

JAN 26 2011

S.B. NO. 1461

A BILL FOR AN ACT

RELATING TO SCHOOL CHOICE SCHOLARSHIP PROGRAM.

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

1 SECTION 1. The legislature believes that parents are best
2 equipped to make decisions for their children, including the
3 educational setting that will best serve their children's
4 interests and educational needs. Furthermore, it is in the
5 public interest that all students of this State receive a
6 competent education in order to reach their potential and become
7 productive members of society. For many families in the State,
8 available educational choices are inadequate, and more
9 educational options are needed. In particular, funds are needed
10 to assist low-income parents to exercise choice among enhanced
11 educational environments.

12 While some public schools are performing at a satisfactory
13 level, many public schools in this State are performing
14 significantly below relevant national standards, which is
15 causing many students to exit the primary and secondary
16 educational system without the basic skills and knowledge that
17 will enable them to find and hold a job or otherwise become
18 functioning and productive residents of the State.



1 There are many nonpublic schools in Hawaii that are
2 educating students in an effective and efficient manner,
3 however, these educational options are unavailable to many
4 residents due to the cost of enrollment. Yet, students at these
5 nonpublic schools are receiving a quality of education that is
6 at or above the relevant national standards. This quality of
7 education should be accessible to all primary and secondary
8 students in the State. Additionally, these nonpublic schools
9 should enjoy a cooperative relationship with the public school
10 system and employees of the State.

11 This legislature acknowledges that a program enacted for
12 the valid secular purpose of providing educational assistance to
13 low-income children in a demonstrably failing public school
14 system is constitutional under *Zelman v. Simmons-Harris*, 536
15 U.S. 639 (2002), if it is neutral with respect to religion and
16 provides assistance to a broad class of citizens who direct
17 government aid to religious and secular schools solely as a
18 result of their genuine and independent private choices.

19 The purpose of this Act is to offer families an educational
20 choice through the provision of funds for nonpublic school
21 tuition and fees. This program will assist students in their
22 endeavors to become well-educated and productive members of



1 society. The provisions of this Act are in the public interest,
2 for the public benefit, and serve a secular public purpose.

3 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . SCHOOL CHOICE SCHOLARSHIP

7 §302A-A Definitions. For the purposes of this section:

8 "Board" means the board of education.

9 "Department" means the department of education.

10 "Elementary school" means an institutional day or
11 residential school, including a public elementary charter
12 school, or private school, of secular or non-secular nature,
13 that provides elementary education, including kindergarten, as
14 determined under State law.

15 "Eligible entity" or "entity" means any of the following:

16 (A) An educational entity of the State.

17 (B) A nonprofit organization.

18 (C) A consortium of nonprofit organizations.

19 "Eligible student" means a student who:

20 (A) is a resident of the State; and



1 (B) comes from a household whose income does not
2 exceed an amount that is four times the federal
3 poverty line.

4 "Grantee" means an eligible entity that receives a grant.

5 "Parent" means biological or adoptive mother or father, or
6 a legal guardian or other person standing in loco parentis, such
7 as a grandparent or stepparent with whom the child lives, or a
8 person who is legally responsible for the child's welfare.

9 "Poverty line" means the poverty line as defined by the
10 U.S. Office of Management and Budget, and revised annually in
11 accordance with 42 U.S.C. § 9902(2).

12 "Secondary school" means an institutional day or
13 residential school, including a public secondary charter school
14 or private school, of secular or non-secular nature, as
15 determined under State law, except that the term does not
16 include any education beyond grade twelve.

17 **§302A-B General authority.** (a) Funds shall be
18 appropriated to the department to carry out this part. From
19 those funds, the board shall award grants on a competitive basis
20 to eligible entities with approved applications under section
21 302A-C to carry out activities to provide eligible students with
22 expanded school choice opportunities. The board may award a



1 single grant or multiple grants, depending on the quality of
2 applications submitted and the priorities of this part.

3 (b) The board may make grants under this section for a
4 period of not more than 5 years.

5 (c) The board and the governor shall enter into a
6 memorandum of understanding regarding the design of, selection
7 of eligible entities to receive grants under, and implementation
8 of, a program assisted under this part.

9 **§302A-C Applications.** (a) In order to receive a grant
10 under this part, an eligible entity shall submit an application
11 for grant to the board at such time, in such manner, and
12 accompanied by such information as the board may require.

13 (b) The board may not approve the request of an eligible
14 entity for a grant under this part unless the entity's
15 application includes a detailed description of following:

16 (1) How the entity will address the priorities described
17 in section 302A-D;

18 (2) How the entity will ensure that if more eligible
19 students seek admission in the program than the
20 program can accommodate, eligible students are
21 selected for admission through a random selection



1 process which gives weight to the priorities described
2 in section 302A-D;

3 (3) How the entity will notify parents of eligible
4 students of the expanded choice opportunities and how
5 the entity will ensure that parents receive sufficient
6 information about their options to allow the parents
7 to make informed decisions;

8 (4) The activities that the entity will carry out to
9 provide parents of eligible students with expanded
10 choice opportunities through the awarding of
11 scholarships under section 302A-E(a);

12 (5) How the entity will determine the amount that will be
13 provided to parents for the tuition, fees, and
14 transportation expenses, if any;

15 (6) How the entity will seek out private elementary
16 schools and secondary schools in the State to
17 participate in the program, and ensure that
18 participating schools meet the applicable requirements
19 of this part, including those related to the admission
20 of participating eligible students, and provide the
21 information needed for the entity to meet the
22 reporting requirements of this part;



1 (7) How the entity will ensure that participating schools
2 are financially responsible and will use the funds
3 received under this part effectively;

4 (8) How the entity will address the renewal of
5 scholarships to participating eligible students,
6 including continued eligibility; and

7 (9) An assurance that the entity will comply with all
8 requests regarding any evaluation carried out under
9 section 302A-G.

10 **§302A-D Priorities.** In awarding grants under this part,
11 the board shall give priority to applications from eligible
12 entities that will most effectively:

13 (1) Give priority to eligible students who, in the school
14 year preceding the school year for which the eligible
15 student is seeking a scholarship, attended an
16 elementary school or secondary school identified for
17 improvement, corrective action, or restructuring under
18 section 1116 of the Elementary and Secondary Education
19 Act of 1965 (20 U.S.C. § 6316);

20 (2) Target resources to students and families that lack
21 the financial resources to take advantage of available
22 educational options; and



1 (3) Provide students and families with the widest range of
2 educational options.

3 **§302A-E Use of funds.** (a) Subject to subsections (b) and
4 (c), a grantee shall use the grant funds to provide eligible
5 students with scholarships to pay the tuition, fees, and
6 transportation expenses, if any, to enable them to attend the
7 nonpublic elementary school or secondary school of their choice.
8 Each grantee shall ensure that the amount of any tuition or fees
9 charged by a school participating in the grantee's program under
10 this part to an eligible student participating in the program
11 does not exceed the amount of tuition or fees that the school
12 customarily charges to students who do not participate in the
13 program.

14 (b) A grantee shall make scholarship payments under this
15 part to the parent of the eligible student participating in the
16 program, in a manner which ensures that such payments will be
17 used for the payment of tuition, fees, and transportation
18 expenses (if any), in accordance with this part.

19 (c) The amount of assistance shall be as follows:

20 (1) Subject to the other requirements of this section, a
21 grantee may award scholarships in larger amounts to
22 those eligible students with the greatest need.



1 (2) The amount of assistance provided to any eligible
2 student by a grantee under this part may not exceed
3 the per student calculation, based upon the weighted
4 student formula set forth in section 302A-1303.6, for
5 any academic year.

6 (d) A grantee may use not more than three percent of the
7 amount provided under the grant each year for the administrative
8 expenses of carrying out its program under this part during the
9 year, including:

- 10 (1) Determining the eligibility of students to
11 participate;
- 12 (2) Providing information about the program and the
13 schools involved to parents of eligible students;
- 14 (3) Selecting students to receive scholarships;
- 15 (4) Determining the amount of scholarships and issuing the
16 scholarships to eligible students;
- 17 (5) Compiling and maintaining financial and programmatic
18 records; and
- 19 (6) Providing funds to assist parents in meeting expenses
20 that might otherwise preclude the participation of
21 their child in the program.



1 §302A-F Nondiscrimination. (a) An eligible entity or a
2 school participating in any program under this part shall not
3 discriminate against program participants or applicants on the
4 basis of race, color, national origin, religion, or sex.

5 (b) Notwithstanding any other provision of law, the
6 prohibition of sex discrimination in subsection (a) shall not
7 apply to a participating school that is operated by, supervised
8 by, controlled by, or connected to a religious organization to
9 the extent that the application of subsection (a) is
10 inconsistent with the religious tenets of the school.

11 (c) Notwithstanding subsection (a) or any other provision
12 of law, a parent may choose and a school may offer a single sex
13 school, class, or activity.

14 (d) Notwithstanding any other provision of law, a school
15 participating in any program under this part that is operated
16 by, supervised by, controlled by, or connected to, a religious
17 organization may exercise its discretion in matters of
18 employment consistent with title VII of the Civil Rights Act of
19 1964, 42 U.S.C. 2000e-1 et seq., including the exemptions in
20 such title.

21 (e) Notwithstanding any other provision of law, funds made
22 available under this part to eligible students that are received



1 by a participating school, as a result of their parents' choice,
2 shall not, consistent with the first amendment of the United
3 States Constitution, necessitate any change in the participating
4 school's teaching mission, require any participating school to
5 remove religious art, icons, scriptures, or other symbols, or
6 preclude any participating school from retaining religious terms
7 in its name, selecting its board members on a religious basis,
8 or including religious references in its mission statements and
9 other chartering or governing documents.

10 (f) A scholarship, or any other form of support provided
11 to parents of eligible students, under this part shall be
12 considered assistance to the student and shall not be considered
13 assistance to the school that enrolls the eligible student. The
14 amount of any scholarship, or other form of support provided to
15 parents of an eligible student, under this part shall not be
16 treated as income of the parents for purposes of State tax laws
17 or for determining eligibility for any other State program.

18 **§302A-G Evaluations.** (a) The board, directly or by
19 grant, contract, or cooperative agreement, shall:

20 (1) Conduct an evaluation using the strongest possible
21 research design for determining the effectiveness of



1 the programs funded under this part that addresses the
2 issues described in subsection (b); and

3 (2) Disseminate information on the impact of the programs
4 in increasing the student academic achievement of
5 participating students, as well as other appropriate
6 measures of student success, and on the impact of the
7 programs on students and schools in the State.

8 (b) The issues set forth in subsection (a) shall include
9 the following:

10 (1) A comparison of the academic achievement of students
11 who participate in the programs funded under this part
12 with the academic achievement of students of similar
13 backgrounds who do not participate in such programs,
14 including a consideration of school factors that may
15 contribute to any differences in their academic
16 achievement;

17 (2) The success of the programs in expanding choice
18 options for parents;

19 (3) The reasons parents choose for their children to
20 participate in the programs;

21 (4) A comparison of the retention rates, dropout rates,
22 and, if appropriate, graduation and college admission



1 rates of students who participate in the programs
2 funded under this part with the retention rates,
3 dropout rates, and, if appropriate, graduation and
4 college admission rates of students of similar
5 backgrounds who do not participate in such programs.

6 (5) The impact of the program on public elementary schools
7 and secondary schools in the State.

8 (6) A comparison of the safety of the schools attended by
9 students who participate in the programs and the
10 schools attended by students who do not participate in
11 the programs.

12 (7) Such other issues as the board considers appropriate
13 for inclusion in the evaluation.

14 (c) The board shall submit the following to the
15 legislature:

16 (1) Annual interim reports not later than December 1 of
17 each year for which a grant is made under this part on
18 the progress and preliminary results of the evaluation
19 of the programs funded under this part; and

20 (2) A final report not later than one year after the final
21 year for which a grant is made under this part on the



1 results of the evaluation of the programs funded under
2 this part.

3 (d) All reports and underlying data gathered pursuant to
4 this section shall be made available to the public upon request,
5 in a timely manner following submission of the applicable report
6 under subsection (c), except that personally identifiable
7 information shall not be disclosed or made available to the
8 public.

9 (e) The amount expended by the board to carry out this
10 section for any fiscal year may not exceed three percent of the
11 total amount appropriated to carry out this part for the year.

12 **§302A-H Reporting requirements.** (a) Each grantee
13 receiving funds under this part during a year shall submit a
14 report to the board not later than July 30 of the following year
15 regarding the activities carried out with the funds during the
16 preceding year.

17 (b) In addition to the reports required under subsection
18 (a), each grantee shall, not later than September 1 of the year
19 during which the second academic year of the grantee's program
20 is completed and each of the next two years thereafter, submit a
21 report to the board regarding the data collected in the previous
22 two academic years concerning:



- 1 (1) The academic achievement of students participating in
2 the program;
- 3 (2) The graduation and college admission rates of students
4 who participate in the program, where appropriate; and
- 5 (3) Parental satisfaction with the program.

6 No report under this subsection may contain any personally
7 identifiable information.

8 (c) Each grantee shall ensure that each school
9 participating in the grantee's program under this part during a
10 year reports at least once during the year to the parents of
11 each of the school's students who are participating in the
12 program on the following matters:

- 13 (1) The student's academic achievement, as measured by a
14 comparison with the aggregate academic achievement of
15 other participating students at the student's school
16 in the same grade or level, as appropriate, and the
17 aggregate academic achievement of the student's peers
18 at the student's school in the same grade or level, as
19 appropriate; and
- 20 (2) The safety of the school, including the incidence of
21 school violence, student suspensions, and student
22 expulsions.



1 No report under this subsection may contain any personally
2 identifiable information, except as to the student who is the
3 subject of the report to that student's parent.

4 (d) The board shall submit to the legislature an annual
5 report on the findings of the reports submitted under this
6 section.

7 **§302A-I Other requirements for participating schools. (a)**

8 Each school participating in a program funded under this part
9 shall comply with all requests for data and information
10 regarding evaluations conducted under section §302A-G.

11 (b) A participating school may require eligible students
12 to abide by any rules of conduct and other requirements
13 applicable to all other students at the school.

14 (c) Each participating school shall:

15 (1) Ensure that participating eligible students receive
16 comparable academic assessments in the same grade
17 levels as those provided to State public school
18 students, and ensure, to the maximum extent possible,
19 that the assessment results are capable of being
20 compared to determine the relative achievement levels
21 between participating eligible students and State
22 public school students in the same grades; and

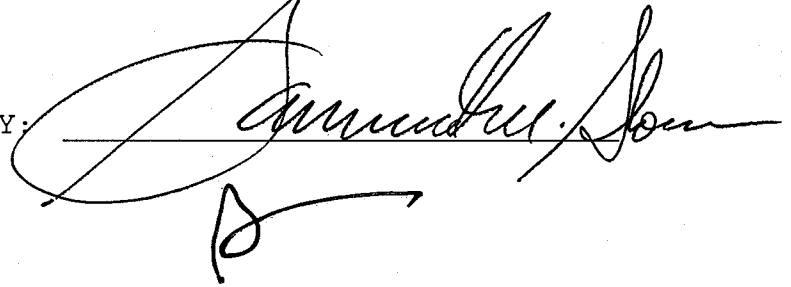


1 (2) Ensure academic assessment results containing any
2 personally identifiable information shall be disclosed
3 only to the parents of the student taking the
4 assessment."

5 SECTION 3. This Act shall take effect upon its approval.

6

INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "Samuel R. Jones". The signature is written over a horizontal line that is part of the "INTRODUCED BY:" text.

Will Zeno



Report Title:

School Choice Scholarship Program

Description:

Provides students access to nonpublic schools through school choice scholarship program, which provides grants to eligible entities to allocate funds to eligible students for enrollment in nonpublic schools based upon financial need.

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

