




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

OFFICE OF THE SUPERINTENDENT

November 18, 2021

TO: The Honorable Catherine Payne
Chairperson, Board of Education

FROM: Keith T. Hayashi 
Interim Superintendent

SUBJECT: **Presentation on Department's Proposed Legislation for 2022
Legislative Session**

1. EXECUTIVE SUMMARY

The Hawaii State Department of Education (Department) is providing an update on five legislative proposals that would be beneficial to students and/or operations. After consultation with state office leaders on system needs and multiple drafting iterations, several recommendations were presented to and reviewed by the Department of the Attorney General (AG) and the Department of Budget and Finance (B&F). The Department has implemented all the revisions requested by AG and B&F and received approval from the Governor on five legislative proposals.

2. DESCRIPTION

The five measures approved by the Governor are detailed below:

EDN-02(22), Relating to Federal Indirect Overhead Reimbursements, would allow the Department to retain all federal grant reimbursements. Currently, we retain and expend only the reimbursements from discretionary grants. This bill will result in additional funds being available to the Department.

EDN-04(22), Relating to Commercial Enterprises in Department of Education Schools, would allow students to receive school credit and compensation when they engage in profit-making operations. This will result in greater flexibility and allow students to benefit academically and financially from these activities.

EDN-05(22), Relating to Student Interns, would deem student interns employees of the State and allow the Department to transfer revenue from school commercial enterprises to other department funds.

EDN-06(22), Relating to Official School Business, would increase protection for school officials by creating the offense of obstructing official school business. There are several outstanding questions and issues to resolve. If we can work out enforcement, this bill may not be needed, but we need to provide adequate protections for our staff.

EDN-07(22), Relating to School Community Councils, would allow for the removal of a member of the school community council to be performed at the complex area level rather than requiring Board of Education's approval. This will reduce the administrative burden on the Board for a minor issue that is not related to its primary responsibility of setting statewide education policy.

3. UPDATE

While these five measures have been initiated by the Department, feedback from the Board and larger community of education stakeholders on these proposals is appreciated. The Department also notes that this does not preclude the Board from initiating legislative proposals for inclusion in the Governor's Legislative Package. The draft legislative proposals and justification sheets are attached for each of the five proposals.

KTH:ct

Attachments: Attachment A - EDN-02(22) Legislative Proposal and Justification
Attachment B - EDN-04(22) Legislative Proposal and Justification
Attachment C - EDN-05(22) Legislative Proposal and Justification
Attachment D - EDN-06(22) Legislative Proposal and Justification
Attachment E - EDN-07(22) Legislative Proposal and Justification

c: Office of Strategy, Innovation and Performance

REVISED: November 8, 2021
 1ST DRAFT DATE: September 24, 2021

___B. NO._____

A BILL FOR AN ACT

RELATING TO FEDERAL INDIRECT OVERHEAD REIMBURSEMENTS.

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

1 SECTION 1. The purpose of this Act is to provide greater
 2 fiscal transparency and prioritized use of indirect cost funds
 3 pursuant to Section 302A-1405, Hawaii Revised Statutes. This Act
 4 makes reimbursement provisions applicable to all federal grants
 5 received by the department of education, state public charter
 6 school commission, or a charter school authorizer, as
 7 appropriate.

8 SECTION 2. Section 302A-1404, Hawaii Revised Statutes, is
 9 amended by amending subsection (a) to read as follows:

10 "(a) The department and the state public charter school
 11 commission or an authorizer, as appropriate, may retain and
 12 expend federal indirect overhead reimbursements for
 13 [~~discretionary~~] grants [~~in excess of the negotiated rate~~] for
 14 [~~such~~] the reimbursements as determined by:

15 (1) [~~the~~] The director of finance and the superintendent,
 16 or

1 (2) [~~the~~] The director of finance and the state public
2 charter school commission or an authorizer, as appropriate.”

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

____.B. NO. _____

Report Title:

DOE; State Public Charter School Commission; Charter Authorizers; Federal Impact Aid; Military Liaison

Description:

Broadens the purposes for which indirect costs incurred by the department of education, state public charter school commission, or a charter authorizer from federal grants may be reimbursed.

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

JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO FEDERAL INDIRECT OVERHEAD REIMBURSEMENTS.

PURPOSE: The purpose of this Act is to provide greater fiscal transparency and prioritized use of indirect cost funds pursuant to section 302A-1405, Hawaii Revised Statutes (HRS). This Act makes reimbursement provisions applicable to all federal grants received by the department of education, state public charter school commission, or a charter school authorizer, as appropriate.

MEANS: Amends section 302A-1404, HRS.

JUSTIFICATION: The purpose of this Act is to provide greater fiscal transparency and prioritized use of indirect cost funds pursuant to section 302A-1405, HRS.

Indirect cost funds are reimbursements from federal grants received by the department of education for costs incurred in support of administrative and general business operations based on a negotiated rate with the federal government, which is assessed against allowable federal grant expenditures. The Department is required by statute to retain all federal indirect cost funds it realizes.

The amendment to section 302A-1404, HRS, would make indirect costs from all federal grants, whether discretionary (competitive) or non-discretionary (formula) grants, available for deposit into the federal grants revolving fund authorized by section 302A-1405, HRS. The allowable use of these

Attachment A

funds per section 302A-1405, HRS, would include the pursuit of additional discretionary grants, monitoring grant execution, compliance with grant requirements, and the auditing of grant expenditures.

Depositing indirect cost funds into the existing revolving fund will support better intentional, planned, and transparent use of these funds.

Impact on the public: Improved fiscal transparency.

Impact on the Department and other agencies: The department of education and the state public charter school commission would retain additional federal indirect overhead reimbursements.

- GENERAL FUND: None.
- OTHER FUNDS: Federal funds, indeterminate.
- PPBS PROGRAM DESIGNATION: EDN 100
- OTHER AFFECTED AGENCIES: State Public Charter School Commission
- EFFECTIVE DATE: Upon approval

REVISED: November 8, 2021
1ST DRAFT DATE: September 24, 2021

___.B. NO._____

A BILL FOR AN ACT

RELATING TO COMMERCIAL ENTERPRISES IN DEPARTMENT OF EDUCATION SCHOOLS.

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

1 SECTION 1. The purpose of this Act is to provide better
2 statutory clarity and consistency with regard to commercial
3 enterprises activities in schools. This Act will broaden the
4 scope of profit-making operations students may engage in at
5 schools to include commercial enterprises, while ensuring that
6 engagement in commercial enterprises shall be related to the
7 primary educational purposes of the school, career pathway,
8 academy, or program as set forth in this chapter. It allows
9 students to receive either school credit or compensation, or
10 both, when engaging in profit-making operations.

11 SECTION 2. Section 302A-420, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§302A-420 Profits to ~~[pupils.]~~ and school credit for**
14 **students**. All net profits arising from agricultural [~~and~~],
15 industrial, or commercial enterprise pursuits [~~under sections~~
16 ~~302A-420 to 302A-431~~] at any school, provided that the
17 commercial enterprise does not affect the tax exempt status of

1 general obligation bonds, under the rules of the department:

2 (1) Shall be used by the school to support agricultural,
3 industrial, and commercial enterprise pursuit programs
4 and for the purchase of equipment and [material,]
5 materials, not otherwise provided for in the school
6 budget, that will be of general benefit to the
7 [~~pupils~~] students; or

8 (2) May be distributed among the [~~pupils~~] students
9 actually engaged in the pursuits; provided that school
10 credit may also be granted to students engaged in the
11 permitted operations.

12 The department shall provide for the keeping of simple books of
13 account, showing the source and distribution of the money
14 resulting from the operations carried on pursuant to this
15 section, and for the auditing of these books of account at
16 least quarterly.

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2022

INTRODUCED BY: _____

BY REQUEST

____.B. NO. _____

Report Title:

Department of Education; Profit and School Credit for Students;
School Commercial Enterprises

Description:

Broadens the scope of profit-making operations students may engage in at schools to include commercial enterprises, while ensuring that engagement in commercial enterprises shall be related to the primary educational purposes of the school, career pathway, academy, or program. Allows students to receive school credit and compensation when they engage in profit-making operations.

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JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL ENTERPRISES IN DEPARTMENT OF EDUCATION SCHOOLS.

PURPOSE: Broadens the scope of profit-making operations students may engage in at schools to include commercial enterprises, while ensuring that engagement in commercial enterprises shall be related to the primary educational purposes of the school, career pathway, academy, or program as set forth in this chapter. Allows students to receive school credit and compensation when they engage in profit-making operations.

MEANS: Amends section 302A-420, Hawaii Revised Statutes.

JUSTIFICATION: The measure adds "commercial enterprise" to the types of activities students may engage in for profit. This provides consistency with the implementation of section 302A-448, Hawaii Revised Statutes.

The measure clarifies that funds can be used to be support the agricultural, industrial, and commercial enterprise programs directly.

This measure will enhance the rigor and relevance of work-based learning throughout the pre-school through higher education continuum, commonly referred to as P-20. Students will engage in comprehensive, real-world immersive experiences, particularly in the areas of entrepreneurship and strategic commercial enterprise.

Impact on the public: None.

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Impact on the Department and other agencies:

This measure provides additional options for students to receive relevant, real-world experience.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 100

OTHER AFFECTED
AGENCIES: Department of Budget and Finance

EFFECTIVE DATE: July 1, 2022

REVISED: November 8, 2021
 1ST DRAFT DATE: September 24, 2021

___B. NO._____

A BILL FOR AN ACT

RELATING TO COMMERCIAL ENTERPRISES IN SCHOOLS.

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

1 SECTION 1. The purpose of this Act is to allow for more
 2 efficient implementation of commercial enterprises in schools.
 3 It deems student interns to be employees of the state when
 4 acting for an agency, allows the department of education to
 5 transfer revenue from school commercial enterprises to other
 6 department programs, and enhances the rigor and relevance of
 7 work-based learning. The commercial enterprise should be
 8 related to the primary educational purpose of the school.

9 SECTION 2. Section 302A-448, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "~~§302A-448~~ **Schools; career pathways, academies, and**
 12 **programs; commercial enterprises.** (a) Notwithstanding any law
 13 to the contrary, an individual department school or any career
 14 pathway, academy, or program operated within a school may engage
 15 in commercial enterprises that are related to the primary
 16 educational purposes of the school, career pathway, academy, or
 17 program as set forth in this chapter, including the sale of
 18 goods produced by or for an individual school, career pathway,

EDN-05(22)

1 academy, or program.

2 (b) Student interns engaging in commercial enterprises
3 shall be considered "employees of the State" pursuant to chapter
4 662 when acting for an agency in their capacity as student
5 interns.

6 (c) Revenues accrued and expenditures made by the
7 department for the operation of commercial enterprises,
8 including hiring personnel, renovating commercial space, and
9 purchasing merchandise, supplies, and equipment, shall be made
10 without regard to chapters 76, 78, 89, 103, and 103D. Net
11 profits generated pursuant to this chapter may be used by
12 the department for other purposes.

13 [~~b~~] (d) The department may adopt rules pursuant to
14 chapter 91 to carry out the purposes of this section."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2022.

INTRODUCED BY: _____

BY REQUEST

Report Title:

Department of Education; Commercial Enterprises; Student Interns; Revenue and Expenditures

Description:

Deems student interns to be employees of the State of Hawaii when acting for an agency; allows the Department of Education to transfer revenue from commercial enterprises to other department funds.

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JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL ENTERPRISES IN SCHOOLS

PURPOSE: Deems student interns to be employees of the State of Hawaii when acting for an agency; provides increased flexibility for programs that train students; allows the Department of Education to transfer revenue from school commercial enterprises to other department funds.

MEANS: Amends section 302A-448, Hawaii Revised Statutes.

JUSTIFICATION: Starting with schools in West Oahu, career and technical education training programs are increasingly finding job skill training opportunities with community businesses and organizations. If partnerships can be facilitated via the increased flexibility provided in this measure, the rigor and relevance of work-based learning throughout the P-20 continuum will be strengthened as students engage in comprehensive, real-world immersive experiences particularly in the areas of entrepreneurship and strategic commercial enterprise. P-20 refers to pre-school through higher education.

Impact on the public: Provide increased internship opportunities which will benefit students and industry.

Impact on the Department and other agencies: If the Department of Education can successfully implement training partnerships, other agencies could use this

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measure's framework to realize similar anticipated benefits.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 100

OTHER AFFECTED
AGENCIES: Department of Human Resources Development,
Department of Labor and Industrial
Relations, University of Hawaii.

EFFECTIVE DATE: July 1, 2022

REVISED: November 8, 2021
 1ST DRAFT DATE: September 24, 2021

___B. NO._____

A BILL FOR AN ACT

RELATING TO OFFICIAL SCHOOL BUSINESS.

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

1 SECTION 1. The purpose of this Act is to provide increased
 2 protection for school officials to conduct school business by
 3 establishing the offense of obstructing official school business.

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

7 "§302A- Obstructing official school business.

8 (a) No person, without privilege to do so and with purpose to
 9 prevent, obstruct, or delay the performance by a school official
 10 of any authorized act within the school official's official
 11 capacity, shall do any act that hampers or impedes a school
 12 official in the performance of the school official's lawful
 13 duties.

14 (b) Whoever violates this section is guilty of obstructing
 15 official business. Obstructing official business is a petty
 16 misdemeanor. If a violation of this section creates a risk of
 17 physical or emotional harm to a school official, the violation
 18 shall be a misdemeanor. The attorney general and the county
 19 prosecutors shall be responsible for enforcing this provision."

20 SECTION 3. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.

1 SECTION 4. This Act shall take effect on July 1, 2022.

INTRODUCED BY: _____

BY REQUEST

____.B. NO.____

Report Title:

School Business; Misdemeanor

Description:

Creates a misdemeanor for disrupting official school business

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JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO EDUCATION

PURPOSE: Provide increased protection for school administrators to conduct school business in light of new challenges.

MEANS: Amend chapter 302A, Hawaii Revised Statutes, by adding a new section establishing the offense of obstructing official school business.

JUSTIFICATION: The COVID pandemic and increasing political polarization have created a more difficult environment to implement school policies. There are ever increasing demands on school administrators to run a school campus effectively. To protect school administrators from threats made to cause bodily harm and assaults, this bill will afford protection within the justice system for threats and bodily harm to school administrators when the general public is uncontrollable. The Department is committed to protecting its employees. We hope that this legislation will deter negative behavior from the public to allow the academic experiences for our students to continue.

Impact on the public: There is greater punishment and less incentive to abuse school administrators over policies with disagreement.

Impact on the Department and other agencies: Protect school employees further and provide them an increased layer of protection.

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GENERAL FUND: None.
OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 100

OTHER AFFECTED
AGENCIES: Department of the Attorney General, County
Prosecuting Attorneys, County Police
Departments.

EFFECTIVE DATE: July 1, 2022

REVISED: November 8, 2021
 1ST DRAFT DATE: September 24, 2021

___B. NO._____

A BILL FOR AN ACT

RELATING TO SCHOOL COMMUNITY COUNCILS.

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

1 SECTION 1. The purpose of this Act is to allow for the
 2 removal of a member of a school community council to be carried
 3 out at the complex area level rather than requiring board of
 4 education approval.

5 SECTION 2. Section 302A-1124, Hawaii Revised Statutes,
 6 is amended to read as follows:

7 **§302A-1124 Mandate to initiate school community councils.**

8 (a) The department, through the board and its superintendent,
 9 shall establish a school community council system under which
 10 each public school, excluding charter schools, shall create and
 11 maintain a school community council. Each school community
 12 council shall:

13 (1) Review and evaluate the school's academic plan and
 14 financial plan, and either recommend revisions of the
 15 plans to the principal, or recommend the plans for
 16 approval by the complex area superintendent;

17 (2) Ensure that the school's academic and financial plans
 18 are consistent with the educational accountability

- 1 system under section 302A-1004;
- 2 (3) Participate in principal selection and evaluation, and
3 transmit any such evaluations to the complex area
4 superintendent; and
- 5 (4) Provide collaborative opportunities for input and
6 consultation.
- 7 (b) School community councils shall be exempt from the
8 requirements of chapters 91 and 92. The school community
9 councils shall:
- 10 (1) Make available the notices and agendas of public
11 meetings:
- 12 (A) At a publicly accessible area in the school's
13 administrative office so as to be available for
14 review regular business hours; and
- 15 (B) On the school's internet web site,
16 not less than six calendar days prior to the
17 public meeting, unless a waiver is granted by the
18 superintendent in the case of an emergency; and
- 19 (2) Make available the minutes from public meetings on a
20 timely basis in:
- 21 (A) The school's administrative office so as to be
22 available for review during regular business
23 hours; and
- 24 (B) On the school's internet web site.

1 (c) Complex area superintendents may require revisions
2 to a school's academic and financial plans if the plans
3 are in violation of law or conflict with statewide
4 educational policies and standards, or are otherwise in
5 the best interests of the school.

6 (d) The superintendent of education may recommend to the
7 board of education dissolution of a school community
8 council and establish an interim school community
9 council if the school community council engages in any
10 act or omission that would constitute gross negligence,
11 willful and wanton misconduct, or intentional
12 misconduct. [~~The superintendent may recommend to the
13 board the removal of any member of a school community
14 council.~~] The superintendent shall appoint or
15 facilitate the creation of an interim school community
16 council at any school that has not established a
17 council or has had its council dissolved. In
18 appointing or facilitating the creation of an interim
19 school community council at any school that has had its
20 council dissolved, the superintendent may appoint
21 individuals who were previously members of the council.

22 (e) The principal of a school may recommend the removal of
23 any member of a school community council of the
24 principal's school to the complex area superintendent.
25 The complex area superintendent shall have the

1 authority to remove any member of a school community
2 council. A member of a school community council may
3 also be removed by a majority vote conducted by the
4 school community council.

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

10 (1) The number of school personnel on any school
11 community council shall be equal to the number of
12 primary stakeholders on the school community council;

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

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

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

22 (C) Noncertificated school personnel elected by
23 ballots distributed among and collected from
24 noncertificated personnel of the school;

- 1 (D) Community representatives elected by ballots
2 distributed among and collected from parents of
3 the school's students; and
- 4 (E) Student representatives selected by the student
5 council of the school; and
- 6 (3) At the high school level, each school community
7 council shall be composed of the principal and at least
8 one member representing each of the following groups:
- 9 (A) Parents elected by ballots distributed among
10 and collected from parents of the school's
11 students;
- 12 (B) Teachers elected by ballots distributed among
13 and collected from teachers of the school;
- 14 (C) Noncertificated school personnel elected by
15 ballots distributed among and collected from
16 noncertificated personnel of the school;
- 17 (D) Community representatives elected by ballots
18 distributed among and collected from the parents
19 of the school's students; and
- 20 (E) Student representatives selected by the student
21 council of the school.

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

- 24 [~~f~~](g) School community councils shall elect
25 officers, including:

- 1 (1) A chairperson;
- 2 (2) A vice-chairperson;
- 3 (3) A secretary; and
- 4 (4) Other officers as needed to perform stated duties in
- 5 support of the work of the council.

6 ~~(g)~~(h) The principal shall have the authority to set

7 aside any decision made by the school community

8 council if the principal determines it to be in

9 the best interests of the school; provided that

10 the principal notifies the school community

11 council. If the school community council opposes a

12 decision of the principal, an appeal shall first

13 be brought to the complex area superintendent for

14 resolution and, if necessary, to the

15 superintendent and, finally, to the board of

16 education.

17 ~~(h)~~(i) Complex area superintendents shall assist the

18 school community councils and principals within

19 their respective complex areas in:

- 20 (1) Obtaining the support and services of the
- 21 department; and
- 22 (2) Ensuring the progress and success of the school's
- 23 academic and financial plan.

24 SECTION 3. Statutory material to be repealed is

1 bracketed and stricken. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on July 1, 2022.

INTRODUCED BY: _____

BY REQUEST

____.B. NO.____

Report Title:

School Community Council; Public Schools; Department of Education

Description:

Defines who may remove a school community council member.

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JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO SCHOOL
COMMUNITY COUNCILS

PURPOSE: Allows removal of a member of the school
community council (SCC) to be carried out at
the complex level.

MEANS: Amends section 302A-1124, Hawaii Revised
Statutes.

JUSTIFICATION: This measure will allow for the removal of a
member of the SCC to be carried out at the
complex level rather than requiring Board of
Education's approval. SCC boards are not a
governing body, SCC members are volunteers,
and hence it should not be necessary for the
Board of Education to have to weigh-in on
removing an individual from an SCC. This
measure will reduce the administrative
burden on the Board of Education for an
issue that does not impact its primary role
to formulate statewide educational policy.

Impact on the public: None.

Impact on the Department and other agencies:
This measure would allow school
responsibilities to continue to be carried
out and fulfilled in a timely manner.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 100

Attachment E

OTHER AFFECTED
AGENCIES: None

EFFECTIVE DATE: July 1, 2022