



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

March 1, 2016

TO: The Honorable Lance A. Mizumoto  
Chairperson, Board of Education

FROM:   
Kathryn S. Matayoshi  
Superintendent

SUBJECT: Board Action on Proposed Legislation Being Considered During 2016  
Legislative Session

1. DESCRIPTION

On February 10, 2016, the Senate Committee on Education (EDU) held a hearing on 14 bills: one "omnibus bill" (Senate Bill No. 2586) and 13 bills (Senate Bill No.'s 2587 – 2599) that were each component parts of the omnibus bill. The omnibus bill was introduced by Senate Education Chair Michelle Kidani and promoted by the Hawaii State Teachers Association (HSTA) President. The EDU Committee's decisions were as follows:

<i>Senate Bill (S.B.) Number (No.)</i>	<i>Title</i>	<i>Status as of 2/23/16</i>
S.B. No. 2586	RELATING TO EDUCATION ("Omnibus bill")	Passed w/ amendments
S.B. No. 2587	RELATING TO WHOLE CHILD EDUCATION	Deferred
S.B. No. 2588	RELATING TO SPECIAL EDUCATION	Deferred
S.B. No. 2589	RELATING TO EDUCATION	Passed w/ amendments
S.B. No. 2590	RELATING TO CLASSROOM CLIMATE CONTROL	Deferred
S.B. No. 2591	RELATING TO EDUCATION	Passed w/ amendments
S.B. No. 2592	RELATING TO STANDARDIZED TESTING	Passed w/ amendments
S.B. No. 2593	RELATING TO EDUCATION	Passed w/ amendments
S.B. No. 2594	RELATING TO EDUCATION	Passed w/ amendments
S.B. No. 2595	RELATING TO THE PUBLIC PREKINDERGARTEN PROGRAM	Passed w/ amendments

S.B. No. 2596	RELATING TO EDUCATION	Deferred
S.B. No. 2597	RELATING TO EDUCATION	Deferred
S.B. No. 2598	RELATING TO EDUCATION	Passed unamended
S.B. No. 2599	RELATING TO TAXATION	Passed w/ amendments

The House of Representatives Committee on Education also heard an omnibus education bill on February 10, 2016, H.B. No. 2733, which was later deferred.

As of February 23, 2016, none of the surviving Senate Bills have been scheduled for hearings, although there is still time within the legislative timetable for these bills to be considered.

2. DEPARTMENT POSITION

The Department offered one comprehensive testimony addressing all of the Senate Bills on the Senate Education Committee's February 10, 2016 agenda. The testimony for the S.B. No. 2586 is attached.

KSM:KO:la

Attachment: Superintendent Kathryn Matayoshi's testimony submitted to Senate Education Committee Hearing on February 10, 2016 for S.B. 2586

c: Office of Strategy, Innovation and Performance



STATE OF HAWAII  
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**Date:** 02/10/2016  
**Time:** 01:15 PM  
**Location:** 229  
**Committee:** Senate Education

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 2586 RELATING TO EDUCATION.

**Purpose of Bill:** Requires the department of education to provide public school students with a whole child education curriculum, air conditioning in certain classrooms, and decrease class size. Requires sufficient allocation of special education teachers and provides special education teachers with additional preparation time and funding. Establishes the student loan subsidy program and special fund. Expands vocational, technical, and career pathway programs. Amends weighted student formula factors to be considered by the committee on weights. Limits participation in standardized tests, prohibits the use of standardized test scores for evaluation purposes, authorizes standardized testing exemptions, and requires the board of education to provide notice of the right to opt-out of standardized testing. Requires all eligible children to attend preschool by the 2020-2021 school year. Amends evaluation program for teachers and educational officers. Increases the general excise tax. Makes appropriations.

**Department's Position:**

The Department of Education offers COMMENTS on S.B. No. 2586, S.B. No. 2587, S.B. No. 2588, S.B. No. 2589, S.B. No. 2590, S.B. No. 2591, S.B. No. 2592, S.B. No. 2593, S.B. No. 2594, S.B. No. 2595, S.B. No. 2596, S.B. No. 2597, S.B. No. 2598, and S.B. No. 2599.

**Overall Comments**

The Department of Education's (Department) vision is that our students are educated, healthy, and joyful lifelong learners who contribute positively to our community and global society. To achieve this goal, our schools and educators need the proper tools and resources.

We support initiatives aimed at improving working conditions for teachers and educational opportunities for students. In 2004, the Legislature established the "Reinventing Education Act," allowing schools the autonomy and responsibility to allocate school-based budgets to support school-identified programs and priorities, whether it be hiring more staff or purchasing supplies and materials. And, it empowered schools to make the best decisions to fit the needs of its students and communities.

Over the last decade school funding levels have not kept up with our education costs. Nevertheless, our public schools have made significant strides that have not gone unnoticed by the U.S. Department of Education and other national organizations. Attendance has improved, students are progressing and achieving more, and more students are going to college. This is a testament to the dedication of our educators and students, as well as other community leaders and partners.

The measures before you address many important aspects of education – curriculum, assessments, staffing, facilities, class size, funding, etc. However, respectfully, the Department is concerned that the crafted language, such as providing specific types of teachers for schools or a one-size-fits-all approach to instructional time or class size, detracts from school-level decision making and also circumvents the appropriate participants and venues for these conversations. Such a proposal would hinder the progress made by school leadership teams or School Community Councils, the collective bargaining process, the Board of Education which sets the policy direction for the Department, and principals and teachers in collaboration with Department leadership.

We welcome continued support from HSTA and the Legislature for additional resources for public education as well as the Department's budget priorities, as set out in the Executive Budget request. Adequate funding for our students helps to ensure a quality education that they deserve, and need, to prepare to be contributing members in our community and global society. Teachers have the most impact in ensuring a quality education. It's important that they have the support, the right tools, and the best facilities to thrive in their profession.

We look forward to working with the Committee and other stakeholders to address the issues raised in these measures.

Specific comments to the parts of the bill are itemized below.

## **Part II. WHOLE CHILD EDUCATION (S.B. No. 2587)**

The Department recognizes the importance of promoting creative thinking, self-directed learning, and cultural understanding, as well as the impact it has upon children's future outcomes and the state's economic growth.

Since 1999, the Department has provided "whole child education" through its K-12 standards-based system which includes the General Learner Outcomes (GLOs). GLOs are the overarching goals and content standards in nine areas including fine arts, social studies, Hawaiian studies, world languages, and physical education. Complex areas and schools have the flexibility to design class offerings that are best suited to their

community.

Additional funding would support increased opportunities and more diverse offerings for students.

Given that a Board of Education policy for whole child education is already in place, the Department respectfully finds S.B. No. 2587 to be unnecessary.

### **Part III. SPECIAL EDUCATION (S.B. No. 2588)**

The Department appreciates the intent of S.B. No. 2588 to provide each teacher with \$1,690 of discretionary funds for instructional materials and equipment and to add additional preparation time for special education (SPED) teachers. This additional preparation time, during which teachers would "not be required to interact with students", would be to complete individualized education programs (IEPs), which are required for each SPED student.

Teachers' preparation time is subject to collective bargaining. Article VI of the current HSTA contract and Department regulations include provisions for preparation periods and that address providing SPED teachers with additional non-student time to work on IEPs and other related SPED duties.

If this measure is adopted, additional funds would be required to either pay SPED teachers for the additional 40 plus hours of additional preparation time, or alternatively, schools would need to establish and hire additional SPED teachers or substitute teachers to cover the instructional time for SPED teachers during the extra preparation period. Because Hawaii's SPED teaching positions are "hard-to-fill," as they are nationwide, creating more positions in order to hire more SPED teachers will not, in the near term, be a solution.

The Department is not opposed to the Legislature appropriating funding for \$1,690 for every SPED teacher to purchase additional instructional materials and equipment, provided that it does not replace or adversely impact priorities as indicated in budget approved by the Board of Education (Board).

Given that teacher preparation time is included in the collective bargaining agreement, the Department respectfully does not support S.B. No. 2588.

### **Part IV. VOCATIONAL EDUCATION (S.B. No. 2589)**

The Department supports the intent of S.B. No. 2589 to expand vocational, technical, and career pathways programs and welcomes additional funding to support career and technical programs, provided that it does not replace or adversely impact priorities as indicated in budget approved by the Board.

Career and Technical Education (CTE) programs (formally known as Vocational and Technical Education) are currently offered in 46 public high schools. In school year 2014-2015, 29,356 students were registered in at least one CTE course and 4,453 seniors had completed a CTE program of study. Also, the Department awards Honors

Recognition Certificates for graduates earning Career and Technical Education Honors or Science, Technology, Engineering and Mathematics (STEM) Honors.

CTE programs are organized under six Career Pathways: Arts and Communication, Business, Health Services, Industrial and Engineering Technology, Natural Resources, and Public and Human Services. The Department currently offers 41 programs of study within the six career pathways framework. Current Board Policy No. 2103 defines Career and Technical Education.

The Department is committed to improving CTE opportunities for students throughout the state. The Department respectfully finds the provisions of S.B. No. 2589 to be unnecessary, as the intent of this bill is currently being implemented.

#### **Part V. FACILITIES (S.B. No. 2590)**

The Department welcomes additional funding for heat abatement and energy efficiency measures. The Department's Ka Hei program is a comprehensive energy and sustainability program designed to provide comfortable learning environments for our students and teachers. One of the key objectives of the program is to reduce costs and energy consumption at all 256 public schools. The Department has made significant progress in working toward the goals of Ka Hei and appreciates the support of the Legislature to further these efforts.

In addition, the Governor announced his plan to air condition 1,000 classrooms by the end of 2016, and is making available GEMS financing. We appreciate his initiative and are moving rapidly to execute his proposal.

#### **Part IV. WEIGHTED STUDENT FORMULA (S.B. No. 2591)**

The Department offers the following comments:

This bill states: "Principals, in consultation with teachers and school community councils, shall expend moneys provided to the principals' school." Section 302A-1124, HRS, currently defines the role of the school community council and mandates a composition that includes teachers.

The new language related to a "superintendent's reserve" states both that the reserve is "to address needs at unique and remote schools," and that "the committee on weights shall make recommendations...for how the reserve should be used." Stating that the reserve is for "unique and remote schools" would be unnecessary if the intent is to allow the committee on weights to determine the criteria for the reserve's use.

The Weighted Student Formula (WSF) reserve was established in school year 2012-2013 based on a committee on weights recommendation that was approved by the Board. A portion of WSF funds are set aside in this reserve to provide supplemental funds to schools that demonstrate a need as combination school (e.g., K-8, 7-12), geographically isolated, has very low enrollment, or is experiencing an extraordinary circumstance. The distribution of these funds is made based on committee on weights-recommended guidelines.

## **Part VII. STANDARDIZED TESTING (S.B. No. 2592)**

Statewide standardized tests provide one valuable source of information on student learning for students, parents, teachers, and educational administrators, but also informs educators and policy-makers about the progress of the education system. Standardized testing is an efficient method for reliably and objectively measuring the academic performance of the over 90,000 students in tested grades and 275 public schools (Department and charter) across the state. Standardized test scores provide one consistent measure, although incomplete, of school and student performance. Thus, all of the Department's accountability systems – for schools, educators, and students - use multiple measures.

Many provisions in this bill related to testing conflict with federal requirements which are a condition of receiving federal educational support including Title I funds. Despite the elimination of No Child Left Behind, its successor, the Every Student Succeeds Act (ESSA), still requires states to administer a statewide student test and use those test scores to "meaningfully differentiate" schools and identify the lowest-performing. Federal requirements for minimum participation of 95% of students continue under ESSA. And students who have individual needs may receive accommodations on a test based on their IEP, which is informed by their teachers' assessment of their needs. The Department also administers an alternative assessment for students with significant cognitive disabilities and an exemption for the English Language Arts state assessment for students with limited English proficiency who are in their first year in a U.S. school.

The Department understands that instructional time is incredibly valuable for teaching and learning. The Department is continuously reviewing the tests that are required for all students to ensure that they are necessary and valuable. Over the last two years, we have reduced the number of tests that are required. Currently, the number of standardized tests required by the state is at the federal minimum with the exception of grade 11 which is being reviewed.

The Department remains cognizant to minimize the burden on students while balancing the need to support students through measuring achievement and complying with federal requirements. As such, the Department respectfully suggests that S.B. No. 2592 is unnecessary.

## **Part VIII. CLASSROOM SUPPLIES (S.B. No. 2593)**

The Department supports providing teachers with the resources necessary to help our students thrive in the classroom. The Department estimates the fiscal impact to be approximately \$11,900,000 per year using the calculation of \$1,000 per Full Time Equivalent (FTE) positions at schools which total approximately the Department's workforce of 11,100 classroom teachers, 200 libraries, and 600 counselors.

Additionally, there may be some administrative issues that need to be addressed before

implementing such a program through a debit card system, as described in the bill. These administrative considerations include processing, procurement, reconciliation, and workload issues at the school and vendor payment levels.

#### **Part IX. TEACHER RECRUITMENT AND RETENTION (S.B. No. 2594)**

The Department supports the intent of S.B. No. 2594. Loan subsidies can encourage prospective teachers to contemplate careers in special education, vocational education, technical education, and career pathways.

However, the Department believes the bill may not be necessary. Federal loan forgiveness is already available for teachers in areas the Department has designated as "teacher shortage," including special education, technical, and vocational education.

Furthermore, the program proposed for teacher recruitment and retention is complex and would be, as a result, administratively burdensome given the Department's current systems and staffing. The Department anticipates the establishment and maintenance of the program would require substantial resources to fund the incentives and administer the program.

#### **Part X. EARLY CHILDHOOD EDUCATION (S.B. No. 2595)**

The Department supports efforts to provide opportunities for early childhood education for all of Hawaii's keiki as it is critical that they enter kindergarten ready to learn. Children deserve the best possible foundation upon which to build success and early childhood education is integral to this foundation. Children are most successful when they enter the public school system prepared with the socio-emotional and pre-academic skills that make them kindergarten-ready.

#### **Part XI. EVALUATIONS (S.B. No. 2596)**

The Department offers the following comments on S.B. 2596:

The Department recommends maintaining the existing 302A-638, HRS, which was established in 1996 and preceded the current evaluation systems which were negotiated between the State and its unions. The proposed changes should be bargained, as HSTA has previously testified in response to prior year's efforts to legislate aspects of teachers' evaluations.

The Department supports the intent of the portion of paragraph (a), which requires the Department to consult with the unions in establishing an evaluation program for teachers and educational officers (EOs), but notes that proposed language is redundant with existing statute and practice. A consultation process is already codified in section 89-9(c), HRS, and in the past, the Department has consulted, and at times negotiated, with Hawaii State Teachers Association (HSTA) and Hawaii Government Employees Association (HGEA) regarding evaluation programs for teachers and EOs.

Many provisions of this measure are currently governed by agreements with HSTA and HGEA.

**Part XII. CLASS SIZE (S.B. No. 2597)**

The Department supports the intent of S.B. No. 2597 but respectfully opposes the measure for the reasons identified below.

Class size is a subject of collective bargaining and is addressed in the Department's contract with HSTA. Article VI, Teaching Conditions and Hours, Section A. 6., of the current contract states that the employer agrees to maintain the "average statewide class size ratio of 26.15 to 1."

Moreover, class size is product of school-level decisions by the principal and School Community Council in budgeting of school funds. Thus, schools are empowered to select its number of teachers based on its allocation of its student population-based budget toward personnel. Rather than class size limitations determined by the Legislature, class size is better addressed by providing additional funding for the Weighted Student Formula, which would allow schools to allocate additional resources towards personnel and thus reduce class size.

The current HSTA contract also provides a process to follow should there be issues in connection with the class size of individual classrooms. For example, a class size committee is required, with the authority to hear and investigate class size complaints and make recommendations to the Superintendent for change. If there is no majority vote on a decision of the committee, the HSTA may have the matter submitted to arbitration.

Finally, any change to the class size requirements, including a change from average statewide ratio to individual classroom maximum, would have significant cost implications due to the need for more teachers and additional facilities to house additional classrooms. The Department believes there are other, often less costly, means to provide students with quality education and to address working conditions for teachers.

**Part XIII. FUNDING (S.B. No. 2599)**

The Department has no position on this measure and defers to the Administration with regard to the generation of revenues to fund public programs.

**Part XIV. MISCELLANEOUS (S.B. No. 2598)**

The Department supports the intent of S.B. No. 2598. The additional funds would provide the Department with additional teaching positions to support the programs and needs of our schools and students. However, this bill is prescribes the subject area of

teachers to be funded, and the Department supports schools' using their autonomy to determine the types of positions for necessary for their school program and community.