

ACT 272

H.B. NO. 3657

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that reforming Hawaii's public education system is no easy task. For years, the board of education, the department of education, and the legislature have struggled to effect changes to the public education system to ensure the delivery of meaningful educational services and improve student achievement. While many of those efforts have resulted in bold and innovative initiatives such as school/community-based management (SCBM), progress in realizing school empowerment has been slow, as decision-makers have been too immersed in differences on conceptual and jurisdictional issues. It is clear, however, that all stakeholders agree that the focus must be on school empowerment and that any meaningful reform will require restructuring from the bottom up with emphasis on the individual school as the basic management unit of the educational system. Students must be the focal point and government agencies the supporting framework for the schools. Schools must be empowered by providing the necessary authority, resources, and flexibility so that the school's primary focus is on delivering instructional services.

Systemic reform cannot and will not be achieved overnight. Hawaii's top-down, tri-level school management system has been in place for decades. It is a statewide system that encompasses school districts and school complexes within districts that are distinctly different and are progressing at varied speeds toward SCBM. Restructuring must be viewed as a gradual process with changes occurring on a continuum culminating with schools fully functioning as independent learning units.

To set the reform effort in motion, this Act provides for two constitutional amendments to address the continuing debate on educational governance regarding the roles of the board of education and the superintendent of education. The first amendment will allow the people to decide whether the public schools should be governed by an elected or appointed board of education. The second amendment will propose changing the board of education's role to a statewide educational policy-making body which appoints the superintendent of education as the chief executive office of the public school system. The legislature believes that ratification of these amendments will provide a clear public mandate, the clout that is necessary to proceed.

This Act then directs the department of education to commence restructuring and provides for the downsizing of the state and district offices and curriculum decision-making at the school level. It is the intent of the legislature that this restructuring effort shall be undertaken within existing resources and will allow for greater administrative support to the schools. Additionally, a restructuring commission is established to assist the department in addressing implementation issues and to monitor the department's progress in deployment of personnel and reallocation of resources. The commission will also develop transitional plans for the transfer of other education-related functions currently administered by other state agencies. The legislature believes the restructuring commission's composition and duties are in line with and will enable the State to receive federal funds from the Goals 2000: Educate America Act recently adopted by the U.S. Congress and signed into law by the President.

The current budget format of the public education system has obscured funding decisions concerning individual schools. Under this structure, the division of funds among the schools has been an administrative process, outside of public view and beyond public control. Funds are dissipated in a burgeoning administrative bureaucracy, and there is no clear accounting of how much money actually reaches the schools for instruction and activities that directly affect students and learning. As the movement to decentralize takes hold, the state and district offices need to change from its managerial role to one that supports, facilitates, and monitors school level activities. The schools must assume control of personnel and fiscal resources to determine the curriculum and instructional needs of their students. Through this Act, the roles and responsibilities of the board of education, the department of education, and the school principals are more clearly defined. The board of education is entrusted with developing statewide educational policy for our public school system. The superintendent of education and the department of education are responsible for the administrative functions of the public school system, and the school principals are responsible for developing and providing instructional services at the schools. Increased control of resources is also provided through extending budget flexibility provisions such as carry-over of unexpended funds and creation of temporary positions, and a new provision directing the reallocation of resources from the state and district offices to the school-level is aimed at providing even greater support for our schools.

Finally, this Act builds upon the legislature's past systemic reform efforts, such as SCBM, that enable schools to become more autonomous and, in turn, directly responsible for educational outcomes. For schools which have successfully implemented school/community-based management and seek further autonomy, this Act allows school staff and parents in collaboration to establish student-centered schools as individual learning units within the public school system.

PART I. APPOINTED BOARD OF EDUCATION

SECTION 2. Article X, section 2, of the Constitution of the State of Hawaii is amended to read as follows:

"BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be [elected in a nonpartisan manner by qualified voters, as provided by law,] appointed by the governor and confirmed by the senate, as provided by law. [from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district.] The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the board of education be appointed by the governor and confirmed by the senate, and its composition determined by law?"

SECTION 4. Section 11-157, Hawaii Revised Statutes, is amended to read as follows:

“§11-157 In case of tie. In case of the failure of an election by reason of the equality of vote between two or more candidates, the tie shall be decided by the chief election officer or county clerk in the case of county elections in accordance with the following procedure:

- (1) In the case of an election involving a seat for the senate, house of representatives, [board of education,] or county council where only voters within a specified district are allowed to cast a vote, the winner shall be declared as follows:
 - (A) For each precinct in the affected district, an election rate point shall be calculated by dividing the total number of registered voters in that precinct by the total number of registered voters in the district. For the purpose of this subparagraph, the absentee votes cast for the affected district shall be treated as a precinct. The election rate point shall be calculated by dividing the total absentee votes cast for the affected district by the total number of registered voters in that district. All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.
 - (B) The candidate with the highest number of votes in a precinct shall be allocated the election rate point calculated under subparagraph (A) for that precinct. In the event that two or more persons are tied in receiving the highest number of votes for that precinct, the election rate point shall be equally apportioned among those candidates involved in that precinct tie.
 - (C) After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as provided in subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the highest election rate point total shall be declared the winner.
 - (D) If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from the greatest number of precincts shall be declared the winner.
- (2) In the case of an election involving a federal office or an elective office where the voters in the entire State or in an entire county are allowed to cast a vote, the winner shall be declared as follows:
 - (A) For each representative district in the State or county, as the case may be, an election rate point shall be calculated by dividing the total number of registered voters in that representative district by the total number of registered voters in the State, county¹ or federal office district, as the case may be; provided that for purposes of this subparagraph:
 - (i) The absentee votes cast for a statewide, countywide, or federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total absentee votes cast for the statewide, countywide, or federal office by the total number of registered voters in the State, county, or federal office district, as the case may be.

- (ii) The overseas votes cast for any election in the State for a federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total number of overseas votes cast for the affected federal office by the total number of registered voters in the affected federal office district. The term "overseas votes" means those votes cast by absentee ballots for a presidential election as provided in section 15-3.

All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.

- (B) The candidate with the highest number of votes in a representative district shall be allocated the election rate point calculated under subparagraph (A) for that district. In the event that two or more persons are tied in receiving the highest number of votes for that district, the election rate point shall be equally apportioned among those candidates involved in that district tie.
- (C) After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as prescribed in¹ subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the highest¹ election rate point total shall be declared the winner.
- (D) If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from the greatest number of¹ districts shall be declared the winner."

SECTION 5. Section 11-205, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No political party shall make contributions to a candidate in any calendar year in an aggregate amount greater than the following percentages of the expenditure limit for each respective office:

- (1) For the office of governor — twenty per cent of the expenditure limit;
- (2) For the office of lieutenant governor — twenty per cent of the expenditure limit;
- (3) For the offices of mayor and prosecuting attorney — twenty per cent of the expenditure limit;
- (4) For the offices of state senator and county council member — thirty per cent of the expenditure limit;
- (5) For the office of state representative — forty per cent of the expenditure limit; and
- (6) For [the offices of the board of education and] all other offices — forty per cent of the expenditure limit."

SECTION 6. Section 11-209, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total

expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures made or authorized by the candidate alone and all campaign treasurers and committees in the candidate's behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote in each respective voting district:

- (1) For the office of governor — \$1.25;
- (2) For the office of lieutenant governor — 70 cents;
- (3) For the office of mayor — \$1;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney — 70 cents; and
- (5) For [the offices of the board of education and] all other offices — 10 cents."

SECTION 7. Section 11-218, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the office of state senator, state representative, county council member, prosecuting attorney, [board of education,] and all other offices, the maximum amount of public funds available to a candidate shall not exceed \$100 in any election year."

SECTION 8. Section 11-221, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The maximum amount of public funds available to candidates for the office of state senator, state representative, county council member, prosecuting attorney, [board of education,] and all other offices shall not exceed \$50 for any primary, special primary, or general election."

SECTION 9. Section 12-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Nomination papers for candidates for members of Congress, governor, and lieutenant governor[, and the board of education] shall be signed by not less than twenty-five registered voters of the State or of the Congressional district [or school board district] from which the candidates are running in the case of candidates for the United States House of Representatives[or for the board of education]."

SECTION 10. Section 21F-8, Hawaii Revised Statutes, is amended to read as follows:

"**[[§21F-8]] Agencies to cooperate.** All departments, agencies, and education institutions of the executive and judicial branches, the office of Hawaiian affairs, and the University of Hawaii shall comply with requests of the office of the legislative analyst for information, data, estimates, and statistics on the funding, revenue, operations, and other affairs of the department, agency, education institution, the office of Hawaiian affairs, or University of Hawaii. The comptroller,¹ director of finance, the director of taxation, the administrative director of the courts, the administrator of the office of Hawaiian affairs, the board of education and the superintendent of education, and the president of the University

of Hawaii shall provide the office of the legislative analyst with full and free access to information, data, estimates, and statistics in the possession of their respective departments on the state budget, revenue, expenditures, and tax revenue and expenditures.”

SECTION 11. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “elective officers, elective officials” to read as follows:

““Elective officers, elective officials”: any person elected to a public office, except as a delegate to a constitutional convention[, a member of the board of education] or trustee of the office of Hawaiian affairs, in accordance with an election duly held in the State or counties under chapter 11[;] or appointed as a member of the board of education; provided that the person receives compensation, pay, or salary for such office.”

SECTION 12. Chapter 13, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 17-6, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 296-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a principal executive department to be known as the department of education which shall be headed by an [elected] executive appointed board to be known as the board of education. The board shall have power in accordance with law to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of education[.] and to establish plans, procedures, processes, and standards of accountability for budgetary implementation in a manner consistent with general law. The board shall consist of fifteen members to be appointed as follows:

- (1) Each school advisory council shall submit a list of three nominees who are residents of the council’s geographic region and the governor shall select one member from each such list to serve a two-year term;
- (2) The governor shall appoint the remaining eight members, for four-year terms, with at least one member from each of the following school/community-based management participant groups:
 - (A) One parent of a public school student;
 - (B) One representative of the community;
 - (C) One teacher/instructional staff member of a public school;
 - (D) One school administrator of a public school;
 - (E) One support staff member of a public school; and
 - (F) One at-large member;

and

- (3) One student to be appointed by the state student council.

A vacancy occurring in the membership of the board during a term shall be filled for the unexpired term thereof, subject to Article V, section 6, of the Constitution of the State; provided that the governor shall appoint a member from the same category as the member being replaced. No person shall be appointed consecutively to more than two terms as a member of the same board.”

PART II. POLICY-MAKING BOARD OF EDUCATION

SECTION 15. Article X, section 3, of the Constitution of the State of Hawaii is amended to read as follows:

“POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, as provided by law, to formulate statewide educational policy [and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.] and appoint the superintendent of education as the chief executive officer of the public school system.”

SECTION 16. The question to be printed on the ballot shall be as follows:

“Shall the board of education’s powers be limited to formulating statewide educational policy, as provided by law, and appointing the superintendent of education as the chief executive officer?”

SECTION 17. Section 296-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a principal executive department to be known as the department of education which shall be headed by an elected [executive] policy-making board to be known as the board of education. The board shall have power in accordance with law to formulate statewide educational policy, adopt student performance standards and assessment models, monitor school success, and to [exercise control over the public school system through its executive officer,] appoint the superintendent of education[.] as the chief executive officer of the public school system.”

SECTION 18. Section 296-11, Hawaii Revised Statutes, is amended to read as follows:

“§296-11 Duties of superintendent. (a) Under policies established by the board [of education], the superintendent of education shall be designated as the chief executive officer of the public school system having jurisdiction over the internal organization, operation, and management of the public school system, as provided by law; and shall administer programs of education and public instruction throughout the State, including education at the preschool, primary, and secondary school levels, [health education and instruction,] and such other programs as may be established by law.

(b) Except as otherwise provided, the superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts, or other documents of the department. The superintendent may use a printed facsimile signature in approving appointments, contracts, and other documents. The superintendent shall, at such time as may be prescribed by the board, present to the board full annual reports of the principal transactions within the department during the last completed year, which reports together with such recommendations as the board may think proper, shall be presented to the governor and the legislature.”

PART III. DEPARTMENT RESTRUCTURING

SECTION 19. Chapter 296, Hawaii Revised Statutes, is amended by amending the chapter title to read as follows:

“CHAPTER 296 [DEPARTMENT OF EDUCATION] PUBLIC EDUCATION”

SECTION 20. Chapter 296, Hawaii Revised Statutes, is amended by adding seven new sections to be appropriately designated and to read as follows:

“§296- Department of education; statewide and regional administrative services. The department of education shall serve as the central support system responsible for the overall administration of statewide educational policy, interpretation and development of standards for compliance with state and federal laws, and coordination and preparation of a systemwide budget for the public schools. The department may establish regional administrative units to provide administrative support to the schools for personnel, fiscal, and procurement services. The regional administrative units may also be assigned responsibility for the administration and operation of special education programs and special schools.

§296- Principal; authority and responsibility. The role of the principal shall include but not be limited to overseeing the day-to-day management of the school, the primary function of which is to develop and deliver instructional services to students in accordance with statewide educational policy and standards. The principal shall ensure that the curriculum facilitates the achievement of the statewide student performance standards adopted for the public school system.

§296- Learning support centers. (a) For the purposes of this part, “school complex” means a grouping of schools established by the department of education for instructional, administrative, and organizational purposes; and “regional administrative unit” means a grouping of complexes established by the department for administrative support and organizational purposes.

(b) Beginning with the 1995-1996 school year and until June 30, 1999, school level support for curriculum and instruction shall be provided through learning support centers to be governed by schools within each complex. The centers shall assist school personnel in the delivery of instructional services by providing support through curriculum development, student assessment, staff development, and resource allocation. The types of services offered and the manner in which such services are provided by the centers, as well as the prioritization and allocation of available resources shall be determined by policies established by each complex. Any regional administrative units established by the department shall be assigned all administrative functions and provide administrative support to the learning support centers.

§296- School system financial structure. (a) The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:

“Administrative expenses” means those state, district, or other regional administrative unit expenditures pertaining to:

- (1) Business services;
- (2) Personnel services;
- (3) Compliance with laws and rules;
- (4) Facilities planning;
- (5) Telecommunications and information system services;
- (6) Planning and evaluation;
- (7) Communications and public relations;
- (8) Administration of state, regional, and district offices; and
- (9) Other state, district, and regional functions.

"Instructional expenses" means those expenses pertaining to:

- (1) The operation and maintenance of school facilities;
- (2) School instructional personnel;
- (3) School food services;
- (4) School-based health services;
- (5) After-school care;
- (6) Learning support centers;
- (7) Curriculum development;
- (8) Training of instructional personnel and non-instructional school staff;
- (9) Diagnostic services;
- (10) School administration;
- (11) School safety and security services; and
- (12) Other such expenses incurred in the delivery of instruction at the school and complex level.

(b) Beginning with the 1995-1997 fiscal biennium, the department's operating budget for the public school system shall separate administrative from instructional expenses and shall be submitted to the governor pursuant to chapter 37; provided that the department's administrative expenditures shall not exceed 6.5 per cent of the total department operating budget unless approved by the legislature.

(c) The department shall not transfer any funds from instructional expenditure categories for administrative expenditures, except for unforeseeable circumstances that pose a threat to the health and safety of personnel and students, and subject to approval by the governor and notification to the legislature.

§296- School-based budget flexibility. For the purposes of this section, "school-based budget flexibility" means an operating budget preparation and allocation process which shall provide maximum flexibility to individual schools, complexes, and learning support centers in the preparation and execution of their operating budgets. Beginning with the 1995-1997 fiscal biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers.

§296- Statewide performance standards. (a) The board of education shall establish statewide performance standards and the means to assess the standards based upon the recommendations in the final report of the performance standards commission established pursuant to Act 334, Session Laws of Hawaii 1991; provided that the board may review and modify the performance standards, as the board deems necessary, to reflect the needs of public school students and educational goals adopted by the board.

(b) The board shall submit to the legislature, twenty days prior to the convening of the regular session of 1995, a report which contains the performance standards and a plan for their implementation at both the state and school levels.

(c) The board shall appoint a performance standards review commission, to be convened at the beginning of the 1997-1998 school year, and every four years thereafter, to assess the effectiveness of the performance standards. The commission shall include representatives of the Hawaii state parent, teacher, student association; the Hawaii state student council; the superintendent of education; the dean of the college of education of the University of Hawaii; the Hawaii state school/community-based management review panel; and the professional education community. The commission may request the assistance of such department or school staff as may be necessary to facilitate its review.

(d) The commission shall review the implementation of the performance standards by the board and the schools to determine whether the standards should be modified. In making such determination, the commission shall seek public input by holding public forums to discuss the implementation and effectiveness of the performance standards. The commission shall submit a report of its findings and recommendations regarding the effectiveness and the need for modification of the standards to the board and the legislature prior to the convening of the 1999 regular session. The board shall consider and implement such modifications beginning with the 1999-2000 school year.

§296- Articulation agreement with the University of Hawaii; enrollment. The department, in consultation with, and the concurrence of the University of Hawaii, shall establish rules to permit qualified students to enroll in any vocational or academic courses offered by the University of Hawaii system, provided that such courses are applicable to the department's graduation requirements or otherwise permitted by the department's rules or policies."

SECTION 21. Chapter 296, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART STUDENT-CENTERED SCHOOLS

§296-¹ The legislature finds that individual public schools need the flexibility to develop and implement innovative programs and administrative frameworks which best serve the needs of their students. The purpose of this part is to authorize individual schools to implement alternative administrative and instructional programs. All public schools may use any available resources to achieve the purposes of this part; provided that no full-time personnel employed at the school shall be laid off. All full-time personnel who desire not to be a part of the student-centered school program shall receive priority status for transfer to schools in the community.

§296- Student-centered schools; programs and administration. (a) For the purposes of this section, "student-centered schools" means the implementation of alternative frameworks with regard to curriculum; facilities management; instructional approach; length of the school day, week, or year; and personnel management. Any public school, up to a total of twenty-five schools, may establish a student-centered school; provided that:

- (1) Any public school which establishes a student-centered school shall be exempt from all applicable state laws; except those regarding:
 - (A) Collective bargaining under chapter 89, provided that the exclusive representatives and the employers defined in chapter

89 may enter into agreements which contain cost and noncost items to facilitate decentralized decision-making;

- (B) State procurement laws; and
- (C) Religious, racial, or sexual bias, and health and safety requirements;

- (2) The school establishes a local school board as its governing body composed of, at a minimum, one representative from the following participant groups:

- (A) Principals;
- (B) Instructional staff members selected by the school instructional staff;
- (C) Support staff selected by the support staff of the school;
- (D) Parents of students attending the school selected by the parents of the school;
- (E) Student body representatives selected by the students of the school; and
- (F) The community at-large selected by the board;

- (3) The local school board may formulate school-based educational policy and goals in accordance with statewide educational performance standards, adopt school performance standards and assessment mechanisms, monitor school success, and may select the principal as the chief executive officer of the school in accordance with chapter 89. The principal shall consult and work collaboratively with the local school board and have jurisdiction over the internal organization, operation, and management of the school;

- (4) The local school board has developed a detailed implementation plan containing the elements prescribed under subsection (b) for a student-centered school that has been approved by three-fifths of the school's administrative, support, and teaching personnel, and parents; provided that the school personnel may request their bargaining unit representatives to certify and conduct the elections for their respective bargaining units;

- (5) The detailed implementation plan has been submitted to the board of education for review;

- (6) The detailed implementation plan assures compliance with statewide student performance standards; and

- (7) All student-centered schools shall not charge tuition.

(b) The detailed implementation plan for the student-centered school shall include but not be limited to the following:

- (1) A description of the administrative and educational framework;
- (2) Specific student outcomes to be achieved;
- (3) The curriculum, instructional framework, and assessment mechanisms to be used to achieve student outcomes;
- (4) Governance structure of the school;
- (5) Facilities management plan; and
- (6) Annual financial and program audits.

(c) The board of education shall review the proposed student-centered school plan to assure that it complies with statewide educational performance standards. Unless the board finds that the plan conflicts with statewide educational performance standards, the plan shall become effective within thirty days after its submission. In the event the board of education finds a conflict with statewide educational performance standards, it shall notify the local school board of such

finding in writing to enable the local school board to appropriately amend the plan to resolve the conflict.

(d) Student-centered schools shall receive an allocation of state general funds on a per student basis which is equal to the statewide per pupil expenditure for average daily attendance; provided that the allocation for self-contained special education students and for other special education students shall be adjusted appropriately to reflect the additional expenses incurred for the students in these programs.

(e) All federal and other financial support for student-centered schools shall be equal to all other public schools; provided that if administrative services are provided to the school by the department, the school shall reimburse the department for the actual costs of such administrative services in an amount that does not exceed 6.5 per cent of the school's allocation. Any student-centered school shall be eligible to receive any financial grant or award for which any other public school may submit a proposal. All additional funds that are generated by the local school board shall be considered supplementary and may be expended at the discretion of the local school board.

(f) The department of education shall require every student-centered school to conduct self-evaluations annually. The self-evaluation process shall include but not be limited to the following:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs as provided in this part; and
- (2) The impact upon the students of the student-centered school.

The department of education shall evaluate each student-centered school four years after its establishment to assure compliance with the statewide student performance standards. Upon a determination by the board that student achievement within a student-centered school does not meet the student performance standards, the board, upon a two-thirds majority vote, may deny the continuation of the student-centered school."

SECTION 22. Section 37-41.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any appropriation retained in accordance with this section may be used by the department of education [to supplement the appropriation for any program for which the department of education is responsible;] only for instructional purposes at the schools, complexes, or learning support centers, provided that the retention of an appropriation shall not be used as a basis for reducing the department's future budget requests unless the department requests such a reduction."

SECTION 23. Section 89-10.6, Hawaii Revised Statutes, is amended to read as follows:

"**[§89-10.6] School/community-based management waiver.** A school or a learning support center participating in the school/community-based management program shall have the authority to initiate a waiver from policies, rules, or procedures, including collective bargaining agreements, as provided for in section 296C-4."

SECTION 24. Section 296-15.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) To promote decentralization and facilitate restructuring of the department, the [board] department of education [may], without regard to the position variance requirements of the department of budget and finance[:], may:

- (1) Reallocate existing vacant positions throughout the department;
- (2) Directly authorize and implement internal reorganization actions;
- (3) Reassign employee duties;
- (4) Authorize position classifications; and
- (5) Conduct recruitment[:].

provided that any action taken pursuant to this section shall be to redirect resources from the state and district offices to the individual schools and learning support centers.”

SECTION 25. Section 296-92, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~296-92] **Educational assessment and accountability; annual reports.** (a) The [board] department of education shall submit to the legislature and to the governor, at least twenty days prior to the convening of each regular legislative session, an educational status report which shall include[,] but not be limited to[,], the following:

- (1) Results of school-by-school assessments of educational outcomes, including reference to such student performance standards and school-by-school assessment models as may be developed by the commission on performance standards and adopted by the board;
- (2) Summaries of school improvement plans;
- (3) Summary descriptions of the demographic makeup of the schools, with indications of the range of such conditions among schools within Hawaii;
- (4) Comparisons of conditions affecting Hawaii’s schools with those of schools in other states;
- (5) Summaries of the resource allocations and expenditures under the control of the schools;] and
- (6) (5) Other such assessments as may be deemed appropriate by the board.

(b) The department of education shall provide electronic access to computer-based financial management, student information, and other information systems to the legislature and the auditor. The auditor shall submit to the legislature and the governor, at least twenty days prior to the convening of each legislative session, a fiscal accountability report which shall include but not be limited to the following:

- (1) The financial analysis of expenditures by the department with respect to the following areas:
 - (A) Administration;
 - (B) Facilities and operations;
 - (C) Teacher support and development;
 - (D) Pupil support;
 - (E) Instructional support; and
 - (F) Classroom instruction;

and

- (2) The measures of accuracy, efficiency, and productivity of the department, districts, and schools in delivering resources to the classroom and the student.”

SECTION 26. Section 296C-2, Hawaii Revised Statutes, is amended to read as follows:

"[**§296C-2**] **Mandate to initiate school/community-based management system.** The department of education through the board of education and its superintendent shall formulate policies, including criteria and procedures to determine which schools and learning support centers shall participate in the system, to initiate a school/community-based management system in the public schools. The board of education shall appoint a representative selection panel to recommend which schools and learning support centers should be selected. For purposes of this chapter, the term "school/community-based management system" shall mean a method of educational management which diffuses educational decision-making to involve or secure the input of those directly affected by the decision to be made at the school level, and encourages school initiated methods for achieving educational goals established statewide by the board."

SECTION 27. Section 296C-4, Hawaii Revised Statutes, is amended to read as follows:

"[**§296C-4**] **Waiver of policy, rule, or procedures.** Any state agency that may be required to act under state law on a matter affecting an individual school [and], its school community, or a learning support center shall waive otherwise applicable policies, rules, or procedures when requested to do so by a school or a learning support center participating in the school/community-based management system unless an agency can within thirty days justify a denial to the appropriate authority. The board of education shall adopt procedures necessary to process waivers initiated by schools or learning support centers subject to the school/community-based management system. This section shall apply to collective bargaining agreements as provided for in all relevant collective bargaining agreements negotiated pursuant to chapter 89."

SECTION 28. Restructuring mandate. (a) Effective September 1, 1994, any provisions of chapters 89 and 37, to the contrary notwithstanding, the superintendent shall initiate the equitable reallocation of no less than twenty per cent of the state and district office personnel/positions, along with related expenses, to the learning support centers and shall complete this reallocation by August 31, 1995.

(b) Effective September 1, 1995, any provisions of chapters 89 and 37, to the contrary notwithstanding, the superintendent shall initiate the equitable reallocation of no less than twenty per cent of the remaining state and district office personnel/positions, along with related expenses, to the learning support centers and shall complete this reallocation by August 31, 1996.

(c) The department shall not replace positions and funds transferred pursuant to this section, and the complexes, through the learning support centers, shall determine how the positions and funds are to be used.

(d) The department shall submit to the legislature a status report outlining the specific reallocation of personnel and positions to the learning support centers no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 29. There is established the Hawaii education restructuring commission to be administratively attached to the board of education, for the

purpose of ensuring, to the extent possible, compliance with the federal Goals 2000: Educate America Act, and to monitor the implementation of the restructuring of the public education system as provided by this Act. The commission may engage consultants necessary to assist in the performance of its duties, subject to the availability of funds under the federal Goals 2000: Educate America Act. The commission shall be composed of members as provided by the federal Goals 2000: Educate America Act.

To the extent possible, the appointing entities shall seek to provide the broadest base of representation in their appointments, and at least one member shall be a resident of each of the counties. The commission members shall not receive compensation for their services, but shall be reimbursed for necessary expenses from existing department appropriations, including travel expenses incurred in the performance of their duties under this Act. All appointments to the commission shall be made within ninety days after the effective date of this Act.

Staff from the department of education and other such agencies as the commission deems necessary, may be temporarily reassigned to the commission to facilitate this Act. The board of education, the superintendent, all executive agencies, and the legislature shall support the activities of the commission and facilitate efforts to achieve the objectives of this Act.

The commission shall monitor and facilitate the restructuring of the public school system pursuant to this Act to ensure an orderly transition from the existing organization to the new structure. The commission shall:

- (1) Monitor the progress of the restructuring effort to ensure that the current system is being converted in accordance with the goal of empowering the schools to become independent learning units;
- (2) Develop performance standards for department administrative and support staff;
- (3) Review all statutes related to the public education system for the purposes of amending, consolidating, and repealing any laws which impede the proposed restructuring plan;
- (4) Review all related state functions and programs, such as the public library system, school health services, personnel administration, procurement, facilities repair and maintenance, transportation services, and risk management to ascertain:
 - (A) Which of such functions and programs should be transferred to the public education system to empower the public school system to make decisions on auxiliary matters that directly impact the delivery of programs and services to students;
 - (B) Where in the restructured organization should the responsibilities for such transferred functions and programs be placed;
 - (C) A timeline for the orderly transfer of such functions and programs to the public school system; and
 - (D) The degree of autonomy in other areas, such as fiscal policy, which should be given to the board of education vis-a-vis the implementation of the department's restructuring and the proposed transfers of other state programs and functions, to proceed with systemic education reform.

The commission shall submit a report on the progress of the restructuring effort pursuant to this Act which shall include findings and recommendations resulting from the review of all education statutes prior to the convening of the 1995 regular session. The commission shall submit a report of findings and recommendations regarding the transfer of other state functions and programs prior

to the convening of the 1996 regular session. The commission's proposals for transferring other state functions and programs shall be subject to approval and modification by the legislature. Upon receiving legislative approval, the transfer of functions and programs shall be executed as follows:

- (1) The transfer of the programs and functions within the department of personnel services shall be implemented by the 1996-1997 fiscal year;
- (2) The transfer of the programs and functions within the department of accounting and general services and the department of budget and finance shall be implemented by the 1997-1998 fiscal year; and
- (3) The transfer of other relevant functions to provide a restructured fiscal system shall be implemented by the 1998-1999 fiscal year.

SECTION 30. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- Center for teacher education; university-school partnerships. (a) Reforms to the public school system cannot succeed without concomitant reforms to the manner in which teachers are educated. The purpose of this section is to create a link between the public schools and university teacher education programs to ensure that teacher education is focused on the needs of the diverse student populations found within the public school system.

(b) There is established a center for teacher education within the University of Hawaii. The center, in collaboration with the board of education, shall:

- (1) Continually review the system of educating teachers for the purpose of redesigning the teacher education program of the college of education so that it is responsive to the needs of the public school system in Hawaii;
- (2) Develop innovative strategies to effectuate the changes in the teacher education program at the school level; and
- (3) Where appropriate, establish university-school partnerships as the mechanisms by which to implement the innovative strategies developed by the center.

The center shall submit prior to the convening of each regular session of the legislature a report to the board of regents, the board of education, and the legislature outlining its progress in redesigning the teacher education program and the initiation of any university-school partnerships."

PART IV. MISCELLANEOUS PROVISIONS

SECTION 31. (a) Upon approval by the board of public broadcasting and the board of regents of the University of Hawaii, the Hawaii public broadcasting authority and the University of Hawaii shall work together, with the support of the department of budget and finance as appropriate, to transfer the Hawaii interactive television system program from the Hawaii public broadcasting authority to the University of Hawaii.

(b) No officer or employee upon the transfer of functions by this Act, shall suffer any loss of salary, vacation, or sick leave or other employee benefits as a consequence of this action.

SECTION 32. Section 36-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the treasury of the State the state educational facilities improvement special fund, into which shall be deposited a portion of all general excise tax revenues collected by the department of taxation under section 237-31. The special fund shall be used solely to plan, design, acquire lands[,] for and to construct[,] public school facilities and to provide equipment[,] and¹ technology infrastructure to¹ improve public schools and other facilities under the jurisdiction of the department of education, except public libraries. In addition, activities of the department of education intended to eliminate the gap between the facility needs of schools and available resources shall be eligible for funding from the special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature and shall be subject to sections 37-31, and 37-33 through 37-40. Appropriations or authorizations from the special fund shall be expended by the comptroller.”

SECTION 33. Act 334, Session Laws of Hawaii 1991, is amended by amending section 2 to read as follows:

“SECTION 2. There is established a commission for performance standards. The commission shall be placed within the department of education for administrative purposes, in accordance with section 26-35, Hawaii Revised Statutes. [The commission shall set the performance standards of achievement expected of students in public schools and the means to assess educational achievement.]”

SECTION 34. Act 364, Session Laws of Hawaii 1993, is amended as follows:

1. By amending section 26 to read:

“SECTION 26. The superintendent of education shall prepare a facilities improvement master plan outlining the specific actions, including a timetable and desired funding, that the department of education shall take to close the gap between the current need for facilities construction and improvement, as identified by the department of education, and the current funding available for that purpose. The plan shall link the planned department actions to the funding anticipated from the state educational facilities improvement special fund.

The plan shall include, but not be limited to:

- (1) Actions that will add to present funding for facilities, including earmarking tax increases for education, reviewing current impact fee guidelines, and making more efficient use of capital improvement projects funding;
- (2) Actions that will reduce capital improvement project design and construction costs, including using standardized design, constructing less than fifty-year life buildings, reviewing use of air-conditioning, utilizing turn-key contracts, issuing design-construct bids, and sharing infrastructure costs with counties;
- (3) Proposals to revise program guidelines, including reducing class size, changing existing space requirements, double-shifting kindergarten classes, building larger schools, and reviewing supplementary pull-out programs;
- (4) Proposals to maximize the use of existing facilities, including promoting multi-track, year-round schools, promoting a longer school

day, redistricting students outside their normal school area, taking administrative functions out of classroom space, and using other non-school space within the community; and

- (5) Consideration of the capacity of the construction industry in Hawaii to carry out proposed projects.

The superintendent of education shall submit an interim plan with its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 1994[.] and a final implementation plan no later than twenty days prior to the convening of the regular session of 1995."

2. By amending section 31 to read:

"SECTION 31. This Act shall take effect upon its approval; provided that sections 27 and 28 shall take effect on July 1, 1993; and provided further that the provisions of section 11 concerning pay adjustments and the provisions of section 13 concerning reallocation of vacant positions shall be repealed on June 30, [1995] 1997."

SECTION 35. (a) The auditor shall conduct evaluations of public school programs and their administration and financial audits of the accounts and transactions of the public school system, including the board of education, the department of education, and the individual public schools. The auditor shall submit an annual report to the legislature on its findings and recommendations and any other reports the auditor deems necessary.

(b) The auditor shall also provide assistance to the legislature in following up on any findings and recommendations related to educational accountability and auditing.

SECTION 36. No officer or employee of the State, except for superintendents, subordinate superintendents, and other employees serving at the pleasure of the board of Education, shall suffer any involuntary loss of employment, tenure or regular civil service status, classification, salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of department of education reorganization, or the implementation of Project Ke Au Hou, or other transitional plans developed by the restructuring commission as a consequence of this Act. Such officer or employee may be transferred or appointed without the necessity of civil service examination, provided that the officer or employee possesses the qualifications for the position to which transferred or appointed.

All officers and employees whose functions are transferred by this Act from another state agency to the department of education shall be transferred with their functions.

In the event that an office or position held by an officer or employee having regular status or tenure is abolished as a consequence of this Act, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible.

SECTION 37. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the

extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 38. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 39. Constitutional and statutory material to be repealed is bracketed. New constitutional and statutory material is underscored.²

SECTION 40. This Act shall take effect upon its approval, provided that:

- (1) The amendments proposed in Section 2 to Article X, Section 2, and in Section 15 to Article X, Section 3 of the Constitution of the State of Hawaii shall take effect upon compliance with Article XVII, Section 3 of the Constitution of the State of Hawaii;
- (2) Sections 4 to 14 shall take effect upon ratification of the constitutional amendment proposed in Section 2 to Article X, Section 2 of the Constitution of the State of Hawaii; and
- (3) Sections 17 and 18 shall take effect upon ratification of the constitutional amendment proposed in Section 15 to Article X, Section 3 of the Constitution of the State of Hawaii.

(Approved July 5, 1994.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.