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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. In 2012, the legislature passed Act 133,  
2 Session Laws of Hawaii 2012, which sought to add clarity to or  
3 resolve conflicting or inconsistent language among different  
4 sections of law and to amend or repeal various sections of  
5 chapter 302A, Hawaii Revised Statutes.

6           The purpose of this Act is to continue to amend or repeal  
7 various sections of chapter 302A, Hawaii Revised Statutes, that:

- 8           (1) Have been accomplished and are no longer necessary;
- 9           (2) Impede rather than assist the department of education  
10           in meeting its core mission;
- 11           (3) Fall under the purview of the board of education, such  
12           as policy, staffing, and programmatic decisions;
- 13           (4) Are mandated by federal law and do not require  
14           codification in state law; or
- 15           (5) Are covered by another section of the Hawaii Revised  
16           Statutes, administrative rules, or board of education  
17           policy.



1 SECTION 2. Section 36-27, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in this section, and  
4 notwithstanding any other law to the contrary, from time to  
5 time, the director of finance, for the purpose of defraying the  
6 prorated estimate of central service expenses of government in  
7 relation to all special funds, except the:

- 8 (1) Special out-of-school time instructional program fund  
9 under section 302A-1310;
- 10 (2) School cafeteria special funds of the department of  
11 education;
- 12 (3) Special funds of the University of Hawaii;
- 13 (4) State educational facilities improvement special fund;
- 14 (5) Convention center enterprise special fund under  
15 section 201B-8;
- 16 (6) Special funds established by section 206E-6;
- 17 (7) Housing loan program revenue bond special fund;
- 18 (8) Housing project bond special fund;
- 19 (9) Aloha Tower fund created by section 206J-17;
- 20 (10) Funds of the employees' retirement system created by  
21 section 88-109;



- 1       (11) Unemployment compensation fund established under
- 2               section 383-121;
- 3       (12) Hawaii hurricane relief fund established under chapter
- 4               431P;
- 5       (13) Hawaii health systems corporation special funds and
- 6               the subaccounts of its regional system boards;
- 7       (14) Tourism special fund established under section 201B-
- 8               11;
- 9       (15) Universal service fund established under section 269-
- 10              42;
- 11       (16) Emergency and budget reserve fund under section 328L-
- 12              3;
- 13       (17) Public schools special fees and charges fund under
- 14              section 302A-1130;
- 15       (18) Sport fish special fund under section 187A-9.5;
- 16       (19) Glass advance disposal fee established by section
- 17              342G-82;
- 18       (20) Center for nursing special fund under section 304A-
- 19              2163;
- 20       (21) Passenger facility charge special fund established by
- 21              section 261-5.5;



- 1 (22) Court interpreting services revolving fund under  
2 section 607-1.5;
- 3 (23) Hawaii cancer research special fund;
- 4 (24) Community health centers special fund;
- 5 (25) Emergency medical services special fund;
- 6 (26) Rental motor vehicle customer facility charge special  
7 fund established under section 261-5.6;
- 8 (27) Shared services technology special fund under section  
9 27-43; [~~and~~]
- 10 (28) Automated victim information and notification system  
11 special fund established under section 353-136[7];
- 12 (29) Hawaii 3R's school repair and maintenance fund under  
13 section 302A-1502.4; and
- 14 (30) After-school plus program revolving fund under section  
15 302A-1149.5,

16 shall deduct five per cent of all receipts of all special funds,  
17 which deduction shall be transferred to the general fund of the  
18 State and become general realizations of the State. All  
19 officers of the State and other persons having power to allocate  
20 or disburse any special funds shall cooperate with the director  
21 in effecting these transfers. To determine the proper revenue  
22 base upon which the central service assessment is to be



1 calculated, the director shall adopt rules pursuant to chapter  
2 91 for the purpose of suspending or limiting the application of  
3 the central service assessment of any fund. No later than  
4 twenty days prior to the convening of each regular session of  
5 the legislature, the director shall report all central service  
6 assessments made during the preceding fiscal year."

7 SECTION 3. Section 36-32, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§36-32 State educational facilities improvement special**  
10 **fund.** (a) There is created in the treasury of the State the  
11 state educational facilities improvement special fund, into  
12 which shall be deposited a portion of all general excise tax  
13 revenues collected by the department of taxation under section  
14 237-31. The special fund shall be used solely to plan, design,  
15 acquire lands for, and to construct public school facilities and  
16 to provide equipment and technology infrastructure to improve  
17 public schools and other facilities under the jurisdiction of  
18 the department of education, except public libraries. In  
19 addition, activities of the department of education intended to  
20 eliminate the gap between the facility needs of schools and  
21 available resources shall be eligible for funding from the  
22 special fund. Expenditures from the special fund shall be



1 limited to projects authorized by the legislature and shall be  
2 subject to sections 37-31, and 37-33 through 37-40.  
3 Appropriations or authorizations from the special fund shall be  
4 expended by the superintendent of education.

5 (b) There is established within the state educational  
6 facilities improvement special fund a separate account, to be  
7 known as the lease payments for schools account, for lease  
8 payments required by financing agreements entered into by the  
9 department of education pursuant to this section and sections  
10 37D-2 and 302A-1506. The lease payments for schools account  
11 shall be funded by legislative appropriations and expended by  
12 the superintendent of education. Expenditures from the lease  
13 payments for schools account shall be exempt from chapters 103  
14 and 103D and are restricted to lease payments on new schools  
15 included within the department of education's current six year  
16 capital improvement programs and for which:

- 17 (1) The legislature adopted a concurrent resolution  
18 directing the department of education to:
- 19 (A) Build a new school in a specific geographic area  
20 using the design-build method; and
  - 21 (B) Pursue the use of a financing agreement to build  
22 the new school; or



1           (2) The legislature appropriated planning and design funds  
2           and specified that the remainder of the costs  
3           necessary to complete the project are eligible for  
4           funding through a financing agreement;  
5           provided that any school to which the legislature has  
6           appropriated planning and design funds prior to July 1, 2007 and  
7           for which a private developer is willing to enter into a lease-  
8           purchase agreement with the department of education within  
9           twelve months of July 1, 2007 is exempt from the requirements of  
10          [+]paragraphs[+] (1) and (2).

11          ~~[(c) The department of education shall submit an annual~~  
12          ~~report to the legislature that shall include a financial~~  
13          ~~statement of the special fund, the lease payments for schools~~  
14          ~~account established under subsection (b), and the status of~~  
15          ~~projects undertaken pursuant to this section, no later than~~  
16          ~~twenty days prior to the convening of each regular session.]"~~

17          SECTION 4. Section 36-36, Hawaii Revised Statutes, is  
18          amended to read as follows:

19          "**§36-36 School physical plant operations and maintenance**  
20          **account; maintenance schedule.** (a) There is created in the  
21          state general fund under EDN 400 (school support) the school  
22          physical plant operations and maintenance account, into which



1 shall be deposited all legislative appropriations to the  
2 account.

3 The moneys in the account shall be used solely for school  
4 repairs and preventive maintenance projects scheduled after  
5 June 30, 2001. Expenditures from the account shall be subject  
6 to sections 37-31 and 37-33 to 37-40. Based on the  
7 prioritization approved by the department of education,  
8 appropriations or authorizations from the account shall be  
9 expended by the superintendent of education.

10 (b) Every school facility newly constructed or renovated  
11 after June 30, 2001, shall include a preventive maintenance  
12 schedule prepared by the architect or engineer of the facility  
13 or the capital improvement project. The maintenance schedule  
14 shall include:

15 (1) A description of each major component of a facility or  
16 capital improvement project and the component's  
17 maintenance;

18 (2) The starting date of each maintenance project;

19 (3) The current, future, and any recurring cost of each  
20 maintenance project;

21 (4) The useful life of the facility or capital improvement  
22 project;





- 1           (5) The present value of the cost of normally scheduled
- 2           maintenance over the useful life of the facility;
- 3           (6) The adjusted life of the facility or capital
- 4           improvement project; and
- 5           (7) The replacement date of the facility or capital
- 6           improvement project.
- 7           (c) Moneys in physical plant operations and maintenance
- 8           account shall be allocated according to departmental school
- 9           districts based on:
- 10           (1) Estimated preventive and scheduled maintenance costs
- 11           that reflect the age and condition of existing school
- 12           facilities in the State in the following categories:
- 13           re-roofing, electrical, athletic facilities, re-
- 14           surfacing, equipment, exterior painting, plumbing,
- 15           structural integrity, termite ground treatment,
- 16           termite tent treatment, interior painting, air
- 17           conditioning change out, and re-carpeting; and
- 18           (2) Budgeted recurring maintenance, health and safety
- 19           requirements, and legal mandates.
- 20           (d) The expenditure of funds made under this Act for any
- 21           project with an estimated total cost of less than \$100,000 shall
- 22           be exempt from section 464-4; provided that:

- 1 (1) The superintendent of education shall develop internal  
2 policies and procedures for the procurement of goods,  
3 services, and construction, consistent with the goals  
4 of public accountability and public procurement  
5 practices, subject to chapter 103D;
- 6 (2) Insofar as is practical, and based on specifications  
7 developed, adequate and reasonable competition of no  
8 fewer than three quotations shall be solicited for  
9 each project based on rules adopted by the  
10 superintendent of education;
- 11 (3) Considering all factors, including quality, warranty,  
12 and delivery, the award shall be made to the vendor  
13 with the most advantageous quotation;
- 14 (4) The procurement requirements shall not be artificially  
15 divided or parceled so as to avoid competitive bidding  
16 or competitive proposals; and
- 17 (5) Formal design for projects shall be done when there is  
18 a clear need to preserve structural integrity, health  
19 and safety, or to clearly communicate construction  
20 requirements.

21 ~~[(c) The superintendent of education shall submit an~~  
22 ~~annual report to the legislature, which shall include a~~



~~1 financial statement of the account and the status of school  
2 repair and preventive maintenance projects undertaken pursuant  
3 to this section, no later than twenty days prior to the  
4 convening of each regular session. The department of education  
5 shall post the following reports electronically on the Internet  
6 and update them quarterly:~~

- ~~7 (1) Expenditures for school repair and preventive  
8 maintenance projects undertaken pursuant to this  
9 section, shall be posted within thirty days of each  
10 project's completion; and  
11 (2) A list of each school's repair and maintenance needs  
12 to be undertaken.] "~~

13 SECTION 5. Section 302A-101, Hawaii Revised Statutes, is  
14 amended by adding three new definitions to be appropriately  
15 inserted and to read as follows:

16 "Attend" or "attendance" means a student is physically  
17 present in school after enrollment.

18 "Enroll" or "enrollment" means a student has met all of the  
19 department's requirements for entrance and is formally put on a  
20 school's roll.

21 "License" means a license issued by the Hawaii teacher  
22 standards board to indicate the subject area and grade level for



1 which a teacher has met all licensure requirements and is  
2 qualified to teach, and that authorizes the licensee to teach in  
3 the State. This definition shall not apply to the term  
4 "license" as it is used in sections 302A-425, 302A-426, and  
5 302A-427."

6 SECTION 6. Section 302A-102, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~§~~302A-102] Smoking prohibited[~~; exception~~]. [~~(a)~~]

9 All public schools within the State, from kindergarten through  
10 grade twelve, shall prohibit the use of tobacco at public  
11 schools or at public school functions.

12 [~~(b) The department shall provide affected public employees~~  
13 ~~with breaks throughout the work day during which they may smoke~~  
14 ~~at locations off campus. The number and duration of such breaks~~  
15 ~~shall be subject to collective bargaining.~~

16 [~~(c) The department shall provide a smoking cessation~~  
17 ~~program for public employees who are interested in~~  
18 ~~participating; provided that issues relating to the costs of the~~  
19 ~~program shall be subject to collective bargaining.~~

20 [~~(d) This section shall not be subject to part II of chapter~~  
21 ~~328K.] "~~



1 SECTION 7. Section 302A-603, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Beginning with the 1997-1998 school year, whoever  
4 serves in the department as a teacher, paid under the salary  
5 schedule contained in the unit 5 collective bargaining  
6 agreement, without holding an unrevoked or unsuspended license  
7 or ~~[credential]~~ certificate issued under sections 302A-801 to  
8 302A-808, shall be fined not more than \$500."

9 SECTION 8. Section 302A-605, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§302A-605 Principals and vice-principals.** ~~[(a)]~~  
12 Principals and vice-principals shall meet the department's  
13 certification requirements ~~[and shall have at least five years~~  
14 ~~of appropriate school level experience, including at least three~~  
15 ~~years as a teacher, or equivalent experience, as determined by~~  
16 ~~the department]~~.

17 ~~[(b) Vice principals shall meet the department's~~  
18 ~~certification requirements and shall have appropriate school-~~  
19 ~~level or equivalent experience, as determined by the department.~~

20 ~~(c) The department shall establish alternative routes to~~  
21 ~~certification for principals and vice principals pursuant to~~  
22 ~~rules adopted under chapter 91.~~



1       ~~(d) For purposes of this section, "alternative routes to~~  
2 ~~certification" has the same meaning as determined by United~~  
3 ~~States Department of Education regulations for state~~  
4 ~~applications for Race to the Top fund allocations under section~~  
5 ~~14001 of the federal American Recovery and Reinvestment Act of~~  
6 ~~2009, as amended.] "~~

7       SECTION 9. Section 302A-1004, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§302A-1004 Educational accountability system; annual**  
10 **reports.** (a) The department shall implement a comprehensive  
11 system of educational accountability to motivate and support the  
12 improved performance of students and the education system. This  
13 accountability system shall:

14       (1) Include student accountability; school or collective  
15 accountability; individual professional accountability  
16 for teachers, principals, and other employees; and  
17 public accounting to parents, community members,  
18 businesses, higher education, media, and political  
19 leadership;

20       (2) Link authority and resources to responsibility;

21       (3) Define clear roles for all parties and lines of  
22 responsibility and mutual obligation and develop a



- 1 collaborative process with stakeholders, including  
2 representatives of appropriate bargaining units,  
3 parents, administration, and students;
- 4 (4) Assess and track measures of academic achievement,  
5 safety and well-being, and civic responsibility of  
6 individual students at selected grade levels and  
7 report trend data on these measures over time  
8 annually;
- 9 (5) Invoke a full and balanced set of appropriate  
10 consequences for observed performance, including  
11 rewards and recognition for those schools that meet or  
12 exceed their goals, assistance to those that fall  
13 short, and sanctions for those that, given adequate  
14 assistance and ample time, continue to fail to meet  
15 goals;
- 16 (6) Involve an annual statewide assessment program that  
17 provides a report card containing trend data on  
18 school, school complex, and system performance at  
19 selected benchmark grade levels with performance  
20 indicators in areas relating to student achievement,  
21 safety and well-being, and civic responsibility.



1           These performance indicators shall include but not be  
2           limited to:

3           (A) Student performance relative to statewide content  
4           and performance standards; and

5           (B) School attendance and dropout rates;

6       (7) Require that teachers and administrators engage in the  
7       continuous professional growth and development that  
8       ensure their currency with respect to disciplinary  
9       content, leadership skill, knowledge, or pedagogical  
10      skill, as appropriate to their position. This  
11      requirement may be established by the department in  
12      terms of credit hours earned or their equivalent in  
13      professional development activity certified by the  
14      department as appropriate in focus and rigor;

15      (8) Establish an explicit link between professional  
16      evaluation results and individual accountability  
17      through professional development of the knowledge,  
18      skill, and professional behavior necessary to the  
19      position, by requiring that results of the  
20      professional evaluation be used by the department to  
21      prescribe professional development focus and content,  
22      as appropriate;





- 1 (9) Include an annual statewide fiscal accountability  
2 program, which includes a published report card that  
3 contains trend data on school, school complex, and  
4 systemwide plans and results, including:
- 5 (A) Amounts allocated;
  - 6 (B) Amounts expended;
  - 7 (C) Amounts carried over; and
  - 8 (D) Any significant changes to the budget, with an  
9 explanation for the change; and
- 10 (10) Include an evaluation of the effectiveness of complex  
11 area superintendents and principals in supporting:
- 12 (A) Students' academic achievement, safety and well-  
13 being, and civic responsibility; [~~and~~]
  - 14 (B) The satisfaction of stakeholders affected by the  
15 work of the complex area superintendents and  
16 principals, which may be measured by broadbased  
17 surveys; and
  - 18 (C) Fiscal accountability.
- 19 ~~[(b) The department shall submit to the legislature, the~~  
20 ~~governor, and the board of education at least twenty days prior~~  
21 ~~to the convening of each regular legislative session a report of~~  
22 ~~the specifics of the implementation of the comprehensive~~



1 ~~accountability system, as well as the fiscal requirements and~~  
2 ~~legislative actions necessary to maintain and improve the~~  
3 ~~accountability system.~~

4 ~~(c) The department shall submit to the legislature and to~~  
5 ~~the governor, at least twenty days prior to the convening of~~  
6 ~~each regular session, an educational status report that includes~~  
7 ~~but is not limited to the following:~~

8 ~~(1) Results of school by school assessments of educational~~  
9 ~~outcomes;~~

10 ~~(2) Summaries of each school's standards implementation~~  
11 ~~design;~~

12 ~~(3) Summary descriptions of the demographic makeup of the~~  
13 ~~schools, with indications of the range of these~~  
14 ~~conditions among schools within Hawaii;~~

15 ~~(4) Comparisons of conditions affecting Hawaii's schools~~  
16 ~~with the conditions of schools in other states;~~

17 ~~(5) Other such assessments as may be deemed appropriate by~~  
18 ~~the board; and~~

19 ~~(6) Any other reports required by this section.~~

20 ~~(d)]~~ (b) The department shall provide electronic access to  
21 computer-based financial management, student information, and  
22 other information systems to the legislature and the auditor.



1 The department shall submit to the legislature and to the  
2 governor, at least twenty days prior to the convening of each  
3 regular session, a school-by-school expenditure report that  
4 includes but is not limited to the following:

5 (1) The financial analysis of expenditures by the  
6 department with respect to the following areas:

7 (A) Instruction, including face-to-face teaching, and  
8 classroom materials;

9 (B) Instructional support, including pupil, teacher,  
10 and program support;

11 (C) Operations, including non-instructional pupil  
12 services, facilities, and business services;

13 (D) Other commitments, including contingencies,  
14 capital improvement projects, out-of-district  
15 obligations, and legal obligations; and

16 (E) Leadership, including school management, program  
17 and operations management, and district  
18 management; and

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



1        [~~e~~] (c) The superintendent of education is responsible  
2 for the development and implementation of an educational  
3 accountability system. The system shall include consequences  
4 and shall be designed through a collaborative process involving  
5 stakeholders that shall include parents, community members, the  
6 respective exclusive representatives, as well as others deemed  
7 appropriate by the superintendent.

8        For the purposes of this section, negotiations under  
9 chapter 89 shall be between the superintendent or the  
10 superintendent's designee and the respective exclusive  
11 representative, and shall be limited to the impact on personnel  
12 arising from the superintendent's decision in implementing the  
13 educational accountability system. After the initial agreement  
14 is negotiated, provisions on the impact of the accountability on  
15 personnel may be reopened only upon mutual agreement of the  
16 parties."

17        SECTION 10. Section 302A-1114, Hawaii Revised Statutes, is  
18 amended to read as follows:

19        "**§302A-1114 Power of appointment, removal.** The  
20 department, from time to time, may appoint and remove such  
21 teachers, educational officers, and other personnel as may be  
22 necessary for carrying out the purposes of sections 302A-201,



1 302A-401 to 302A-410, [~~302A-1001~~] 302A-1002 to 302A-1004, 302A-  
2 1101 to 302A-1122, 302A-1301 to 302A-1305, 302A-1401 to 302A-  
3 1403, and 302A-1503 to 302A-1506, and regulate their duties,  
4 powers, and responsibilities, when not otherwise provided by  
5 law."

6 SECTION 11. Section 302A-1124, Hawaii Revised Statutes, is  
7 amended by amending subsection (e) to read as follows:

8 "(e) Unless otherwise specified, each school community  
9 council shall establish policies governing the council's  
10 composition, election, staggered terms of office for members,  
11 operation, and vacancies; provided that:

12 (1) The number of school personnel [+]on[+] any school  
13 community council shall be equal to the number of  
14 primary stakeholders on the school community council;

15 (2) At the elementary and middle school levels, each  
16 school community council shall be composed of the  
17 principal and at least one member representing each of  
18 the following groups:

19 (A) Parents elected by ballots distributed among and  
20 collected from the parents of the school's  
21 students;



1 (B) Teachers elected by ballots distributed among and  
2 collected from teachers of the school;

3 (C) Noncertificated school personnel elected by  
4 ballots distributed among and collected from  
5 noncertificated personnel of the school; and

6 (D) Community representatives elected by ballots  
7 distributed among and collected from parents of  
8 the school's students; [and

9 ~~(E) Student representatives selected by the student~~  
10 ~~council of the school; and]~~

11 (3) At the elementary and middle school levels, each  
12 school community council may allow for student  
13 representatives selected by the student council of the  
14 school; and

15 [~~3~~] (4) At the high school level, each school community  
16 council shall be composed of the principal and at  
17 least one member representing each of the following  
18 groups:

19 (A) Parents elected by ballots distributed among and  
20 collected from parents of the school's students;

21 (B) Teachers elected by ballots distributed among and  
22 collected from teachers of the school;



1 (C) Noncertificated school personnel elected by  
2 ballots distributed among and collected from  
3 noncertificated personnel of the school;

4 (D) Community representatives elected by ballots  
5 distributed among and collected from the parents  
6 of the school's students; and

7 (E) Student representatives selected by the student  
8 council of the school.

9 For the purposes of this subsection, "primary stakeholders"  
10 means students, parents, and community members."

11 SECTION 12. Section 302A-1145, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§302A-1145[+] **Transfer to another school.** No school  
14 shall receive any child under eighteen years of age, who has  
15 attended another school of the same class in the same district,  
16 unless the child produces to the school to be ~~entered,~~  
17 enrolled, a certificate of release of the school last attended  
18 by the child. If the child applies to attend a school of higher  
19 grade, a certificate of proficiency shall be required or a  
20 lawful excuse for its absence. The children from one ~~district]~~  
21 service area desiring to enter a school in another ~~district]~~  
22 service area may be received or admitted upon producing a



1 certificate of release from the school last attended in the  
2 other district."

3 SECTION 13. Section 302A-1154, Hawaii Revised Statutes, is  
4 amended by amending the title to read as follows:

5 "§302A-1154 Immunization upon ~~entering~~ attending school;  
6 tuberculosis clearance."

7 SECTION 14. Section 302A-1155, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§302A-1155 Provisional ~~entrance~~ attendance to school.

10 (a) A child may ~~enter~~ attend school provisionally upon  
11 submitting written documentation from a licensed physician,  
12 physician assistant, advanced practice registered nurse, or an  
13 authorized representative of the department of health stating  
14 that the child is in the process of receiving the required  
15 immunizations. Further documentation showing that the required  
16 immunizations have been completed shall be submitted to the  
17 appropriate school official no later than three months after the  
18 child first ~~entered~~ attended the school. If all of the  
19 required immunizations cannot be completed within three months  
20 due to the length of the minimum intervals between doses of a  
21 particular vaccine required by the department of health,  
22 provisional ~~admission~~ attendance may be extended so long as





1 the child's parent or guardian provides documentation that  
2 appointments for required immunizations have been made and that  
3 progress toward completing the immunizations continues in  
4 accordance with the requirements of the department of health.

5 (b) Provisional [~~entrance to~~] attendance at school may be  
6 suspended by the department of health when there is danger of an  
7 epidemic from any of the communicable diseases for which  
8 immunization is required."

9 SECTION 15. Section 302A-1159, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§302A-1159 Physical examination required.** No child shall  
12 [~~be admitted to~~] attend any school for the first time in the  
13 State unless the child presents to the appropriate school  
14 official a report from a licensed physician or advanced practice  
15 registered nurse of the results of a physical examination  
16 performed within a year of the date of [~~entry into~~] attendance  
17 at school. A child may [~~enter~~] attend school provisionally upon  
18 submitting written documentation from a licensed physician,  
19 advanced practice registered nurse, or other authorized  
20 representative of the department of health stating that the  
21 child is in the process of undergoing a physical examination.  
22 Further documentation showing that the required physical



1 examination has been completed shall be submitted to the  
2 appropriate school official no later than three months after the  
3 child first [~~entered~~] attended the school."

4 SECTION 16. Section 302A-1161, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§302A-1161 Notification for noncompliance. If a child  
7 does not complete the immunizations required under section 302A-  
8 1154 or the physical examination required under section 302A-  
9 1159 within the period provided by section 302A-1155 after  
10 provisional [~~entry into~~] attendance at school, the administrator  
11 of the school shall cause a notice to be sent to the parent or  
12 guardian of the child stating that if the required immunizations  
13 or physical examination is not completed within thirty days of  
14 the date of the notice, the child shall not be [~~admitted~~]  
15 permitted to attend school."

16 SECTION 17. Section 302A-1301, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§302A-1301 School system financial accountability. (a)  
19 Beginning with the 1995-1997 fiscal biennium, the department's  
20 administrative expenditures shall not exceed 6.5 per cent of the  
21 total department operating budget, excluding expenditures for



1 agencies administratively attached to the department, unless  
2 approved by the legislature.

3 (b) Not less than seventy per cent of appropriations for  
4 the total budget of the department, excluding debt service and  
5 capital improvement programs[7] and appropriations for agencies  
6 administratively attached to the department, shall be expended  
7 by principals."

8 SECTION 18. Section 302A-1312, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§302A-1312 Six-year program and financial plan for school  
11 repair and maintenance. [~~a~~] The department of education  
12 shall prepare a six-year program and financial plan for school  
13 repair and maintenance that shall be:

14 (1) Based on:

15 (A) Estimated preventive and scheduled maintenance  
16 costs;

17 (B) Budgeted recurring maintenance;

18 (C) Health and safety requirements; and

19 (D) Legal mandates;

20 (2) Insofar as is practical, prepared in accordance with  
21 the principles and procedures contained in section

22 514A-83.6 or 514B-148; and



1           (3) Submitted initially to the legislature not less than  
2           thirty days prior to the convening of the 2002 regular  
3           session, with annual funding requirements for the  
4           physical plant operations and maintenance account  
5           submitted not less than thirty days prior to the  
6           convening of the 2002 regular session and each regular  
7           session thereafter;

8           provided that the governor may incorporate the six-year program  
9           and financial plan required by this subsection into the six-year  
10          program and financial plan required by section 37-69, if the  
11          plan required by this subsection is incorporated without  
12          reductions or restrictions.

13          ~~[(b) The department of education shall develop and~~  
14          ~~maintain a facilities physical analysis report and a facilities~~  
15          ~~financial analysis report for each public school. These reports~~  
16          ~~shall be posted electronically on the Internet.~~

17          ~~(e) For the purposes of this section, the superintendent~~  
18          ~~of education shall develop and implement appropriate planning~~  
19          ~~procedures and follow up accountability reports to ensure sound~~  
20          ~~planning, control, and accountability in the use of moneys~~  
21          ~~allocated by the legislature. The department of education shall~~  
22          ~~submit an annual report to the legislature that shall include:~~



- 1       ~~(1) List of projects initiated by the department of~~  
2           ~~education, and~~
- 3       ~~(2) List of projects completed with associated actual~~  
4           ~~cost.] "~~

5           SECTION 19. Section 302A-1504.5, Hawaii Revised Statutes,  
6 is amended by amending subsection (a) to read as follows:

7           "(a) There is established within the state treasury a  
8 special fund to be known as the school-level minor repairs and  
9 maintenance special fund, into which shall be deposited all  
10 moneys collected pursuant to section 235-102.5(b), and any other  
11 moneys received by the department in the form of grants and  
12 donations for school-level minor repairs and maintenance. The  
13 special fund shall be administered by the department and used to  
14 fund school-level minor repairs and maintenance. The department  
15 shall transfer moneys collected pursuant to section 235-  
16 102.5(b), and any other moneys received in the form of grants  
17 and donations for school-level minor repairs and maintenance, to  
18 the Hawaii 3R's school repair and maintenance fund established  
19 pursuant to section 302A-1502.4."

20           SECTION 20. Section 302A-601.5, Hawaii Revised Statutes,  
21 is repealed.



1           ~~["§302A-601.5] Employees of the department of education~~  
2 ~~and teacher trainees in any public school; criminal history~~  
3 ~~record checks. (a) The department of education, including the~~  
4 ~~Hawaii state public library system, shall develop procedures for~~  
5 ~~obtaining verifiable information regarding the criminal history~~  
6 ~~of persons who are employed or seeking employment in any~~  
7 ~~position, including teacher trainees, that places them in close~~  
8 ~~proximity to children. These procedures shall include criminal~~  
9 ~~history record checks in accordance with section 846-2.7.~~

10           ~~Information obtained pursuant to this subsection shall be~~  
11 ~~used exclusively by the employer or prospective employer for the~~  
12 ~~purpose of determining whether a person is suitable for working~~  
13 ~~in close proximity to children. All such decisions shall be~~  
14 ~~subject to applicable federal laws and regulations currently or~~  
15 ~~hereafter in effect.~~

16           ~~(b) The employer or prospective employer may refuse to~~  
17 ~~employ, and may:~~

18           ~~(1) Refuse to issue a teaching or other educational~~  
19 ~~certificate;~~

20           ~~(2) Revoke the teaching or other educational certificate;~~

21           ~~(3) Refuse to allow or continue to allow teacher training;~~

22           ~~or~~



1       ~~(4) Terminate the employment of any employee or deny~~  
2           ~~employment to an applicant,~~  
3       ~~if the person has been convicted of a crime, and if the employer~~  
4       ~~or prospective employer finds by reason of the nature and~~  
5       ~~circumstances of the crime that the person poses a risk to the~~  
6       ~~health, safety, or well being of children. Refusal, revocation,~~  
7       ~~or termination may occur only after appropriate investigation~~  
8       ~~and notification to the employee or applicant for employment of~~  
9       ~~results and planned action, and after the employee or applicant~~  
10       ~~for employment is given an opportunity to meet and rebut the~~  
11       ~~finding. Nothing in this subsection shall abrogate any~~  
12       ~~applicable appeal rights under chapters 76 or 89, or~~  
13       ~~administrative regulation of the department of education.~~

14       ~~(c) This section shall not be used by the department to~~  
15       ~~secure criminal history record checks on persons who have been~~  
16       ~~employed continuously by the department, including the state~~  
17       ~~public library system, on a salaried basis prior to July 1,~~  
18       ~~1990.~~

19       ~~(d) Notwithstanding any other law to the contrary, for~~  
20       ~~purposes of this section, the department of education, including~~  
21       ~~the Hawaii state public library system, shall be exempt from~~  
22       ~~section 831 3.1 and need not conduct investigations,~~



1 ~~notifications, or hearings under this section in accordance with~~  
2 ~~chapter 91." ]~~

3 SECTION 21. Section 302A-602, Hawaii Revised Statutes, is  
4 repealed.

5 ~~["§302A-602 Teachers; licenses and certificates. (a) No~~  
6 ~~person shall serve as a teacher in the department without first~~  
7 ~~having obtained a license from the Hawaii teacher standards~~  
8 ~~board in such form as the Hawaii teacher standards board~~  
9 ~~determines. The department shall establish types of~~  
10 ~~certificates in the educational field and the requirements to~~  
11 ~~qualify for those certificates issued to individuals who are not~~  
12 ~~required to obtain a license pursuant to sections 302A-801 to~~  
13 ~~302A-808.~~

14 ~~(b) Beginning with the 2002-2003 school year, no person~~  
15 ~~paid under the salary schedule contained in the unit 5~~  
16 ~~collective bargaining agreement shall serve as a teacher in the~~  
17 ~~department without first having obtained a license pursuant to~~  
18 ~~sections 302A-801 to 302A-808 from the Hawaii teacher standards~~  
19 ~~board in such form as the Hawaii teacher standards board~~  
20 ~~determines.~~





1       ~~(e) Beginning with the 2002-2003 school year, the~~  
2       ~~department may employ unlicensed individuals as emergency hires~~  
3       ~~pursuant to sections 302A-801 to 302A-808."~~]

4       SECTION 22. Section 302A-602.5, Hawaii Revised Statutes,  
5       is repealed.

6       ~~["§302A-602.5 Certificates, revocation. The department~~  
7       ~~may revoke any certificate after its issuance if the certificate~~  
8       ~~holder does not possess the requisite qualifications. For the~~  
9       ~~purposes of this section, the term "certificate" does not~~  
10      ~~include a license issued by the Hawaii teacher standards board~~  
11      ~~pursuant to part III, subpart D."]~~

12      SECTION 23. Section 302A-603, Hawaii Revised Statutes, is  
13      repealed.

14      ~~["§302A-603 Teaching without certificates or licenses,~~  
15      ~~penalty. (a) Except as otherwise provided, before the 1997-~~  
16      ~~1998 school year, whoever serves in the department as a teacher~~  
17      ~~without holding an unrevoked certificate issued under sections~~  
18      ~~302A-602 to 302A-639, and 302A-701, shall be fined not more than~~  
19      ~~\$25.~~

20      ~~(b) Beginning with the 1997-1998 school year, whoever~~  
21      ~~serves in the department as a teacher, paid under the salary~~  
22      ~~schedule contained in the unit 5 collective bargaining~~



1 ~~agreement, without holding an unrevoked or unsuspended license~~  
2 ~~or credential issued under sections 302A 801 to 302A 808, shall~~  
3 ~~be fined not more than \$500.~~

4 ~~(c) Beginning with the 2002-2003 school year, an~~  
5 ~~individual paid under the salary schedule contained in the unit~~  
6 ~~5 collective bargaining agreement, without holding an unrevoked~~  
7 ~~license issued under sections 302A 801 to 302A 808, shall be~~  
8 ~~fined not more than \$500.~~

9 ~~(d) Beginning with the 2002-2003 school year, emergency~~  
10 ~~hires shall not be subject to this penalty." ]~~

11 SECTION 24. Section 302A-1001, Hawaii Revised Statutes, is  
12 repealed.

13 ~~["§302A 1001] Student bias. No person in the State, on~~  
14 ~~the basis of sex, shall be excluded from participation in, be~~  
15 ~~denied the benefits of, or be subjected to discrimination under~~  
16 ~~any educational or recreational program or activity receiving~~  
17 ~~state or county financial assistance or utilizing state or~~  
18 ~~county facilities." ]~~

19 SECTION 25. Section 302A-1103, Hawaii Revised Statutes, is  
20 repealed.

21 ~~["§302A 1103 Principal; authority and responsibility. The~~  
22 ~~role of the principal shall include but not be limited to~~



1 ~~overseeing the day to day management of the school, the primary~~  
2 ~~function of which is to develop and deliver instructional~~  
3 ~~services to students in accordance with statewide educational~~  
4 ~~policy and to enable students to meet or exceed statewide~~  
5 ~~academic standards. The principal shall:~~

- 6       ~~(1) Ensure that the curriculum facilitates the achievement~~  
7           ~~of the statewide student performance standards adopted~~  
8           ~~for the public school system;~~
- 9       ~~(2) Develop and present to the school community council~~  
10           ~~for its review and approval, academic and financial~~  
11           ~~plans relating to the school;~~
- 12       ~~(3) Exercise authority over the implementation of the~~  
13           ~~budget, policies, and operations of the school; and~~
- 14       ~~(4) Collaborate with other principals in the principal's~~  
15           ~~school complex to ensure that:~~
- 16           ~~(A) Logical, sequential curricula are adopted within~~  
17           ~~the school complex;~~
- 18           ~~(B) Best practices are shared among and implemented~~  
19           ~~by schools within the school complex;~~
- 20           ~~(C) The goals and objectives of the school complex~~  
21           ~~are being met;~~



- 1           ~~(D) The use of school complex based personnel and~~  
2           ~~contractors who divide their time between more~~  
3           ~~than one school in a school complex is~~  
4           ~~coordinated to maximize efficiency; and~~
- 5           ~~(E) The passage of students through the continuum of~~  
6           ~~grades is coordinated in a manner consistent with~~  
7           ~~section 302A-1004." ]~~

8           SECTION 26. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 27. This Act shall take effect on July 1, 2050;  
11 provided that the amendments made to section 36-27, Hawaii  
12 Revised Statutes, by section 2 of this Act shall not be repealed  
13 when section 36-27, Hawaii Revised Statutes, is reenacted  
14 pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

15



**Report Title:**

Education; Housekeeping

**Description:**

Amends or repeals various provisions of Chapter 302A, Hawaii Revised Statutes, for housekeeping and other purposes.

Effective 7/1/2050. (SD1)

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

