing shall prohibit the board of education from conditioning a portion of the salary <u>evaluation and any salary increase shall be based on statewide academic</u> on <u>performance</u> <u>assessments</u>;</p>	<p>HRS §26-52 Department heads and executive officers. (1) The salary of the superintendent of education shall be set by the board of education [at a rate no greater than \$250,000 a year]. The superintendent shall be subject to an annual performance evaluation that is in alignment with other employee evaluations within the department of education and are based on outcomes determined by the board of education; provided that nothing shall prohibit the board of education from conditioning a portion of the salary on performance;</p>

SB3207 has undergone a few iterations starting with a proposal to change the salary cap from \$250,000 to \$350,000. The Senate EDU committee reduced the cap to \$300,000 (SD1). Then, for some reason, the Senate WAM committee eliminated the cap altogether (SD2). The video of the WAM hearing doesn't explain why; there was no discussion on the amendments in SD2. Next, the House EDN Committee amends SD2 by changing the effective date to July 1, 3000. That makes absolutely no sense, because the salary cap is due to expire the end of June 2024, and if SB3207 isn't effective by then, won't the salary cap revert to \$150,000 which is what SB3207 is supposed to prevent?

REMOVING A SALARY CAP IS FISCALLY IRRESPONSIBLE

There were so many bills this session that mentioned Department of Education (DOE) financial deficits that the public was amazed a bill had been introduced to increase the Superintendent salary cap. I'm guessing that the WAM amendment to just eliminate a cap and leave the salary decisions to the Board of Education (BOE) makes it easier for the legislature. They don't have to deal with the public about what's an appropriate cap. But, that's exactly what the legislature needs to do – provide some oversight to overspending by the DOE. To set limits. Then, the BOE can make decisions within the limitations determined by legislative oversight.

At some time in the future, when inflation and cost of living have increased, a new bill can emerge that will increase the salary cap, and hopeful *next time* around, unlike what the public has seen so far, the BOE will have to provide some good data to support the new figure proposed for the salary cap before the legislature will consider an increase.

REMOVING A SALARY CAP ELIMINATES CHECKS AND BALANCES

Simply because the BOE has the authority to make decisions about the Superintendent's salary does not mean that the BOE will make *good* decisions. Laws must account for human nature and we need checks and balances. HRS §26-52 must provide for legislative oversight of the State Superintendent's salary *until such time that there is sufficient opportunity for public participation and scrutiny of DOE and BOE operations*. I'm 65 years old and coming to terms with the sad realization that I probably will not live long enough to see that happen. So, please put a reasonable salary cap back into HRS §26-52 because the Hawai'i DOE and BOE is too corrupt and dysfunctional at this time to give them free reign with quarter-million-dollar-plus salaries.

The EDN Representatives asked good questions at the SB3207 hearing. Unfortunately, they got incomplete and misleading answers from the BOE chair. I think that if the BOE is going to ask for an increase or elimination of the \$250,000 cap, it should do its homework first, and have some good reasons why the Superintendent and DOE administrators need to be paid more, and more, and more.

A recording of the SB3207 hearing is online here:

<https://youtu.be/o0royADNK78>

Sections from this video that I reference in the text box are marked with the timecode start time location [mm:ss].

After the hearing, I spent several days researching to find the truth. I sent the complete set of data to the BOE on March 19, 2024 and wrote, "I think it would be a good idea for the Board to look at the data I've sent you, and use it to suggest what the Board thinks is a reasonable salary cap should the FIC committee decides that one should be set."

First, a comment about the \$597,000 salary quoted by the BOE Chair. When asked where that was,

Is There Any Suggested Salary Cap?

Q. [17:46] **If we were to eliminate a cap, what would you folks suggest the salary be right now?** (*Representative Scot Matayoshi*)

A. "We don't have any recommended salary at this moment. The plan was to use an independent compensation consulting firm that could look at the salary of the superintendent, deputy assistants, and the complex area superintendents, and then propose a recommendation to the Board." (*BOE Chair Warren Haruki*)

How Does Hawai'i's Superintendent's Salary Compare to Others'?

Q. [19:25] **Do you know Superintendent Hayashi's salary compares to other superintendents of similar school size?** (*Representative Justin Woodson*)

A1. "It ranges from \$280,000 to \$597,000." Haruki refers to a list of six schools he has and says, "with comparable

DATA SOURCES

Math Proficiency by State 2022: National Center for Education Statistics. *The Nation's Report Card*.

<https://www.nationsreportcard.gov/profiles/stateprofile?sfj=NP&chort=2&sub=MAT&sj=&st=MN&year=2022R3>

Reading Proficiency by State 2022: National Center for Education Statistics. *The Nation's Report Card*.

<https://www.nationsreportcard.gov/profiles/stateprofile?sfj=NP&chort=2&sub=RED&sj=&st=MN&year=2022R3>

State Superintendent Salaries 2022: Ballotpedia.

[https://ballotpedia.org/Superintendent_of_Schools_\(state_executive_office\)#Compensation](https://ballotpedia.org/Superintendent_of_Schools_(state_executive_office)#Compensation)

Cost of Living Index by State 2024: World Population Review.

<https://worldpopulationreview.com/state-rankings/cost-of-living-index-by-state>

States' Enrollment in Public Schools 2023: National Center for Education Statistics.

https://nces.ed.gov/programs/digest/d13/tables/dt13_203.20.asp

Mr. Haruki stated it was Gwinnett County. No one in attendance knew where that was (not even the BOE Chair who presented the data). So, I looked it up later and discovered that Gwinnett County is in Georgia. That high benefits package was for Alvin Wilbanks who had 25 years' experience as Gwinnett County's Superintendent. His base salary was only \$380,971.88.¹

If the BOE would actually give the public a real opportunity to comment on policy making and decisions, the BIE wouldn't have to hire consultants. The public can educate them, like this.

What's important for the FIC committee to realize about the Board Chair's limited and questionable statistics is that he's comparing the job of a state superintendent to district superintendents. The jobs are *very* different. I use data that compares STATE SUPERINTENDENT salaries.

Note that the State's Superintendent salaries in the tables below are from early 2022 when the Superintendent's salary was \$210,000. In July 2022, Keith Hayashi stepped into the job, never having been a State Superintendent anywhere before, with a \$240,000 salary.

Even at \$210,000, Mr. Hayashi's financial situation isn't as low, compared to similar State Superintendents, as BOE Chair Haruki would have us believe. Hawai'i ranks low in the number of students enrolled in public schools. Compared to states with similar enrollment, Mr. Hayashi's is the second highest salary. Comparing net salaries, there are 30 state superintendents paid less than Superintendent Hayashi. When you rank state superintendents' salaries divided by the number of students, Hawai'i comes out quite high. Fifth in the nation.

Similar Enrollment in Public Schools					Similar Net Salaries					Similar ratio of \$ per Student				
Enroll. Rank	State	Net Salary	Enrollment	\$ per Student	Salary Rank	State	Salary	State Enrollment	\$ per student	\$ per Student Rank	State	Salary	State Enrollment	\$ per Student
40	ME	\$152,693	187,200	\$0.82	15	KS	\$230,000	499,300	\$0.46	1	RI	\$253,213	144,700	\$1.75
41	NH	\$115,289	186,400	\$0.62	16	WV	\$230,000	253,100	\$0.91	2	VT	\$154,149	91,200	\$1.69
42	HI	\$210,000	178,000	\$1.18	17	TX	\$220,375	5,669,000	\$0.04	3	DE	\$170,007	140,100	\$1.21
43	AK	\$141,160	155,200	\$0.91	18	MO	\$214,464	930,000	\$0.23	4	ND	\$127,766	107,800	\$1.19
44	MT	\$116,808	146,800	\$0.80	19	TN	\$212,160	1,081,100	\$0.20	5	HI	\$210,000	178,000	\$1.18
45	RI	\$253,213	144,700	\$1.75	20	HI	\$210,000	178,000	\$1.18	6	SD	\$134,848	135,900	\$0.99
46	DE	\$170,007	140,100	\$1.21	21	CT	\$192,500	533,500	\$0.36	7	WY	\$92,000	94,900	\$0.97
47	SD	\$134,848	135,900	\$0.99	22	VA	\$185,567	1,370,300	\$0.14	8	AK	\$141,160	155,200	\$0.91

¹ <https://www.ajc.com/news/gwinnett-school-board-is-ending-wilbanks-contract-whats-the-payout/7CRCHB3JE5HTVO2G4W2CDXBKQ/> (2021) "The current contract sets Wilbanks' base salary at \$380,971.88. In addition, he receives a transportation allowance of \$1,500 per month, a retirement supplement of \$3,500 per month, a longevity supplement of \$6,250 per month, reimbursement for expenses such as conventions and Teachers Retirement System of Georgia contributions at the state-prescribed employee rate."

Detractors will most likely counter that net salary comparisons are deceptive because Hawai'i's cost of living is so high. To compensate, I divided net salary by the Cost-of-Living Index (CLI) and ranked the states by their CLI-adjusted salaries. The table below shows that Hawai'i's CLI-adjusted salary rank with the lower \$210,00 salary (43) is right on target with its rank in enrollment (42nd in the nation).

State	Salary Rank	Salary	CLI Adjust Salary Rank	CLI Adjust Salary	Enroll. Rank	Enrollment	\$ per Student RANK	\$ per Student	Math Rank	Math Score	Reading Rank	Reading Score
Massachusetts	26	\$178,159	42	\$120,053	21	926,100	31	\$0.19	1	301	1	277
New Jersey	27	\$175,000	29	\$153,374	12	1,297,200	38	\$0.13	3	296	2	276
Connecticut	21	\$192,500	25	\$170,203	31	533,500	22	\$0.36	23	285	3	274
Maryland	2	\$310,000	12	\$259,414	17	969,000	24	\$0.32	19	287	4	274
New Hampshire	47	\$115,289	47	\$100,251	41	186,400	14	\$0.62	2	296	5	274
Vermont	33	\$154,149	40	\$134,159	50	91,200	2	\$1.69	5	295	6	274
Montana	46	\$116,808	45	\$112,640	44	146,800	11	\$0.80	13	289	7	272
Pennsylvania	29	\$170,419	23	\$172,140	7	1,772,200	44	\$0.10	10	290	8	272
Washington	34	\$153,000	41	\$132,928	14	1,177,400	39	\$0.13	11	290	9	272
Colorado	4	\$291,924	7	\$276,705	18	954,000	26	\$0.31	7	290	10	271

Above are the top 10 performing states in Reading Assessments.

Below are the bottom 10 performing states in Reading Assessments.

State	Salary Rank	Salary	CLI Adjust Salary Rank	CLI Adjust Salary	Enroll. Rank	Enrollment	\$ per Student RANK	\$ per Student	Math Rank	Math Score	Reading Rank	Reading Score
Oklahoma	43	\$124,373	32	\$144,620	26	690,300	32	\$0.18	45	276	41	262
Alaska	39	\$141,160	44	\$113,473	43	155,200	8	\$0.91	31	282	42	261
South Carolina	48	\$92,007	49	\$95,344	23	770,600	42	\$0.12	39	280	43	261
Arizona	50	\$85,000	50	\$79,291	13	1,295,500	48	\$0.07	37	280	44	260
Hawaii	20	\$210,000	43	\$117,318	42	178,000	5	\$1.18	35	281	45	260
Alabama	7	\$283,890	2	\$319,696	24	712,800	19	\$0.40	50	269	46	257
Louisiana	5	\$285,002	3	\$309,785	27	686,300	18	\$0.42	47	273	47	257
West Virginia	16	\$230,000	13	\$254,707	39	253,100	9	\$0.91	46	274	48	257
New Mexico	31	\$158,640	26	\$168,408	36	339,600	16	\$0.47	48	273	49	256
Mississippi	3	\$300,000	1	\$351,700	35	458,600	13	\$0.65	49	271	50	253

Our Superintendent's \$240,000 CLI-adjusted salary is \$134,078 (Hawai'i's CLI is 179). That's more than the adjusted salaries of four states in the top 10 ranking of reading performance (MA, MT, NH, WA). For years I have tried to convince the BOE that the evaluation systems of high-level DOE administrators suck, and the Board needs to do better. So far, I've failed, but SB3207 could be one way to succeed if my proposed amendment above is passed by the House FIC.

Here's one recent example of why the Superintendent's salary needs a legal limit. Last December, out of the blue (at least as far as the public is concerned), the BOE Human Resources Committee Chair put this on the agenda: "Committee action on recommendation concerning amendments to superintendent's employment contract relating to salary and benefits." There was no period of contemplation or time to prepare testimony. Boom! They're going to take action with minimal warning. The [Committee chair's memo](#) doesn't give any reasons why she's recommending that the BOE change its contract with the Superintendent just a year and a half into its execution (expires June 30, 2025). No data, no explanations to support an action to top out Superintendent Hayashi's salary from \$240,000 to the now legal limit of \$250,000. The BOE HR committee passed the recommendation unanimously with little to no serious debate.

As is typical BOE practice, the agenda item wasn't made public until the last possible legal limit (six calendar days prior to a meeting). The meeting notice and memo were posted at the end of the Friday work day before written testimony was due the next Tuesday at 9:30 AM (which was 49 hours prior to the start of the meeting, and satisfies the Sunshine Law requirement that all board packet materials be publicly available 48 hours in advance). Only two people made the written testimony deadline: Senator Kidani (one of SB3207's introducers) and Complex Area Superintendent (CAS) Davis, both in support. The BOE also posted late testimony which amounted to CAS Davis's testimony, again, joined by nineteen more CASs in support. One lone member of the public managed to submit written testimony in opposition less than an hour before the meeting, mentioning she'd just found out about the proposed action. I have no smoking-gun proof, but this seems ample evidence that CASs were given much more advance notice about this than the public.

Until important improvements are made concerning how the BOE must function, we can trust that the Board is working for the DOE, not the people, and rubber-stamping whatever the Superintendent wants, like an unwarranted salary raise for himself and his cohorts.

Is There a Public Comment Process?

Q. [18:25] **To clarify, there's a public comment process incorporated into the any decision to adjust the Superintendent's compensation?**
(Representative Justin Woodson)

A1. "Right. The public can comment on the evaluation of the Superintendent, first. And secondly, if a salary recommendation is being proposed also as a part or separately, then that also has a public comment period."
(BOE Chair Haruki)

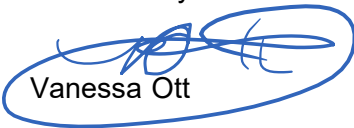
A2. The process is the bare minimum allowable by law, but in desperate need of reform. *(Vanessa Ott – testifier before the State Board of Education since 2012; former DOE teacher and IT professional.)*

I'd like to remind the FIC legislators of the Twenty-Seventh Amendment² that was based on James Madison's belief that Congress should not be permitted to vote itself pay raises arbitrarily without constituents being able to register their approval or disapproval.³ It took 200 years to ratify this amendment. Let's not allow Hawai'i to take so long to ensure that the BOE doesn't keep voting raises for high level administrators which seems to be a major concern with the BOE since the new Chair was installed last July. Not student achievement. Not teacher retention. Not community engagement. Not oversight, openness, transparency, civil rights or any number of other big problems with the DOE. Eliminating a cap on the Superintendent's salary opens the door for every other six-figure salaried DOE administrator to get unlimited raises. Cap the Superintendent's salary, and the public is protected from wanted, profligate spending from a Board that is ineffectual and, in my opinion, inept and corrupt.

One of the most insipid corruption problems in the DOE/BOE is the lack administrator evaluation systems that have any validity or accountability. The cronyism and lack of oversight has produced an education system where the reading levels of the students are 45th in the nation. People are rewarded and promoted based on how little change they affect, and who they know, not on merit or performance. The BOE is supposed to provide oversight, but these days, the DOE is running the BOE. For example, I can't believe that during BOE meetings now, Superintendent Hayashi is sitting on the right side of the Board Chair! What is he doing sitting at the Board Members' table? He's not a Board Member. The Board is supposed to provide *oversight* of the Superintendent, not invite him to the table and allow him to speak and act like a Board member. The impropriety, the bald-faced cronyism is appalling.

I tell you all of this because it reinforces my argument that **this point in Hawai'i's history is NOT the time to remove a salary cap. NOW is the time to require that the Superintendent's evaluation and any salary increase must be based, in part, on statewide academic performance assessments!**

Mahalo for your consideration,



Vanessa Ott

² [U.S. Constitution - Twenty-Seventh Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress](#) "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

³ [The Twenty-seventh Amendment | US House of Representatives: History, Art & Archives](#) "With no time limit on ratification, the Twenty-seventh Amendment was ratified in May 7, 1992, when Michigan approved it."