

## ACT 175

A Bill for an Act Relating to the Department of Education.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (a) of section 5-1, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(a) The foregoing requirements shall not apply to teachers and educational officers in public schools, but in the appointment of such teachers and educational officers, preference shall be given to resident teachers and educational officers who are citizens of the United States and are of the same standing, grade, or rating as those from without the state.”

SECTION 2. Chapter 13, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By repealing section 13-1, Revised Laws of Hawaii 1955; and  
 (b) By adding the following part, to be appropriately numbered and to read as follows:

**“PART DEPOSIT OF PUBLICATIONS**

**Sec. 13- . Establishment of State publications distribution center.** There shall be established within the department of education and under the direction of the State librarian a State publications distribution center for depositing and distributing government publications and for promoting an orderly depository library system for State and county publications.

**Sec. 13- . Definitions.** (1) “State and county agency” includes every state, city and county and county office, officer, department, board, commission and agency, whether in the legislative, executive or judicial branch.

(2) “Publication” includes any document, compilation, journal, report, statute, regulation, ordinance issued in print by any State or county agency, and confidential publications which shall be deposited in accordance with security regulations to be determined by the issuing agency.

(3) “Print” includes all forms of printing and duplications, except administrative forms.

**Sec. 13- . Deposit of publications.** Every State and county agency shall immediately upon release of a publication, deposit eight copies with the State publications distribution center and one copy each with the State archives and the University of Hawaii. Additional copies of such publications shall be deposited with the publications distribution center upon request of the State librarian so long as copies are available.

The State librarian may enter into depository agreements with private and public educational, historical or scientific institutions or other libraries, within or without the State in order to achieve the objectives sought under this chapter.

**Sec. 13- . Depository library system.** The State librarian shall designate at least one government publications depository in each county and shall distribute to each depository one copy of each publication, as defined in this chapter.

**Sec. 13- . Rules and regulations.** The department of education may make such rules and regulations as are necessary to carry out the purposes of this chapter."

SECTION 3. Section 37-1, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 37-1. Definitions.** As used in chapters 37 to 43, the following terms shall have the following meanings unless the context indicates otherwise:

'Board' means the board of education.

'Councilor' means a member of a local school advisory council.

'Department' means the department of education.

'Educational officers' refers to principals, vice-principals and professional employees of the state and district offices of the department except those in the classified service.

'Member' means a member of the board of education.

'Superintendent' means the superintendent of education.

'Teacher' means a person whose duties in the educational system are primarily teaching or instruction of students or related activities centered primarily on students and who is in close and continuous contact with students and shall include, but not be limited to, classroom teachers, school librarians, counselors, registrars, and special education teachers."

The revisor of statutes shall conform the existing Revised Laws of Hawaii 1955 and subsequent amendments to the definitions set forth in this section.

SECTION 4. Section 37-6, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second paragraph by adding the following as the second sentence thereof:

"He may use a printed facsimile signature in approving appointments, contracts and other documents."

SECTION 5. Section 37-7, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 37-7. Rules, regulations.** Subject to the provisions of the Hawaii Administrative Procedure Act, the board may adopt rules and regulations not contrary to law, for the government of all teachers, educational officers, other personnel, and pupils, and for carrying out the general scheme of education and for the transaction of its business."

SECTION 6. Section 37-9, Revised Laws of Hawaii 1955, is hereby amended by adding the following thereto:

"Upon authorization by the superintendent, a facsimile impression of the seal may be used to authenticate such documents."

SECTION 7. Section 37-10, Revised Laws of Hawaii 1955, is hereby amended by deleting the words "officers, agents and servants" and substituting in lieu thereof the words "teachers, educational officers and other personnel."

SECTION 8. Section 37-11, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

SECTION 9. Section 37-12, Revised Laws of Hawaii 1955, is hereby amended by deleting therefrom the words "and attested by the secretary."

SECTION 10. Section 37-13, Revised Laws of Hawaii 1955, is hereby amended by deleting the words "at a profit to the department" from the first sentence thereof and by amending the second sentence thereof to read as follows:

"All sums of money received from the sale of such publications shall be deposited to the credit of the general fund of the State."

SECTION 11. Section 37-14, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

SECTION 12. Section 37-16, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting in the second sentence of the second paragraph the words "eight" and "but not less than five."

SECTION 13. Section 37-19, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 37-19. Aid to crippled children; transportation.** The superintendent, with the approval of the department of social services, may negotiate with transportation companies or individuals for the transportation of such crippled children whose parents or guardians, after investigations by the department of social services, have been found to be unable to provide for their transportation to and from such public school (excepting those children in institutions in which education is provided), and shall, with the approval of the department of social services, expend the appropriations provided for such purposes."

SECTION 14. Section 37-22, Revised Laws of Hawaii 1955, as amended, is hereby repealed in its entirety.

SECTION 15. Chapter 37, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

**"Sec. 37- . Schools; opening and closing.** The board of education shall have the authority to open new schools or close existing schools."

SECTION 16. Section 38-1, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 38-1. Definition, school.** For the purpose of this part the word "school" includes every school, whether under governmental

supervision or otherwise, except sabbath schools which convene once each week.”

SECTION 17. Section 38-3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 38-3. Principals and Acting Principals.** All public schools shall be presided over by principals or acting principals designated by the department. Principals and acting principals shall meet the department’s certification requirements and shall have served as a teacher for a period of not less than five years of which one year must have been served as a teacher or as an exchange principal in the schools of Hawaii.”

SECTION 18. Section 38-5, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 38-5. Probationary period of employment.** Effective September 1, 1965, all teachers, principals and vice-principals entering the service of the department for the first time shall serve as probationary employees of the department for a minimum period of two consecutive years, provided that such consecutive employment may be interrupted by maternity leave, sick leave, military leave or any other leave approved by the department not exceeding a period of two years, without loss of credit for the period of probationary employment, and provided further that at or prior to the end of two years of probation, the department may extend the probationary period of a teacher, principal or vice-principal for additional periods not to exceed a total of five years. Any full-time intern teaching period served in the State shall also be credited toward fulfillment of the probationary period. Any annual contract with any teacher, principal or vice-principal during this probationary period of employment may or may not be renewed as the department shall determine. The department may, during such probationary period, discharge or demote a teacher, principal or vice-principal. Teachers, principals and vice-principals who have been in continuous employment in the public schools of Hawaii for a period of two years prior to September 1, 1965, shall be deemed to have completed their probationary period. Teachers, principals and vice-principals who have entered their probationary period prior to September 1, 1965, but who have not completed such probationary period prior to August 31, 1965, shall be given credit for such prior service in computing their probationary period of employment.”

SECTION 19. Section 38-5.2, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the first sentence and substituting therefor the following sentences:

“**Sec. 38-5.2. Causes for discharge or demotion; preferred eligibility list.**

“Causes for the discharge or demotion of a teacher shall be inefficiency or immorality; wilful violations of policies and regulations of the department of education or for other good and just cause. The department without a hearing may terminate tenure rights of a

teacher who fails to return to service, except when caused by illness, following the expiration of an approved leave of absence.”

**SECTION 20.** Section 38-6, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“**Sec. 38-6. Teachers; qualifications; certificates.** No person shall serve as a teacher in any school without first having obtained a certificate from the department, which certificate shall be issued without cost to the teacher, in such form as the department determines.”

**SECTION 21.** Section 38-9, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

**SECTION 22.** Section 38-12, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 38-12. Age limit.** No teacher or educational officer in the department of education who has attained the age of sixty-five years shall be employed by the department of education, whether by appointment or contract, except when no qualified person is available and then only under contract for periods not to exceed one year at a time. No teacher or educational officer who has attained the age of seventy years shall be on appointment or contract.”

**SECTION 23.** Section 38-20, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 38-20. Sabbatical leaves authorized.** The department of education may grant a year's or six months' sabbatical leave of absence to any teacher or educational officer who has served seven years in the public schools of the State, such teacher or educational officer to be guaranteed a return to his or an equivalent position at the expiration of the leave. In granting sabbatical leaves, the department of education shall consider, but shall not be limited to, the following: (a) the nature and length of professional educational course work, research, or other professional activity approved by the department; and

(b) applicant's seniority; provided that seniority shall not be the dominant factor in granting sabbatical leaves.”

**SECTION 24.** Section 38-21, Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting for the words “teacher,” “teachers,” or “superintendent of public instruction,” wherever they appear in the section, the words “teacher or educational officer” or “teachers or educational officers,” or “superintendent of education.”

**SECTION 25.** Section 38-22, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By amending the first two sentences thereof to read as follows:

“A teacher or educational officer on sabbatical leave shall devote one-half of his total leave to professional educational course work,

research, or other professional activity approved by the department. The department shall establish guidelines and criteria of professional educational course work, research, or other professional activity.”

(b) By substituting for the word “teacher” or “teacher’s,” wherever they appear therein, the words “teacher or educational officer” or “teacher’s or educational officer’s.”

**SECTION 26.** Section 38-38, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**“Sec. 38-38. Evaluation of teachers and educational officers.** The department shall establish an evaluation program for all teachers and educational officers. Such evaluation shall be performed at least once in each school year. The program shall define the criteria for evaluation and assign responsibilities for the application of such criteria. The evaluation of a teacher or educational officer shall be on the basis of efficiency, ability and such other criteria as the department shall determine.”

**SECTION 27.** Section 40-2, Revised Laws of Hawaii 1955, is hereby amended by adding after the words “kindergarten schools,” the words “schools or classes for pregrade education.”

**SECTION 28.** Section 40-3, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

**SECTION 29.** Section 40-4, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second paragraph thereof to read as follows:

“No child shall attend any kindergarten unless he will be at least five years of age on or before December thirty-first of the school year; provided that a child attending a school which convenes after the regular school schedule shall be five years of age on or before one hundred twenty-five days following the date such school shall convene; and provided further that the department of education shall establish procedures and criteria to determine the psychological and physiological readiness of children for kindergarten and shall grant an exception in the case of a child who is found to be ready.”

**SECTION 30.** Section 40-5, Revised Laws of Hawaii 1955, is hereby amended by amending the first paragraph to read as follows:

**“Sec. 40-5. Public schools special fees.** No equipment, material or other fees shall be assessed against any pupil in any elementary school, except that the department may assess and collect special fees from pupils who negligently break, damage, lose or destroy equipment and supplies. Such fees shall be deposited in a separate fund and expended by the department under such rules and regulations as it may prescribe.”

**SECTION 31.** Section 40-8, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the first paragraph thereof to read as follows:

“Except as authorized by section 40-4, no child shall attend any

public school unless he will be at least six years of age on or before December thirty-first of the school year; provided that a child attending a school which convenes after the regular school schedule shall be six years of age on or before one hundred twenty-five days following the date such school shall convene; and provided further that the department of education shall establish procedures and criteria to determine the psychological and physiological readiness of children for public school and shall grant an exception in the case of a child who is found to be ready."

**SECTION 32.** Section 40-9, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the word "sixteen" appearing in the sixth line thereof and substituting therefor the word "eighteen," and by adding at the end of the section a new paragraph, to be designated "(g)", to read as follows:

"(g) Where a child has graduated from a high school or vocational school."

This section shall take effect September 1, 1966:

**SECTION 33.** Section 40-11, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By deleting the first paragraph in its entirety;

(b) By deleting the word "dropped" wherever it appears and substituting in lieu thereof the words "precluded from attending school;" and

(c) By amending the second paragraph thereof to read as follows:

"If for any reason a child becomes a detriment to the morals or discipline of any school, such child may be precluded from attending school by the principal with the approval of the district superintendent. The department shall seek the active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of such child to the superintendent of education within ten days from the date of such action."

**SECTION 34.** Section 40-13, Revised Laws of Hawaii 1955, is hereby amended by amending the first sentence to read as follows:

"The department shall be charged with the enforcement of sections 40-9 to 40-12."

**SECTION 35.** The second paragraph of section 40-19, Revised Laws of Hawaii 1955, is hereby deleted in its entirety.

**SECTION 36.** The second paragraph of section 40-20, Revised Laws of Hawaii 1955, is hereby deleted in its entirety.

**SECTION 37.** Sections 40-21, 40-22, and 40-23, Revised Laws of Hawaii 1955, are hereby repealed in their entirety.

**SECTION 38.** Section 42-2, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 42-2. Department may prescribe courses. The department

may prescribe the manner and designate the places in which agricultural, domestic arts and industrial courses shall be conducted, and determine the extent to which they shall be followed, either generally or to suit particular cases."

**SECTION 39.** Sections 42-3 and 42-4, Revised Laws of Hawaii 1955, are hereby repealed in their entirety.

**SECTION 40.** Subsection 42-31 (c), Revised Laws of Hawaii 1955, is hereby amended by deleting the words "who declares the Territory as his residence and" appearing in the fourth and fifth lines of said paragraph.

**SECTION 41.** Chapter 14A, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By amending section 14A-17 by adding in the second paragraph after the words "library services," the words "transcribing services for the blind," and by adding in the fourth paragraph after the words "Maui county library" the words ", and the transcribing services program of the bureau of sight conservation and work with the blind;" and

(b) By amending section 14A-19 by adding in the last paragraph after the words "work with the blind" the words "(except for the transcription services program transferred to the department of education)."

**SECTION 42.** Section 42-50 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by inserting the clause "including correspondence schools located within the state" between the words "nature" and "except" appearing in the first paragraph.

**SECTION 43.** Chapter 42 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new part, to be designated Part V, the sections of which shall be appropriately numbered, to read as follows:

**"PART V  
LICENSING OF AGENTS REPRESENTING PRIVATE  
SCHOOLS OR PRIVATE CORRESPONDENCE SCHOOLS**

**Sec. 42 . Definitions.** As used in this part only:

(a) 'Correspondence school' shall mean any privately owned and operated school located within or without the State conducted for the purpose of providing, by correspondence, for a profit or remuneration, systematic instruction in any field of study below the college level, except those that are primarily avocational or religious in nature.

(b) 'Private school' shall mean any privately owned and operated school located without the State conducted for the purpose of providing systematic instruction in any field or fields of study below the college level for profit or remuneration.

(c) The term 'course' means private correspondence course, plan or any program of instruction except those that are primarily religious or avocational in nature.



(d) 'Agent' shall mean any person, including but not limited to field representatives, field officers, supervisors or district representatives, who solicits students to attend private schools on the mainland United States or to take any private correspondence courses within or without the State.

(e) 'Licensed correspondence school' or 'licensed school' is one that is licensed by the proper officials in the State where the school is located.

**Sec. 42 . Publicizing of instruction.** No agent shall:

(a) Make, or cause to be made any statement, or representation, oral, written or visual, in connection with the offering or publicizing of a course, if such person knows or reasonably should have known the statement or representation to be false, deceptive, substantially inaccurate or misleading.

(b) Promise or guarantee employment utilizing information, training or skill purported to be provided or otherwise enhanced by a course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a period of not less than ninety days in a business or other enterprise regularly conducted by him and in which such information, training or skill is a normal condition of employment.

(c) Do any act constituting part of the conduct or administration of a course, or the obtaining of students thereof, if such person knows or reasonably should know that any phase or incident of the conduct or administration of the course is being carried on by the use of fraud, deception or other misrepresentation, or by any person soliciting students without a license.

(d) Do any act which is contrary to the trade practice rules for private home study schools as approved by the federal trade commission, November 2, 1936, and official amendments to these rules.

**Sec. 42 . Solicitation of students.** No agent representing any private school or correspondence school shall solicit students or sell any course in this State for profit or remuneration unless:

(a) He first obtains a license from the department; and

(b) He files and makes payable to the department a surety bond in the sum of One Thousand Dollars (\$1,000); such bond shall be conditioned to provide indemnification to any student suffering loss as a result of fraud or misrepresentation used in procuring his enrollment. The bond must be renewed annually if it is for less than a year.

Application for license shall be made on forms to be furnished by the department and shall be accompanied by a license fee of \$5.00 made payable to the department. The license shall be valid for one year from the date of issuance, unless it is revoked, cancelled or suspended for good cause after written notice and hearing is granted to the licensee, and must be renewed annually upon payment of \$5.00 renewal fee.

Upon granting the license, the department shall issue a card to the person giving his name and address, the name and address of the

school that he represents, and certifying that the person whose name appears on the card is an authorized agent of the school. If the person represents more than one school, he shall obtain a separate license and shall receive a separate card for each school that he represents upon payment of a separate license or renewal fee. A license shall not be transferable and shall be returned to the department when the agent ceases to represent the school.

**Sec. 42 . Qualifications for licensing.** In addition to other requirements of licensing, no license shall be issued to any person unless he meets the following:

(a) That he is twenty years of age or older.

(b) That he is of good moral character and has a good reputation for honesty, truthfulness, and fair dealing.

(c) That he has been authorized to represent a private school or a private correspondence school which is licensed by the proper officials in the State where the private school or correspondence school is located. Such licensing does not accredit courses offered as valid for transfer to any other school or college in Hawaii.

(d) That the department review and approve the contract the school proposes to use in enrolling students from Hawaii.

**Sec. 42 . Temporary license.** Any application for license shall be granted or denied within fifteen days of the receipt of the application by the department. If the department has not completed its determination with respect to the issuance of a license within fifteen days, it shall issue a temporary license to the applicant, which license shall be sufficient to meet the requirements of this Act until such time as such determination is made.

**Sec. 42 . Revocation, cancellation or suspension of licenses.** The department may revoke, cancel or suspend any license issued for violating any one of the provisions of this Act or of any department regulations.

**Sec. 42 . Powers of the department.** The department may adopt reasonable rules and regulations relating to the implementation and enforcement of the provisions of this Act. The department may require agents to furnish such information and reports, from time to time, as the department shall deem necessary and proper, in the manner and on forms prescribed by the department.

**Sec. 42 . Penalty.** Any violation of the provisions of this part, or the rules and regulations adopted pursuant thereto, shall be a misdemeanor and the violator shall be fined not more than \$500 or imprisoned not more than ninety days, or both such fine and imprisonment."

**SECTION 44.** Section 43-26, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

**SECTION 45.** Section 44-17, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By deleting in its entirety the next to the last sentence

beginning with the words "The department of public instruction" in the section; and

(b) By adding at the end thereof a new paragraph to read as follows:

"There is hereby created an advisory committee to be known as the Teacher Education Coordinating Committee to identify, study, take action or make recommendations on matters of education of common interest to the department of education and institutions of higher learning in Hawaii. The membership of the committee shall include the superintendent of education and the dean of the college of education of the University of Hawaii, who shall serve in alternate years as chairman of the committee with the superintendent acting as the first chairman. The membership of the committee shall include a representative of each accredited teacher training institution in Hawaii. In addition, the superintendent of education and the dean of the college of education of the University of Hawaii may each appoint other members to the committee; provided that the dean of the college of education of the University of Hawaii shall appoint at least two members of the committee from the University of Hawaii who are not within the college of education. The committee shall meet at least twelve times within any fiscal year to (1) work out problems related to the development of strong teacher training programs at accredited institutions of higher learning in Hawaii, and (2) to identify, study, and discuss educational problems or other educational matters of interest to the committee and to develop findings and make recommendations for the improvement of education in Hawaii. The committee shall submit an annual report on its activities to the legislature and may include therein recommendations for legislative consideration."

**SECTION 46.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of this Act and each and every other provision thereof shall not be affected thereby.

**SECTION 47.** This Act shall take effect upon its approval; except that section 32 of this Act shall take effect on September 1, 1966.

(Approved June 24, 1965.) **H.B. 49.**