



GOV. MSG. NO. 865

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1329 SD2 HD2 CD1

On July 15, 2009, Senate Bill No. 1329, entitled "A Bill for an Act Relating to Early Learning" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to amend the structure and duties of the Early Learning Council and the early learning system by: (1) authorizing members of the Early Learning Council to assign a designee to represent them on the Council; (2) adding a representative from a Head Start provider agency to serve as a member of the Council; (3) directing the Council to develop a plan to address the operations of the junior kindergarten program, (4) prohibiting the Department of Education from moving a child between junior kindergarten and kindergarten unless they use an assessment tool to determine the placement, and (5) renaming the Keiki First Steps Trust Fund as the Early Learning Trust Fund.

This bill presents policy concerns that will adversely impact the delivery of education to the children in our State. First, the legislation further blurs the relationship and responsibilities of the Department of Education over the junior kindergarten program. The bill is prescriptive in what the Department of Education can and can not do in operating its junior kindergarten and kindergarten programs. For example, it expressly prohibits the Department of Education from moving a student between junior kindergarten and kindergarten, except after a detailed assessment is conducted using an evaluation system to be developed by the Early Learning Council.

The bill also continues the presumption that the State should continue to develop an early childhood learning program that operates outside of the purview of the Department of Human Services. The powers vested in the Early Learning Council could adversely impact the ability of

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the Department of Human Services to license, fund, regulate, and terminate early childhood education programs as provided for in Chapter 346, Hawaii Revised Statutes.

Last year I warned of the indeterminate costs to fully implement an early learning system. Since Act 14 became law, the State's fiscal outlook has worsened and it is difficult to foresee how the State could support a program with a projected implementation cost ranging from \$144 million to \$170 million.

The Department of Education has raised concerns about its ability to administratively support the continued operation of the Council. The Department of Education's 2009 report to the Legislature on the Early Learning Council states, "The progress report from the Early Learning Council indicates that the Council must explore options for its continued work, beyond June 30, 2009, as the funding has been eliminated from the Department of Education budget. Without future funding, it will be challenging to secure the staff to ensure the smooth operations of the Council."

Additionally, this bill fails to recognize the substantial progress my Administration has made in early learning. The Department of Human Services has worked closely with the preschool community of providers to adopt preschool content standards, improve teacher qualifications, and add slots for low-income children who could not previously attend preschool.

I will continue to support expanded early learning opportunities for children through the Quality Care Program administered by the Department of Human Services. I am particularly proud of the fact that this program has enabled over 2,000 additional disadvantaged children to attend preschool. This legislation, regrettably, does not build upon that progress.

For the foregoing reasons, I allowed Senate Bill No. 1329 to become law as Act 194, effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda Lingle', written in a cursive style.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO EARLY LEARNING.

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

- 1 SECTION 1. The purpose of this Act is to improve early
2 learning by:
- 3 (1) Requiring the department of education, beginning with
4 the 2010-2011 school year, to use successful
5 assessment tools and protocols for determining a
6 student's initial placement and for decision making
7 about a student's movement between junior
8 kindergarten, kindergarten, and into grade one; and
- 9 (2) Clarifying provisions of the early learning system,
10 established by Act 14, Special Session Laws of Hawaii
11 2008, including requiring development of a plan to
12 ensure the needs of junior kindergarteners are
13 addressed, authorizing designees for all members of
14 the early learning council, and changing the name of
15 the keiki first steps trust fund to the early learning
16 trust fund.



1 SECTION 2. Section 302A-411, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The department shall establish a two-tier junior
4 kindergarten and kindergarten program to support the range of
5 developmental abilities of children in junior kindergarten and
6 kindergarten. ~~[Any school may]~~ Schools shall not move students
7 between junior kindergarten and kindergarten ~~[as the school~~
8 ~~deems appropriate. Junior kindergarten students may graduate~~
9 ~~directly to grade one.]~~, except in cases where the movement is
10 warranted and based on appropriate assessments determined by:

11 (1) A qualified teacher with early childhood education
12 background or experience; and

13 (2) The formative and summative assessment of a student's
14 academic, physical, social, and emotional abilities,

15 provided that, beginning with the 2010-2011 school year, the
16 department shall use successful assessment tools and protocols
17 for determining a student's initial placement and for decision
18 making about a student's movement between tiers and into grade
19 one. Junior kindergarten students may graduate directly to
20 grade one when promotion is based on appropriate assessments and
21 other progress data collected over time."

1 SECTION 3. Section 302L-3, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) There is established an early learning council which
4 shall be attached to the department of education for
5 administrative purposes only, notwithstanding any other law to
6 the contrary. To the extent permissible by law, the council
7 shall develop and administer the early learning system
8 established in section 302L-2 to benefit all children throughout
9 the State, from birth until the time they enter kindergarten.
10 In developing the early learning system, the council shall,
11 among other things:

- 12 (1) Establish policies and procedures governing its
13 operations;
- 14 (2) Develop a plan, with goals and objectives, for the
15 early learning system, including the development,
16 execution, and monitoring of a phased implementation
17 plan;
- 18 (3) Coordinate, improve, and expand upon existing early
19 learning programs and services for children from birth
20 until the time they enter kindergarten;
- 21 (4) Establish policies and procedures to include existing
22 early learning programs and services;



- 1 (5) Establish additional early learning programs and
2 services;
- 3 (6) Establish policies and procedures governing the
4 inclusion of children with special needs;
- 5 (7) Develop incentives to enhance the quality of programs
6 and services within the early learning system;
- 7 (8) Coordinate efforts to develop a highly-qualified,
8 stable, and diverse workforce, including:
 - 9 (A) Ensuring that more early childhood educators and
10 administrators, existing or potential, have
11 opportunities to receive early childhood
12 education degrees, including offering higher
13 education scholarships;
 - 14 (B) Increasing the availability of early childhood
15 education coursework, including distance learning
16 courses and community-based early childhood
17 education training;
 - 18 (C) Providing access to continuing professional
19 development for all educators and administrators;
 - 20 (D) Establishing a system for awarding appropriate
21 credentials to educators and administrators, as
22 incentives to improve the quality of programs and



1 services, relevant to the various early learning
2 approaches, service deliveries, and settings,
3 such as for experience or coursework or degrees
4 completed;

5 (E) Providing consultation on the social-emotional
6 development of children; and

7 (F) Providing substitute teacher allowances;

8 (9) Develop and implement methods of maximizing the
9 involvement of families, caregivers, and teachers in
10 the early learning system;

11 (10) Develop an effective, comprehensive, and integrated
12 system to provide training and technical support to
13 programs and services within the early learning
14 system;

15 (11) Develop standards of accountability to ensure that
16 high-quality early learning experiences are provided
17 by programs and services of the early learning system;

18 (12) Collect, interpret, and release data relating to early
19 learning in the State;

20 (13) Recommend the appropriate proportion of state funds
21 that should be distributed to programs and services
22 across the early learning system, to ensure the most

1 effective and efficient allocation of fiscal resources
2 within the early learning system;

3 (14) Develop a plan to ensure that the needs of junior
4 kindergarteners are addressed, including:

5 (A) Recommending an appropriate and effective
6 curriculum;

7 (B) Establishing criteria for junior kindergarten
8 teachers and aides;

9 (C) Incorporating Hawaii's preschool content
10 standards for junior kindergarteners; and

11 (D) Recommending an effective transition from the
12 early learning system to kindergarten;

13 [~~14~~] (15) Promote awareness of early learning
14 opportunities to families and the general public; and

15 [~~15~~] (16) Consult with community groups, including
16 statewide organizations that are involved in early
17 learning professional development, policy and
18 advocacy, and early childhood programs, to broaden the
19 council's knowledge of early learning.

20 (b) The council shall consist of the following voting

21 members:



- 1 (1) The superintendent of education or the
2 superintendent's designee;
- 3 (2) The director of human services or the director's
4 designee;
- 5 (3) The director of health or the director's designee;
- 6 (4) The president of the University of Hawaii or the
7 president's designee;
- 8 (5) A representative of center-based program providers[+] or the representative's designee;
- 9
- 10 (6) A representative of family child care program
11 providers[+] or the representative's designee;
- 12 (7) A representative of family-child interaction learning
13 program providers[+] or the representative's designee;
- 14 (8) A representative of philanthropic organizations that
15 support early learning[+and] or the representative's
16 designee;
- 17 (9) A representative from a Head Start provider agency or
18 the representative's designee; and
- 19 [+9] (10) Two representatives of the Hawaii Council of
20 Mayors[-] or each representative's respective
21 designee.



1 The council shall invite the director of the Hawaii head
2 start state collaboration office, the chief executive officer of
3 the Kamehameha Schools, and the executive director of the Hawaii
4 Association of Independent Schools, or their designees, to serve
5 as voting members of the council.

6 Except for the superintendent of education, directors of
7 state departments, president of the University of Hawaii,
8 director of the Hawaii head start state collaboration office,
9 chief executive officer of the Kamehameha Schools, executive
10 director of the Hawaii Association of Independent Schools, and
11 the two representatives of the Hawaii Council of Mayors, or
12 their respective designees, the members shall be nominated and,
13 by and with the advice and consent of the senate, appointed by
14 the governor."

15 SECTION 4. Section 302L-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+] §302L-5 [+] [~~Keiki first steps~~] Early learning trust
18 fund. There is established within the state treasury the [~~keiki~~
19 ~~first steps~~] early learning trust fund, to be administered by
20 the early learning council, into which shall be deposited all
21 moneys received by the council in the form of:

- 22 (1) Fees;



- 1 (2) Grants;
- 2 (3) Donations;
- 3 (4) Appropriations made by the legislature to the fund;
- 4 and
- 5 (5) Revenues regardless of their source,
- 6 and earnings on moneys in the fund. Moneys in the fund shall be
- 7 used for the early learning system. Expenditures from the fund
- 8 may be made by the council without appropriation or allotment."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII