A BILL FOR AN ACT

RELATING TO EDUCATION.

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

PART I

PURPOSE

SECTION 1. The legislature finds that there is a public benefit from substantial investment in high-quality, developmentally appropriate early learning programs. These investments have been driven by significant and continuing research affirming the positive effects of high-quality early learning programs on the physical, cognitive, linguistic, social, emotional, and economic outcomes of young children. Provided with such opportunities, children are more likely to succeed in kindergarten and beyond as well as grow into healthy, capable, and contributing adults.

Longitudinal studies have also proven that high-quality early learning programs are especially effective for high-risk children, including low-income and otherwise disadvantaged children, with great potential to alter their lifetime trajectories. Well-executed and well-targeted early learning
programs have immediate and long-term benefits not only for the
children participating in the programs, but also for the
societies in which they live, which boast higher levels of
educational attainment; reduced homelessness, crime, and
substance abuse; improved health; and better overall social and
economic well-being.

The legislature further finds that although the department
of education administers programs of education and public
instruction throughout the State, the executive office on early
learning, under policies established by the early learning
board, should have administrative authority over all state-
funded prekindergarten programs, except for special education
and Title I-funded prekindergarten programs that the department
currently administers.

Since Act 178, Session Laws of Hawaii 2012, the legislature
has enacted a series of laws to clarify its intent that the
responsibility for preschool and prekindergarten lies with the
early learning board and the executive office on early learning,
as the bodies charged with formulating statewide policy relating
to early learning, and developing a cohesive, comprehensive, and
sustainable system of early learning for Hawaii, respectively.
Therefore, the purpose of parts I to VI is to:

(1) Define the roles and responsibilities of the executive office on early learning and the department of education as they relate to the implementation of the public prekindergarten program;

(2) Establish the executive office on early learning as the administrative authority for state funded prekindergarten programs and a support for and with the department of education special education, Title I, and private partnership funded prekindergarten programs to ensure high quality early education programs in department of education school classrooms;

and

(3) Ensure that agreements and services are clearly articulated in a memorandum of understanding between the executive office on early learning and the department of education, including a resolution protocol to settle disputes should either party not be able to come to an agreement.

PART II

ADMINISTRATIVE AUTHORITY FOR PREKINDERGARTEN PROGRAMS
SECTION 2. Section 26-12, Hawaii Revised Statutes, is amended to read as follows:

"§26-12 Department of education. The department of education shall be headed by an executive board to be known as the board of education.

Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the primary and secondary school levels, adult education, school library services, health education and instruction (not including dental health treatment transferred to the department of health), special education and Title I funded programs at the prekindergarten level, and such other programs as may be established by law[←]; provided that the department shall not establish general education prekindergarten classrooms; provided that the department may establish special education, Title I funded, and private partnership funded prekindergarten classrooms. Under policies established by the early learning board, the memorandum of understanding between the executive office on early learning and department of education shall include that administrative decisions on the selection of
prekindergarten classroom sites, administrator, teacher and
staff professional learning, prekindergarten classroom
facilities standards, developmentally appropriate furniture and
equipment, and monitoring the quality of the instruction and
outcomes for students shall be the responsibility of the
executive office on early learning. The executive office on
early learning may extend the resources and training supports to
other state funded prekindergarten classroom teachers and
administrators as part of an expansion of early learning in a
complex area; provided that this may include complex area
resource teachers as part of the joint support efforts with the
executive office on early learning. Principals shall be able to
include the executive office on early learning prekindergarten
classroom teachers in the school-wide professional development
to ensure that initiatives, such as social emotional learning,
digital reading programs, cultural and place-based instructional
strategies, and transition to kindergarten, are implemented in a
comprehensive and aligned manner. The state librarian, under
policies established by the board of education, shall be
responsible for the administration of programs relating to
public library services and transcribing services for the blind.
The functions and authority exercised by the department of education relating to state-funded prekindergarten programs, except for special education, Title I, and private partnership funded prekindergarten programs, shall be delineated in a memorandum of understanding between the executive office on early learning and department of education. The administrative authority for the executive office on early learning shall be related to services for curriculum, instruction, assessment, and professional learning support. The department of education shall have oversight for the general services of the facilities, daily operations of the prekindergarten classroom, and support for the inclusion of the teacher and educational assistant in the school-wide initiatives, participation in the school programs, and parent participation and engagement.

The functions and authority heretofore exercised by the department of education (except dental health treatment transferred to the department of health), library of Hawaii, Hawaii county library, Maui county library, and the transcribing services program of the bureau of sight conservation and work with the blind, as heretofore constituted are transferred to the public library system established by this chapter.
The management contract between the board of supervisors of the county of Kauai and the Kauai public library association shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contract and the provisions of this paragraph shall constitute notice of termination, and the functions and authority heretofore exercised by the Kauai county library as heretofore constituted and the Kauai public library association over the public libraries in the county of Kauai shall thereupon be transferred to the public library system established by this chapter.

The management contracts between the trustees of the library of Hawaii and the Friends of the Library of Hawaii, and between the library of Hawaii and the Hilo library and reading room association, shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contracts, and the provisions of this paragraph shall constitute notice of termination.

Upon the termination of the contracts, the State or the counties shall not enter into any library management contracts with any private association; provided that in providing library services, the board of education may enter into contracts
approved by the governor for the use of lands, buildings, equipment, and facilities owned by any private association.

Notwithstanding any law to the contrary, the board of education may establish, specify the membership number and quorum requirements for, appoint members to, and disestablish a commission in each county to be known as the library advisory commission, which shall in each case sit in an advisory capacity to the board of education on matters relating to public library services in their respective county."

SECTION 3. Section 302A-101, Hawaii Revised Statutes, is amended by deleting the definition of "early childhood education".

[""Early-childhood education" means a developmentally appropriate early-childhood development and education program for children from birth until the time they enter kindergarten."]

SECTION 4. Section 302A-1111, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1111 Duties of superintendent. (a) Under policies established by the board, the superintendent 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 primary and secondary school levels, and such other programs as may be established by law; provided that all state-funded prekindergarten programs, except for special education, Title I, and private partnership funded prekindergarten program responsibilities and authority, shall be delineated in the memorandum of understanding between the executive office on early learning and department. The administrative authority for the executive office on early learning shall be related to services for curriculum, instruction, assessment, and professional learning support. The department shall have oversight for the general services of the facilities, daily operations of the prekindergarten classroom, and support for the inclusion of the teacher and educational assistant in the school-wide initiatives, participation in the school programs, and parent participation and engagement.

(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; provided that the director of the executive office on early learning shall be the signatory for all budget documents, appointments of staffing, and official acts related to the executive office on early learning. The executive office on early learning shall be solely responsible for the decisions and outcomes for any fiscal decisions, personnel issues, audits, and legal consequences for decisions made without the approval of the superintendent. The superintendent and director of the executive office on early learning may use a printed facsimile signature in approving appointments, contracts, and other documents."

SECTION 5. Section 302A-1128, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1128 Department powers and duties. The department shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction in the public schools the department establishes and operates, including operating and maintaining the capital improvement and repair and maintenance programs for department and school facilities; provided that all state-funded prekindergarten
programs, except for special education, Title I, and private partnership funded prekindergarten program responsibilities and authority, shall be delineated in the memorandum of understanding between the executive office on early learning and department. The administrative authority for the executive office on early learning shall be related to services for curriculum, instruction, assessment, and professional learning support. The department shall have oversight for the general services of the facilities, daily operations of the prekindergarten classroom, and support for the inclusion of the teacher and educational assistant in the school-wide initiatives, participation in the school programs, and parent participation and engagement. The department may establish and maintain schools for secular instruction at such places and for such terms as in its discretion it may deem advisable and the funds at its disposal may permit. The schools may include high schools, kindergarten schools, schools or classes for early childhood education, special education, Title I, and private partnership funded prekindergarten, boarding schools, Hawaiian language medium education schools, and evening and day schools. The department may also maintain classes for technical and other
instruction in any school where there may not be pupils
sufficient in number to justify the establishment of separate
schools for these purposes."

SECTION 6. Section 302A-1303.6, Hawaii Revised Statutes,
is amended to read as follows:

"§302A-1303.6 Weighted student formula. Based upon
recommendations from the committee on weights, the board of
education may adopt a weighted student formula for the
allocation of moneys to public schools that takes into account
the educational needs of each student[-]; provided that any
prekindergarten classroom funded by the weighted student formula
shall be included in the executive office on early learning
prekindergarten program; provided further that a process for
approval by the director of the executive office on early
learning shall be followed by the school principal with approval
from the complex area superintendent in the year prior to the
establishment of the prekindergarten classroom; provided further
that this process shall be included in the memorandum of
understanding between the executive office on early learning and
the department. The department, upon the receipt of
appropriated moneys, shall use the weighted student formula to
allocate funds to public schools. Principals shall expend
moneys provided to the principals' schools. This section shall
only apply to charter schools for fiscal years in which the
charter schools elect pursuant to section 302D-29 to receive
allocations according to the procedures and methodology used to
calculate the weighted student formula allocation."

SECTION 7. Section 302L-1.5, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:

"(c) The director shall be responsible for:

(1) Serving as the principal officer in state government
responsible for the performance, development, and
control of programs, policies, and activities under
the jurisdiction of the office from prenatal care to
entrance into [kindergarten] all state-funded
prekindergarten programs, except for special
education, Title I, and private partnership funded
prekindergarten classrooms;

(2) [Overseeing, supervising] Supervising and directing
the performance of the director's subordinates in
various activities, including planning, evaluation,
and coordination of early learning programs;
Administering funds allocated for the office and applying for, receiving, and disbursing grants and donations from all sources for early learning programs and services;

(4) Assessing the policies and practices of other agencies impacting early learning and conducting advocacy efforts for early learning;

(5) Advising agencies on new legislation, programs, and policy initiatives relating to early learning;

(6) Employing and retaining staff as may be necessary for the purposes of this section; and

(7) Contracting for services that may be necessary for the purposes of this section, including through master contracts, memoranda of understanding, and memoranda of agreement with other state agencies receiving federal and state funds for programs and services for early learning, and purchase of service agreements with appropriate agencies."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2019-2020 and
the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for early childhood education programs administered by the executive office on early learning.

The sums appropriated shall be expended by the executive office on early learning for the purposes of this part.

PART III

TITLE I-FUNDED PREKINDERGARTEN

SECTION 9. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§302A- Title I-funded prekindergarten. (a) The department in its implementation of Title I-funded prekindergarten classrooms shall adhere to the quality standards incorporated by the executive office on early learning in the executive office on early learning public prekindergarten program pursuant to section 302L-7.

(b) The department shall work with the executive office on early learning to develop a structure to provide support for Title I-funded prekindergarten classrooms on curriculum, instruction, assessment, family engagement, and transition of children in and out of the prekindergarten classroom."
(c) This structure of support shall be included in the memorandum of understanding between the executive office on early learning and department of education to provide support for teachers and principals of Title I-funded prekindergarten classrooms.

(d) The executive office on early learning shall include the Title I-funded prekindergarten classroom data collected as part of its early learning monitoring report; provided that this data shall be collected for state-funded and Title I-funded classrooms as part of the assessment support provided the by executive office on early learning."

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for the executive office on early learning to provide professional learning support for teachers and principals of Title I-funded prekindergarten classrooms in the department of education.

The sums appropriated shall be expended by the executive office on early learning for the purposes of this part.
PART IV

EXECUTIVE OFFICE ON EARLY LEARNING PUBLIC PREKINDERGARTEN

PROGRAM

SECTION 11. Section 302L-1, Hawaii Revised Statutes, is amended by amending the definition of "at-risk children" to read as follows:

"At-risk children" means children who, because of their home and community environment, are subject to language, cultural, economic, and other disadvantages that cause them to be at risk for school failure, including children:

(1) Who are [eligible for special education services,]

placed through their individualized education plan in a general education setting;

(2) Who are English as a second language learners;

(3) Who reside within a public school district,

established under chapter 302A, that is in need of improvement based on the criteria of the federal No Child Left Behind Act of 2001 (Public Law 107-110), as amended; or

(3) Who are in foster care;

(4) Who are homeless; or
Whose family income is no more than three hundred per cent of the federal poverty level."

SECTION 12. Section 302L-7, Hawaii Revised Statutes, is amended to read as follows:

"§302L-7 Executive office on early learning public prekindergarten program; public preschools. (a) There is established within the early learning system an early childhood education program to be known as the executive office on early learning public prekindergarten program and to be administered by the office pursuant to rules adopted by the office. The program shall:

(1) Be provided through the executive office on early learning, which [may] shall partner with the department of education[7] through either a memorandum of agreement or memorandum of understanding pursuant to the requirements of this section;

(2) Prepare children for school and active participation in society through the use of either of the State's two official languages; and
(3) Provide access to high-quality early learning that addresses children's physical, cognitive, linguistic, social, and emotional development.

(b) The office shall implement an application process for schools that are interested in participating in the program. The criteria to prioritize applications shall include:

(1) Community need, including:

(A) The percentage of the population in the school or community that meets the definitions of at-risk and underserved children pursuant to section 302L-1; and

(B) The availability and capacity of existing early learning programs or services for four-year-old children on the school campus and in the surrounding area;

(2) The availability of a classroom and outdoor play area that meet department of human services requirements for health and safety for four-year-old children; and

(3) The commitment of the principal to implementing a high-quality prekindergarten program, including through active participation in professional learning.
sessions offered through the office, and to promoting continuity and alignment between and across other early learning programs in the community and other grade levels in the school to ensure the positive outcomes of children are sustained.

[(b)] (c) The program shall serve children in the year prior to the year of kindergarten eligibility, with priority extended to underserved or at-risk children, as defined in section 302L-1[-], and follow the academic year schedule of the department of education and be aligned with the full-day kindergarten classroom schedule of each school. Enrollment priority shall be given but is not limited to children who attend prekindergarten at schools to which the children will be assigned upon entering kindergarten under section 302A-1143.

[(e)] (d) Enrollment in the program shall be voluntary. A child who is [enrolled in, or is eligible to attend, a public elementary school, or who is] required to attend school pursuant to section 302A-1132, shall not be eligible for enrollment in the program.

(e) The program shall enroll a maximum of twenty children per classroom.
(f) The program shall incorporate high-quality standards pursuant to rules adopted by the office. High-quality standards shall be research-based, developmentally-appropriate practices associated with better educational outcomes for children, such as:

(1) Positive teacher-child interactions;

(2) Use of individual child assessments that are used for ongoing instructional planning, based upon all areas of childhood development and learning, including cognitive, linguistic, social, and emotional approaches to learning and health and physical development;

(3) Family engagement in partnership with the school to do outreach for enrollment and engagement in their children’s education;

(4) Alignment with the Hawaii early learning and development standards, which align with department of education standards, state content and performance standards, and general learner outcomes for grades kindergarten to twelve, to facilitate a seamless and high-quality educational experience for children.
(5) Highly qualified teachers who have met or are working toward the requirements for coursework and licensure in early education; and

(6) Educational assistants who have met or are working toward the requirements for coursework, credentials, or certification in early education.

prite to opening a public prekindergarten class in a school, the principal, and other school personnel as required by the office, shall participate in an early learning induction program.

The office shall provide support to incorporate the high-quality standards developed pursuant to subsection (f), including support related to teacher-child interactions, individual child assessments, and family engagement.

The office shall coordinate with other agencies and programs to facilitate comprehensive services for early learning.

To promote the development of a cohesive, comprehensive, and sustainable early learning system, the office
shall partner with the schools participating in the program to collaborate with:

1. Other early learning providers, including those providing the programs and services specified in section 302L-2(2)(A), to promote alignment between prekindergarten and elementary school programs and to support children and their families in making successful transitions from prekindergarten into kindergarten; and

2. Early intervention programs.

[k] The office shall collect data with the assistance of the department of education to:

1. Evaluate the services provided;
2. Inform policy; and
3. Make any improvements to the program.

[+][-] The department of education and any public charter school existing pursuant to chapter 302D, may use available classrooms for public preschool programs statewide. The office shall give priority to public charter schools that serve high populations of underserved or at-risk children.

Preschool classrooms established pursuant to this section shall
be in addition to any classrooms used for the pre-plus program established pursuant to [rules adopted by the department pursuant to chapter 91] section 302L-1.7.

[44] (m) The office shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section, including compliance with all applicable state and federal laws."

PART V

REPORTS TO THE LEGISLATURE

SECTION 13. Chapter 302L, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302L- Public prekindergarten classes; annual report to the legislature. The office shall submit to the legislature an annual report on the performance and progress of the public prekindergarten program it administers. In order for the office to report to the legislature, the department of education and every authorizer under its chartering authority shall provide the office the number and location of public kindergarten classes that it operates, numbers of students served aggregated
by birth month as of the date on which the official enrollment count is taken, and the sources of funding for each class."

PART VI

DISPUTE RESOLUTION

SECTION 14. In the event there is a dispute between the executive office on early learning and department of education, the superintendent of education, or the superintendent's designee, and the director of the executive office on early learning shall work to resolve the dispute within sixty business days. If the superintendent of education, or superintendent's designee, and the director of the executive office on early learning cannot resolve the dispute, a working group with one board of education member, one early learning board member, the superintendent, and the director of the executive office on early learning shall work together to reach resolution. If no resolution is reached, the chairperson of the board of education and chairperson of the early learning board shall reach agreement.

PART VII

SECTION 15. Section 302D-3, Hawaii Revised Statutes, is amended to read as follows:
§302D-3 State public charter school commission; establishment; appointment. (a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department for administrative purposes only. Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related
stakeholders. The commission shall be exempt from sections 26-34 and 26-36.

(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school
educational governance or shall be willing to be trained in such.

(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and

(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct business. Any action taken by the commission shall be by a simple majority of the members of the commission who are present; provided that any action of the commission that may be appealed pursuant to section 302D-15 shall require a concurrence of at least five members to be valid.
(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:

(1) Three members, including the chairperson, to serve three-year terms;

(2) Three members to serve two-year terms; and

(3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation.

When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's departmental duties. Members shall be reimbursed for necessary
travel expenses incurred in the conduct of official commission business.

(j) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter. Beginning with the 2015-2016 fiscal year, the legislature shall make an appropriation to the commission separate from, and in addition to, any appropriation made to charter schools pursuant to sections 302D-28 and 302D-29.5.

(k) The commission shall have the power to hire staff without regard to chapters 76 and 89. The commission shall determine staff wages, hours, benefits, and other terms and conditions for employment in accordance with chapter 89C.

(l) The commission shall have the power to establish and fund charter school prekindergarten classrooms."

SECTION 16. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2019-2020 for the state public charter school commission to establish and fund charter school prekindergarten classrooms.
The sum appropriated shall be expended by the state public charter school commission for the purposes of this part.

PART VIII

MISCELLANEOUS

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 2050.
Report Title:
DOE; Executive Office on Early Learning; State Public Charter School Commission; Appropriation

Description:
Defines the roles and responsibilities of the executive office on early learning and the department of education as they relate to the implementation of the public prekindergarten program. Establishes the executive office on early learning as the administrative authority for state funded prekindergarten programs and a support for and with the department of education special education, Title I, and private partnership funded prekindergarten programs to ensure high quality early education programs in department of education school classrooms. Ensures that agreements and services are clearly articulated in a memorandum of understanding between the executive office on early learning and the department of education, including a resolution protocol to settle disputes should either party not be able to come to an agreement. Establishes reporting requirements. Authorizes the state public charter school commission to establish and fund charter school prekindergarten classrooms. Appropriates funds. Effective 7/1/2050. (Proposed SD2)

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