

Honolulu, Hawaii

APR 27 2012

RE: S.B. No. 2540
S.D. 2
H.D. 2
C.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2540, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes ("HRS"), that:

- (1) Have already been accomplished and are no longer necessary to be codified in statute;
- (2) Impede rather than assist the Department of Education in meeting its core mission;
- (3) Fall under the purview of the Board of Education, such as policy and programmatic decisions;



- (4) Are already mandated by federal law and do not require codification in state statute; and
- (5) Are covered by another section of the HRS, Hawaii Administrative Rules, or Board of Education policy.

Your Committee on Conference finds that as a result of the constitutional amendment adopted in the 2010 general election, the Board of Education was required to transform from an elected board to an appointed board, with the appointments made by the Governor. This change presents a unique opportunity to review numerous sections of the HRS to determine if amending or reducing statutory restraints and requirements would assist the Board of Education and Department of Education in creating a more effective educational delivery system. This measure is consistent with S.C.R. No. 79 (2011), which requested that the Board of Education and Department of Education review applicable statutes to, in part, assist the Department of Education in meeting its core mission.

Your Committee on Conference further finds that the statutory revisions proposed by this measure do not diminish the role of the Legislature in overseeing the Department of Education and holding it accountable for the educational success of students, but rather place certain decision making authority in the best place possible.

In addition, your Committee on Conference notes that deleting outdated or duplicative sections of chapter 302A, HRS, does not in any way suggest that the Department of Education does not have proper legal authority to implement those programs or activities covered by those deleted sections. Rather, the Legislature is placing decision making authority over those certain programs and activities at the proper level, whether at the policy making level or the administrative level. Furthermore, your Committee on Conference urges the Department of Education to ensure that it has rules and policies in place to address the sections of chapter 302A, HRS, that are repealed by this measure.

Your Committee on Conference has amended this measure by:

- (1) Specifying that students may attend a school outside their service area, as determined by the Department of Education, when a geographic exception is requested and granted at the discretion of the Department or out-of-service-area attendance is mandated by the Department or federal law;



- (2) Inserting language to amend section 302A-1151.1, HRS, to:
 - (A) Specify that when the Department of Education considers closing a public school, it shall give reasonable consideration to making all or portions of the facilities of the public school available to charter schools, to pre-plus programs, or for any other purpose the Board of Education deems appropriate, rather than limit such use to charter schools;
 - (B) Repeal the language establishing a procedure for the selection of charter schools to use vacant school facilities; and
 - (C) Require the Department of Education to identify unused public school facilities that may be appropriate for charter schools, early learning programs, such as pre-plus programs, or any other purpose the Board of Education deems appropriate;
- (3) Inserting language to repeal various requirements under section 302A-1502.4, HRS, relating to the Hawaii 3R's school repair and maintenance fund;
- (4) Repealing section 302A-401.5, HRS, relating to the Hawaii teacher cadet program;
- (5) Repealing section 302A-1506.5, HRS, which requires the Department of Education to identify sites for early education;
- (6) Repealing section 302B-3.6, HRS, which sets forth the process by which charter schools may use vacant public school facilities;
- (7) Deleting language that requires any existing rule, ordinance, executive order, directive, or provision in a collective bargaining agreement in existence on the effective date of this measure that is inconsistent with this measure to be amended to conform with this measure;
- (8) Inserting a savings clause to clarify that nothing in this measure shall affect any rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date;



- (9) Making this measure effective upon approval; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2540, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2540, S.D. 2, H.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

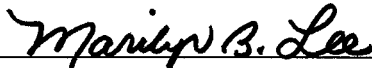
ON THE PART OF THE SENATE



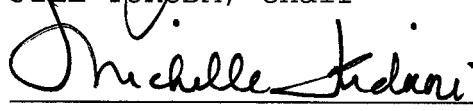
ROY TAKUMI, Co-Chair



JILL TOKUDA, Chair



MARILYN B. LEE, Co-Chair



MICHELLE KIDANI, Co-Chair



Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 2540, SD 2, HD 2	Date/Time: 4/25/12 2:25 pm
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
TOKUDA, Jill N., Chr.	X				TAKUMI, Roy M., Co-Chr.	X			
KIDANI, Michelle N., Co-Chr.	X				LEE, Marilyn B., Co-Chr.	X			
SLOM, Sam	X				BELATTI, Della Au	X			
					SAIKI, Scott K.				X
					JOHANSON, Aaron Ling	X			
TOTAL	3	0	0	0	TOTAL	4	0	0	1

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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