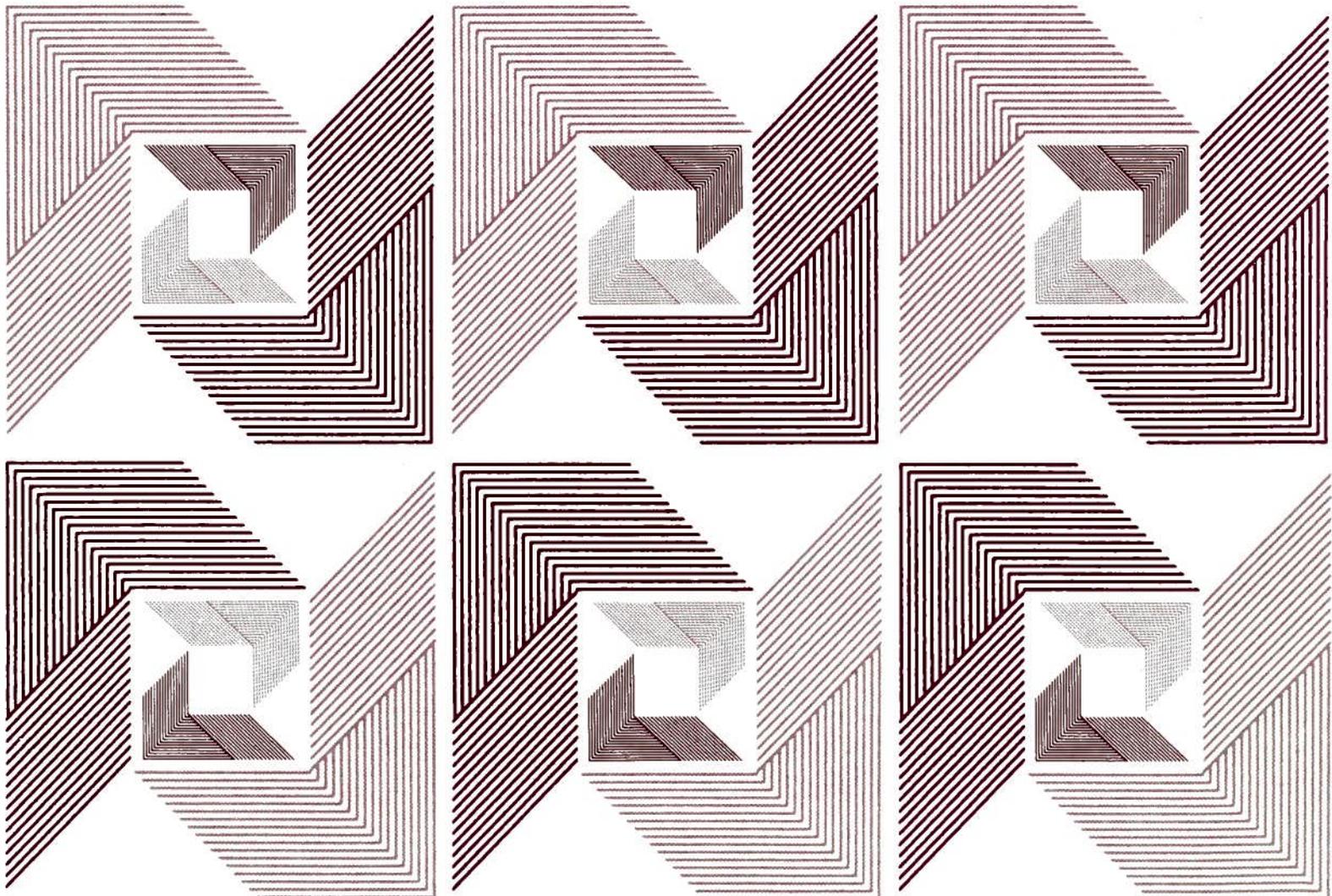


Report No. 90-5
January 1990

SUNRISE ANALYSIS OF A PROPOSED TEACHER STANDARDS BOARD

A REPORT TO THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII



THE OFFICE OF THE LEGISLATIVE AUDITOR

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Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
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3. *Sunset evaluations* are conducted of professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with a schedule and criteria established by statute.
4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Legislative Auditor as to its probable effects.
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OVERVIEW

SUNRISE ANALYSIS OF A PROPOSED TEACHER STANDARDS BOARD

Honolulu, Hawaii

January 1990

Summary

The Hawaii Regulatory Licensing Reform Act requires the legislative auditor to analyze legislation that proposes to regulate an occupation. The exercise of the state's police power has been proposed for a Hawaii Teacher Standards Board in Senate Bill 896, Senate Draft 1.

The legal framework requires that regulation be undertaken only when reasonably necessary to protect the health, safety, and welfare of consumers; when there is evidence of abuse; and when consumers are at a disadvantage in choosing a provider of a service. The law also says that regulation shall not be undertaken to advance the occupation or unreasonably restrict entry. The proposed legislation must meet the criteria of *rationality* (some reasonable relationship between the purpose of regulation and how regulation will accomplish that purpose), *specificity* (certainty in terms

and conditions), and *fairness* (adherence to the requirements of due process).

The proposed board would issue licenses to new public school teachers according to as yet unspecified standards. Private school teachers and currently licensed ("certificated") teachers would be exempt. The Department of Education would not be permitted to hire teachers unless they were licensed by the proposed board.

The proposed board would be composed of six teachers and five other members. It would be administratively assigned to the Department of Commerce and Consumer Affairs. In its jurisdiction over public school teachers, the proposed board would assume the current certification responsibilities of the Board of Education.

FINDINGS

The proposed board does not meet criteria for occupational regulation under the law. There is no evidence that the board is needed to protect the public health and welfare. Its purpose is to advance the teaching profession. The proposal is too vague to be rational, specific, and fair.

Teachers are already being licensed by the Department of Education. Substituting the proposed board would not correct such practices as out-of-field assignments. Some improvements could be made in the department's licensing program, but the proposal could create more problems than it solves.

RECOMMENDATIONS

1. Senate Bill 896, Senate Draft 1, should not be enacted.

2. The Department of Education should consider ways to expand the supply of teachers through greater reciprocity and participation in regional credentialing programs.

3. The Board of Education and the department should improve the licensure program through an advisory group on licensing standards for public school personnel. The group should submit biennial reports to the Legislature.

4. The department should develop information on assignments made outside the fields of preparation and the impact of this practice.

5. The Legislature, the board, the department, and all teachers should monitor and, as appropriate, participate in the national certification efforts under way.

RESPONSE

The Board of Education did not comment on the recommendations. The Department of Education is satisfied with the report. Both the BOE and DOE commended the report for its comprehensiveness. The Department of Commerce and Consumer Affairs noted that the report paralleled many of the department's concerns.

HSTA disagreed with the report. It objects to a "strict interpretation" of Hawaii's regulatory statute. It maintains that the current licensure process, in combining hiring and licensure, does not assure that every teacher hired is qualified to teach.

**SUNRISE ANALYSIS OF A
PROPOSED TEACHER STANDARDS BOARD**



A Report to the Governor and the Legislature of the State of Hawaii

Submitted by

**Legislative Auditor of the State of Hawaii
Honolulu, Hawaii**

**Report No. 90-5
January 1990**

FOREWORD

The Hawaii Regulatory Licensing Reform Act (Sunset Law) requires the legislative auditor to analyze legislation that proposes to regulate an occupation. Senate Bill 896, Senate Draft 1, proposing to establish a teacher standards board was referred to the legislative auditor for sunrise review. The Legislature also adopted Senate Concurrent Resolution 73, Senate Draft 1, to affirm its intent that the auditor evaluate the proposal in the Senate bill. In response to these requests, we analyzed the proposed regulation based on the policies set forth in the Sunset Law.

We wish to acknowledge the cooperation and assistance extended us by personnel of the Board of Education, the Department of Education, the Department of Commerce and Consumer Affairs, and the University of Hawaii College of Education. We also wish to acknowledge the cooperation and assistance of the Hawaii State Teachers Association and the National Board for Professional Teaching Standards.

Newton Sue
Acting Legislative Auditor
State of Hawaii

January 1990

TABLE OF CONTENTS

<i>Chapter</i>		<i>Page</i>
1	INTRODUCTION	1
2	BACKGROUND	3
	Education in the United States	3
	History of Teacher Certification	4
	Regulation in the United States	6
3	THE PROPOSAL FOR A HAWAII TEACHER STANDARDS BOARD	11
	Composition of the Teacher Standards Board	11
	Authority of the Board	11
	Scope of Practice to be Regulated	12
	Disciplinary Actions	12
	Fees and Expenses	13
	Exemptions	13
	Legislative History	13
4	ANALYSIS OF THE PROPOSED REGULATION	15
	Summary of Findings	15
	Proposed Licensing Board Does Not Meet Criteria Established by Law	15
	Proposal May Create More Problems Than it Solves	18
	Professional Certification Under Development	21
	Recommendations	23
	NOTES	25
	RESPONSES OF THE AFFECTED AGENCIES	29

Chapter 1

INTRODUCTION

In 1984, the Legislature amended the Hawaii Regulatory Licensing Reform Act, or the “Sunset Law,” by incorporating a “sunrise” provision. Under this provision, the legislative auditor is required to analyze proposed legislation that would impose licensing or other regulatory controls on unregulated occupations.

Section 26H-6, *Hawaii Revised Statutes*, instructs the auditor to assess the probable effects of the proposed measure and to determine whether its enactment would be consistent with state regulatory policies in the Sunset Law. These policies establish criteria for regulation such as the following:

- . Regulation is warranted only where reasonably necessary to protect the health, safety, and welfare of consumers;
- . Evidence of abuse shall be accorded great weight in determining whether regulation is desirable;
- . Regulation shall not be imposed except to protect relatively large numbers of consumers who may be at a disadvantage in choosing the provider of the service;
- . Regulation should not unreasonably restrict entry into the occupation by qualified persons; and
- . The purpose of regulation is to protect the consumer and not the regulated occupation.

The 1989 Legislature was requested to establish a “teacher standards board” for Hawaii’s public schools. Senate Bill 896, Senate Draft 1, passed second reading in the Senate and was

recommitted for sunrise review by the legislative auditor. The Legislature also adopted Senate Concurrent Resolution 73, Senate Draft 1, to affirm its intent that the auditor evaluate the proposal in the Senate bill.

This analysis consists of four chapters. Chapter 1 is this introduction. Chapter 2 provides some background on education and the current regulation of teachers. Chapter 3 describes the provisions of S.B. 896, S.D. 1. Chapter 4 presents our analysis of the proposed regulation.



Chapter 2

BACKGROUND

Education is a major enterprise in the United States. This chapter summarizes the magnitude of that enterprise, traces the history of teacher certification, and describes current regulation of teachers.

Education in the United States

In 1987-88, one-sixth of the American population, or 40.3 million students, attended public schools. The cost of this education was approximately \$160 billion, or 27.6 percent of per capita personal income. Average expenditure for each public school student was \$4,645 in current dollars. In the 1987-88 school year, 4.3 million persons were employed full time in the public schools. Approximately 2.3 million of these were teachers. Their average salary was \$28,044, an increase of 19 percent since 1980-81 when adjusted for inflation. When unadjusted, the average salary had increased by 60 percent in seven years.¹

Teachers have captured public attention because of the current shortage and a growing demand. By the mid-1990s, 80 percent more secondary teachers and 11 percent more elementary teachers will be needed. This demand will exacerbate the difficulties already reported by high school principals in 1985-86. Teachers in physics, chemistry, computer science, math, and foreign languages were difficult to find, especially for rural schools.²

In all states except Hawaii, teachers work in public schools operated by local school districts. In the other 49 states, the state department of education is an administrative entity which exists primarily to set broad policies, dispense state

funds, and capture federal funds. The 13,500 local school districts vary widely in size.³

The relative fiscal contributions of federal, state, and local revenue sources have changed in this century. From 1920 to 1974, local governments provided the bulk of school funding. By 1987, this proportion had dropped to 44 percent while the states' share rose from 16.5 percent to 50 percent. The federal share has fluctuated between 6 and 10 percent.⁴

Local school districts fund their schools largely from property taxes. In some jurisdictions local sales taxes, income taxes, and miscellaneous revenues significantly share the load with property taxes. State resources tend to be apportioned by formula in order to equalize support among widely disparate school districts.⁵

Hawaii's single statewide public school system is unique. It is supported primarily by the state general fund. All school funds are raised and appropriated by the Legislature, including funds for construction and repair of schools. Internal management of the public school system is in the hands of an elected Board of Education and exercised through a superintendent appointed by the board. The schools are operated by the Department of Education (DOE) with some independence from the rest of the executive branch. Selected functions are delegated to seven administrative districts. A further delegation of authority to the schools is under development.

Hawaii's public school enrollment for 1989-90 is 169,193 students, an increase of 1,966 students from the prior year.⁶ This reflects a continuing rise that began in 1983, part of a cycle that saw

a peak enrollment of 182,463 in 1971 and a low of 161,387 in 1982. The DOE projects a continued increase at least through 1993, when an enrollment of 177,598 is expected. The steepest increases will occur on the neighbor islands.⁷

The DOE had 10,054 teachers on its teacher salary schedule in January 1989.⁸ The vast majority of these were classroom teachers; the rest were school librarians, counselors, registrars, and district and state support staff. By statute, all full-time teachers are members of a single collective bargaining unit, Unit 5. Their exclusive bargaining agent is the Hawaii State Teachers Association (HSTA). In 1989, the DOE also hired 1,835 substitutes and 8,656 part-time teachers during the year.⁹

Nationally, 11 percent of the students are in private and parochial schools.¹⁰ In Hawaii, 33,116 students, or 16 percent, are attending nonpublic schools in 1989-90. Private, parochial, and vocational school teachers number approximately 1,750.¹¹

History of Teacher Certification

The term "certification" has been used differently in the teaching profession. In teaching, the term has meant both licensure to practice by a government body and the attainment of higher standards set by the profession. In other professions, certification generally means meeting certain standards set by the professional organization. The dual meaning given to the term in the teaching profession has led to some confusion. In this report, the term is used to mean licensure. Where certification means meeting the standards set by a professional organization, the term "professional certification" will be used.

Local control of teacher certification. Before 1825, the principle of local control of education was foremost. Public education was a local responsibility, framed by the Massachusetts Law

of 1647. During the colonial period, religious and political loyalty were the only state requirements imposed on teachers.

Limited means of communication and travel, a small pool of applicants, the weakness of central authorities, and a lack of clerical help forced local authorities to judge the competence of teachers as best they could. Local lay committees relied on testimonials, letters of recommendation, and interviews. Academic preparation was evaluated orally. Committees that required written exams really used only handwriting samples and simple arithmetic problems and had candidates read aloud.

County certification. In the early nineteenth century, however, the public began to recognize the need to select teachers from a broader geographic area and to have more competent examiners. County certification became the predominant mode as it opened up employment opportunities to all school districts in a county. In 1825, the Ohio court of common pleas appointed three county examiners to evaluate and "certify" teachers. The 1845 Vermont legislature followed, providing for county superintendents of education to be appointed by the respective county court judges. Among the superintendents' duties were the examination of teaching candidates and the issuance of one-year certificates.

By 1880, most states had established examination boards to assist the county superintendents. The boards usually consisted of experienced teachers or administrators. The examinations initially tested for subject matter only; later they became written examinations that included tests of teaching theory and knowledge of the Constitution and school laws.

Throughout the nineteenth century there was never a sufficient supply of teachers for both urban and rural school districts, especially the latter. It became a common practice to grant several classes of certificates based on

how well teachers did on their examinations in order to maintain the supply and keep classrooms staffed.

Development of teacher education. The creation of normal schools to train teachers helped to elevate the status of teaching. Two prime movers, Horace Mann of Massachusetts and Henry Barnard of Connecticut, influenced the education of teachers and the improvement of schools. The normal schools were not collegiate institutions, however, and they focused on preparing elementary teachers. It was not until 1908 that normal schools required applicants to have graduated from high school. Certification was not automatically granted to normal school graduates because of the range in their scope, admission requirements, and staff quality. Exams were still required of all candidates.

Secondary schools were for the select few bound for college and tended to be staffed by college graduates who had drifted into teaching. But when significant numbers began to enter the teaching ranks, colleges began to develop teacher preparation curricula. Eventually they replaced normal schools entirely.

Teachers formed the National Teachers Association in 1857 and renamed it the National Education Association (NEA) in 1870. But while other professional organizations established certification and licensure standards, NEA did not for several reasons. The NEA was faced with already well-established patterns of certification in the states. Besides, a number of other factors mitigated against strong teacher organizations: (1) popular belief held that teachers were born, not made; (2) teaching was a part-time occupation, for example, the 1849 Wisconsin school year was only 71 days long; (3) teachers were paid the same as unskilled workers; (4) school committees did not always select on the basis of competence but sometimes on one's blood relationships and willingness to perform degrading tasks; and (5) teaching commanded little prestige.

State certification. By the turn of the century, county certification was becoming inadequate. Along with a broadening of the field of education, states were becoming involved in certification. The purpose of schooling had broadened to include new views toward society, individual freedom, and academic rigor. Public high schools were no longer limited to college preparation for the select few. Curriculum expanded and specialization within teaching fields became the norm. College preparation became necessary to teach in high school. The old teacher examinations were considered too easy; they were displaced by college or normal school preparation.

The role of state government in education became more and more important as local governments required financial assistance. Federal land grants for education in the new states required centralized administration. Teachers pressured for freedom of movement within the state, chafing at county certificates. States began to offer credentials with higher professional status, with statewide validity, and sometimes the credentials were good for a lifetime.

The civil service movement of the same period influenced the expanding school programs. This movement was intended to remove political influence from government employment, to promote efficiency, and to select only the most qualified. Position classification described the duties and responsibilities of the job. Selection procedures ranked candidates by order of merit; in emergencies, underqualified candidates could be hired.

Teacher credentialing adapted from civil service the concepts of classification and minimum qualifications for each class. The kinds of certificates issued became specialized with distinct minimum qualifications for each kind of certificate. Specialization occurred along four lines: (1) by age stratification, such as kindergarten, primary, secondary, and junior

college; (2) by special subject fields, such as music, vocational education, and others; (3) by administrative and supervisory fields; and (4) by other nonteaching functions such as school librarian and counselor.¹²

The patterns of "certification" evolved through the work of teacher organizations, certification officials, colleges of teacher preparation, and others. The current regulatory picture is described in the next section.

Regulation in the United States

All 50 states and the District of Columbia require public school teachers to be "certified"--i.e., licensed to practice. Some also require private, vocational, and post-secondary school teachers to be licensed, but not necessarily by the same standards as apply to public school teachers.

Licensure requirements. States vary widely in what they specifically require of teacher applicants, but the basic requirement is generally the same: completion of approved teacher preparation programs. These programs are periodically reviewed by the state certification agency. Most states delineate the number of hours in various course categories for each type of certificate issued.

Several national groups are active in formulating teacher preparation requirements, especially the National Association of State Directors of Teacher Education and Certification (NASDTEC). Also active at the collegiate level are the American Association of Colleges for Teacher Education and the National Commission on the Accreditation of Teacher Education. The Holmes Group of teacher preparation college deans and Goodlad School-University Partnerships are also active in reforming teacher preparation. The Holmes Group in particular is advocating a shift of teacher training to the graduate level, albeit still in colleges of education.

Approximately 30 states have concluded reciprocity agreements, accepting each other's certificate holders, with some contingencies. The DOE is a participant except for selected subject fields.¹³

A number of states have recently also adopted "alternate certification" or nontraditional routes to licensure--the traditional route being the four-year or upper division curriculum in the college of education, including student teaching. Alternate certification involves accepting holders of noneducation bachelors degrees who have completed teacher preparation programs at the graduate level. New Jersey has had alternate certification since 1985.¹⁴ A few states have even eliminated the traditional route and substituted the alternate route entirely. Virginia and Texas recently dropped the education degree requirement for teacher licensure, requiring instead an arts and sciences degree.¹⁵

Most states issue separate certificates for elementary and secondary teachers, special education teachers, and administrators. Some even differentiate among administrators up to, and including, the superintendent. A significant number also issue school counselor certificates. In some states, "endorsements" in subject fields, grade levels, administrative levels, or ancillary positions give more specificity to the certificates. These endorsements require completion of stated courses and, where applicable, relevant experience.

Teacher examinations. The use of standardized, paper-and-pencil tests for teacher applicants is perhaps the most significant change in teacher licensure requirements in the 1980s. Mostly in response to public and legislative concern, 35 states now require these tests. Fifteen require the National Teacher Exam (NTE) developed by Educational Testing Service (ETS). Seven states require both the NTE and a state-developed instrument, one requires another ETS test, and 12 require a state test.¹⁶

The NTE consists of two kinds of tests: the core-battery and the specialty-area tests. The core-battery tests measure communication skills, general knowledge, and professional knowledge. Minimum scores are set by each state according to a procedure developed by ETS. Numerous specialty-area tests are available. An applicant for teaching at the elementary level would have to pass the elementary-specialty test. An applicant for teaching at the secondary level would have to pass the specialty-area test or tests in his or her major teaching field(s). The cost to take the NTE is currently \$70 for the core-battery and \$45 for each specialty-area test. In response to increasing criticism of the validity of the NTE, the developer is currently revamping and expanding the instrument.

Approximately 80 percent of the states charge certificate application fees ranging from \$2.00 to \$100.00. The rest charge nothing. Renewals are required by almost all of the states after one to five years. Three states grant initial certificates for life.¹⁷

Teacher licensing in Hawaii. Hawaii's "certification" requirements parallel those of most states. Certificates are available for public and private school teaching, school administration, educational administration, counseling, and school librarianship. Teacher candidates must complete a state-approved teacher education program that has been evaluated by NASDTEC standards. Applicants must prove they fit DOE's "Profile of an Effective Teacher," a description of desired characteristics and demonstrated behavior. Conformance with the "Profile" is evaluated by the teacher preparation institution or by DOE. Public school teachers must have successfully completed student teaching; private school teachers need not. Applicants must submit passing scores on the NTE core battery and appropriate specialty tests. Alternate routes to certification are available but on a limited, project-oriented basis to meet specific shortage situations.

An applicant who meets all the requirements but possesses a bachelor's degree or who is licensed by another state is issued an initial *basic* teacher certificate. One who has passed a five-year education program is issued an initial *professional* teacher certificate. The initial certificates are valid for two years and may be renewed annually up to five years. After the first two-year period, the holder of an initial certificate may apply to "clear" it and obtain either the regular basic or professional certificate. Once "cleared," the certificate is good for life and need not be renewed. No fees are charged for certificates, but applicants must pay ETS for the NTE tests.

Licensing agencies. "Certification" agencies set teacher licensure requirements and issue and revoke licenses to teach. This section describes the varying kinds of certification agencies among the states.

The predominant practice is licensure at the state level by state departments of education. Approximately 10 to 15 state education agencies (SEAs) administer the program by themselves. Another 27 or so states also have advisory groups for the setting of certification standards. Some of these groups are also authorized to advise on teacher preparation programs, the awarding or renewal of certificates, reprimands, revocation or suspension of certificates, and research on teacher preparation programs.¹⁸

Only four states provide for teacher certification by an autonomous agency independent of the SEA: California, Oregon, Minnesota, and Iowa. In each case, a commission or board licenses public school teachers for initial entry and renewal and issues and revokes certificates. Representation is statewide. Educators--but not necessarily teachers--are a majority but seats are reserved for certain ex officio positions and constituencies. A handful of other states have created boards with limited autonomy.

California. California established the Teacher Credentialing Commission in 1970. Until 1988 the state board of education retained an oversight function. Professional educators have held a majority of the 15 seats since July 1989. The six public school teachers form the largest category of membership but not a majority. The commission's authority includes approval of preparation programs, development of its own exams, enforcement of rules of conduct, and other functions.

Oregon. In 1973 Oregon converted its 1965 advisory Teacher Standards and Practices Commission to a 17-member autonomous body. Its membership consists of eight teachers, two school administrators, two district administrators, two college faculty, one school board member, and two members of the public at large. The commission's authority to approve teacher preparation curricula has been a subject of recent controversy.

Minnesota. Minnesota created its Board of Teaching in 1973. The requirement that the state board of education approve its rules was removed in 1980. The 15-member teaching board consists of six teachers, one school support staff, one school administrator, one member of a teacher education faculty, and six members of the public, of whom two must be present or past school board members. Recent legislation will reduce the size of the board to eleven members. Teachers will continue to hold six seats; the number of public members will be reduced. The board sets rules for licensure and program approval and enforces a code of ethics.

Iowa. In 1989 Iowa enacted legislation to convert its advisory board to an "autonomous" board of educational examiners. Its 11 members consist of nine educators and two members of the public, of whom one is the director of the department of education. The board of examiners is authorized to license practitioners and approve professional development programs except for programs approved by the state board of education. The board of examiners is also

authorized to develop and enforce a code of ethics.

Other states. A handful of states have established "semi-autonomous" licensure boards. Nevada created a nine-member Commission on Professional Standards in Education in 1987, giving it authority to license teachers. But the commission is not authorized to approve teacher preparation programs nor to revoke licenses. These powers have been retained by the state board of education that also reviews the commission's actions. The board of education may veto any commission actions that threaten efficient school operations or that might create financial hardships for schools or individuals.

Another state with a semi-autonomous board is Florida. Its 24-member Education Standards Commission is responsible for teacher recruitment, program approval, accreditation, and subject matter competency, among others. Half of its members are teachers. But the standards commission may only make recommendations to the state board of education, which is comprised of the governor, the attorney general, and legislators. Enforcement of disciplinary action is in the hands of another entity, the Professional Practices Commission. The commission is autonomous in its activities, but its members are appointed by the state board of education.

A Teacher Certification Board in Illinois is appointed by the state board of education to issue licenses and approve teacher preparation programs. Among its 13 members are six teachers.

Hawaii. Section 297-2, *Hawaii Revised Statutes*, requires that all teachers in the state be "certified" by DOE. Private school staffs are licensed according to *Hawaii Administrative Rules*, Title 8, Chapter 8, adopted by the Board of Education. The DOE is both the licensing and employment agency for public school teachers. Section 5300 of the *School Code*, approved by the Board of Education, establishes the policies, regulations, and licensure

requirements. Other sections of the 5000 series affect teacher employment with DOE.

The licensure function is delegated through the superintendent to the office of personnel services at the state office. The personnel office has adopted the NASDTEC standards for approving the four teacher preparation programs in the state. The office periodically reviews these programs and issues State Approval of Teacher Education reports. In 1989, the personnel office issued its report on the University of Hawaii-Manoa College of Education program. The review, the first in five years, contained several criticisms which the university reportedly is trying to correct.

In accordance with NTE requirements, the DOE has established advisory task forces on minimum cut-off scores and the validity of each test question for Hawaii. However, unlike a number of other states, there is no advisory body to address specifically the licensure standards.

National Certification. Professional certification of teachers in specialty areas is

expected within a few years. The National Board for Professional Teaching Standards has been at work on this since 1987. An outgrowth of a task force of the Carnegie Forum on Education and the Economy, the national board intends "to establish high and rigorous standards for what teachers should know and be able to do, to certify teachers who meet those standards, and to advance related education reforms for the purpose of improving student learning in American schools."

Certification by the National Board will be voluntary, for experienced teachers, and will complement initial licensure. Approximately 30 certification fields are under development. The National Board plans to offer the first of these certificates by 1993. It intends to identify what constitutes teaching, set standards and definitions, develop assessment instruments, and establish assessment centers around the country. The implications of national certification are treated further in Chapter 4.



Chapter 3

THE PROPOSAL FOR A HAWAII TEACHER STANDARDS BOARD

A "Hawaii teacher standards board" was proposed in several bills in the 1989 Legislature. The Legislature referred Senate Bill No. 896, Senate Draft No. 1, to be the object of this sunrise analysis. The proposal is described in this chapter.

Composition of The Teacher Standards Board

The proposed legislation would create a teacher standards board within the Department of Commerce and Consumer Affairs (DCCA). It would transfer the licensing function for public school teachers from the Department of Education (DOE) to the new board. The board would consist of 11 members--six public school teachers and five members from various other constituencies. The six teachers would be tenured in the DOE and have at least five years of teaching experience. The other five members would include the following:

- . the superintendent of education;
- . two representatives of the Board of Education (BOE);
- . one representative of the University of Hawaii College of Education; and
- . one representative of the community.

The members of the board would be appointed by the governor with the advice and consent of the Senate, except for the superintendent of education who would be an ex officio voting member. To the extent possible, the members of the board would represent the following segments of the population:

- . elementary, secondary, and support personnel in bargaining Unit 5 (teachers,

- school librarians, registrars, and counselors);
- . the DOE;
- . the University of Hawaii;
- . the community;
- . gender; and
- . ethnic groups.

Appointed members of the standards board would serve three-year terms except for the ten initial appointees who would serve staggered terms. No member could serve more than six years except for the initial appointees with less than full terms. The board would elect a chair from among its membership.

Members would not be compensated for their service. Those who are state employees would be permitted to take administrative leave with pay. The State would be required to provide substitutes for the teacher members.

Authority of the Board

The powers and duties of the Hawaii Teacher Standards Board would include the following:

- (1) To study and establish educational and training standards for licensure to teach in public schools, including selecting and administering a professional teacher exam;
- (2) To approve all pre-service teacher education programs;
- (3) To set fees for licenses and renewals, and any other administrative fees;
- (4) To issue licenses to applicants who have met its standards;

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- (5) To revoke a license when the holder no longer meets standards;
 - (6) To establish expedited procedures for voluntary licensure of in-service teachers;
 - (7) To establish standards for interstate reciprocity, provided that the other state meets or exceeds the standards established by the board;
 - (8) To enter into certification agreements with national boards and agencies;
 - (9) To collect fees and administer the special fund established for personnel and operational costs;
 - (10) To set and administer its own budget;
 - (11) To hire necessary staff, including an executive officer, who shall be exempt from Chapters 76 and 77 and to contract for services;
 - (12) To hold hearings on issues within the jurisdiction of the board;
 - (13) To adopt, amend, or repeal rules;
 - (14) To receive grants or donations from private foundations;
 - (15) To submit an annual report to the governor on the board's operations;
 - (16) To hear licensure appeals; and
 - (17) To establish alternative licensure programs.

Scope of Practice To Be Regulated

The proposal sets the scope of regulation for public school teaching. Beginning with the 1992-93 school year, no person would be

permitted to teach in Hawaii's public schools without a license issued by the teacher standards board. All licenses would also have to be renewed periodically as decided by the board. Teachers who have certificates from the DOE before the proposed legislation becomes effective would be exempt from the licensing and renewal requirements.

A "teacher" is defined in the bill as "an employee of the department of education paid under the salary schedule contained in the unit 5 collective bargaining agreement." That unit was established by Section 89-6, *Hawaii Revised Statutes*, to consist of "teachers and other personnel of the department of education under the same salary schedule." Salaries are negotiated between the State and the Hawaii State Teachers Association (HSTA). The teacher classifications which form the basis for the salary steps are set by statute.

Disciplinary Actions

The board would be authorized to deny, suspend, revoke, or reinstate teacher licenses. Grounds for such actions include failure to comply with the standards, fraud or deceit in obtaining a license, and violation of the statute or any rule established by the board. The board would be able to consider DOE requests to revoke or suspend only when the department has dismissed the teachers involuntarily and the teachers have exhausted all legal rights under the collective bargaining process. Reinstatement proceedings could be initiated by the DOE, any interested party, or the board itself.

Revocation or suspension procedures would include written notice and a hearing in conformity with Chapter 91, the Administrative Procedure Act. The board would have circuit court powers to administer oaths, compel the attendance of witnesses and the production of documentary evidence, and examine witnesses. Appeals could be made to the circuit court.

The board could levy a fine of \$500 for violations of the statutes or its rules, for teaching without a license, or for employing others to teach knowing that they have not been licensed.

Fees and Expenses

A special fund, the teacher certification special fund, would be established within the state treasury. All fees collected and any other moneys, including appropriations, grants, or donations, would be deposited into this special fund. No applicant would be issued a license and no license would be renewed unless the fees were paid.

The board would administer the special fund for operational, personnel, and travel costs but not for substitute teachers or members' administrative leave. Moneys would not revert to the general fund. Nor would the special fund be required to pay its pro rata share of DOE's administrative expenses.

The legislation appropriated \$150,000 in general funds for fiscal year 1989-90 for the start-up expenses of the board.

Exemptions

Teachers who hold basic or professional teaching certificates as of the effective date of the legislation would be exempted from the requirement to be licensed by the new board. They would not have to renew their licenses. However, they would have to pay any periodic fees set by the board to keep their licenses on active status. Should they resign, be dismissed, or retire, then seek reemployment, they would have to apply for licensure on the same basis as applicants for new licenses.

The DOE would continue to issue the other licenses it currently issues to private school teachers, administrators, and other support staff. The DOE would also be required to provide

the new board with information on currently licensed teachers.

Legislative History

Senate Bill 896. Senate Bill 896 and its companion, House Bill 904, were introduced on behalf of the HSTA. Both bills would have placed the board under the jurisdiction of the Department of Labor and Industrial Relations. The standards board would have consisted entirely of public school teachers whose names had been provided by the HSTA. House Bill 904 was not heard.

Favorable testimony on S.B. 896 was heard from the HSTA,¹ one of its members,² and the BOE. The BOE's testimony, however, was qualified by its concern about unanswered questions on board composition, powers, and delineation of duties with DOE. The BOE requested the opportunity to work with HSTA to "determine the specific provisions of the bill."³ The resulting S.D. 1 was reported out of committee and recommitted for sunrise review.

House Bill 90. Legislation similar to S.B. 896 was considered in the House of Representatives. House Bill 90, on the same topic but not authored by the HSTA, called for four of eight members to be teachers and for the board to be placed in the DCCA. It would have extended the board's jurisdiction to all schools in the state except sabbath schools.

Private school representatives objected to H.B. 90 although they supported the concept of the standards board.⁴ The U.H. College of Education agreed in principle with the idea of a board but cautioned that the feasibility should be carefully studied and that a detailed transition plan would be necessary.⁵ The DCCA deferred to DOE but recommended a sunrise analysis. The DCCA also recommended that the rationale for a board be reviewed in terms of whether the public would benefit, the change would not create more problems than it solves, and there

would be no alternative that would be more cost-effective.⁶ The bill was held in committee.

Prior proposal. In 1987, the HSTA had also advocated the establishment of a “teacher standards board” under Senate Bill 625. The bill created a task force to advise the Legislature on the feasibility of creating such a board.⁷

The original 1987 bill would have required 8 of the 11 task force members to be teachers and one to be a representative of the HSTA. The U.H. College of Education opposed this makeup, cautioning that the HSTA and the National Education Association (NEA) were embarked on a nationwide effort to establish licensure boards controlled by teachers. The college advised the Legislature to address the philosophical issues, pointing out that adopting the proposal would mean that for the first time a union controlled entry to a profession.⁸

Senate Bill 625 was amended several times. In its last draft, the task force would have been composed of four teachers selected from a list of eight submitted by the HSTA. The other seven members would have represented other education constituencies. Although it was favorably reported out by the House Committee on Finance, the Senate bill was not acted upon in the 1988 session.

Chapter 4

ANALYSIS OF THE PROPOSED REGULATION

This chapter presents our analysis of the Hawaii Teacher Standards Board proposed in Senate Bill 896, Senate Draft 1. The analysis is based on criteria for occupational licensing in the Hawaii Regulatory Licensing Reform Act or Sunset Law.

Summary of Findings

- 1. The proposed teacher standards board does not meet criteria for occupational regulation under the law. There is no evidence that the proposed board is needed to protect the public health and welfare.*
- 2. Teachers are already being licensed by the Department of Education (DOE). The substitution of a teacher standards board for licensing by the DOE would not correct such practices as out-of-field assignments. Some improvements could be made in the department's licensing program but the proposal could create more problems than it solves.*
- 3. The standards board does not meet the criteria for a licensing board but is more similar to that of a professional certification board. As such, it may be premature in light of a national certification effort that is currently under way.*

Proposed Licensing Board Does Not Meet Criteria Established by Law

Regulation of occupations operates within a particular legal context. Occupational licensing is the use of a state's police power to restrict the constitutional rights of individuals to work in the occupations of their choice. The use of this police power is justified only when there is a need to protect the public health, safety, or welfare. For example, the Hawaii Supreme Court has ruled that legislation requiring photographers to be licensed bore no reasonable relationship to public health, safety, or welfare and constituted an unconstitutional encroachment on the right of individuals to pursue an innocent profession.

The policies in Hawaii's Sunset Law have their basis in this legal framework. The law says that regulation shall be undertaken only when reasonably necessary to protect the health, safety, and welfare of consumers; when there is evidence of abuse; and when consumers are at a disadvantage in choosing a provider of the service. The Sunset Law also says that regulation is not to be undertaken if its purpose is to advance the regulated occupation, its costs outweigh its benefits, it restricts entry into the occupation by qualified persons, and if it increases the cost of services to the public.

The proposed teacher standards board does not meet the criteria in the Sunset Law. Although the bill speaks of certification, it is a proposal to establish a licensing board. No one would be allowed to teach in a public school unless certified by the proposed board. However, there is no evidence of any danger to the public that would

justify the creation of such a board. Existing mechanisms already provide accountability and public protection. Even proponents of the board acknowledge that its purpose is to advance the profession.

Case law on occupational licensing also requires regulation to be rationally related to public protection, specific, and fair. The proposal for a teacher standards board is too vague to be considered rational, specific, or fair. It may also restrict the supply of teachers.

No evidence of need to protect the public. Advocates of the proposed Hawaii teacher standards board offer no evidence that the public needs additional protection against the teachers who are already licensed by the DOE. There have been no reports of actual or potential harm to the public by unqualified teachers. In fact, it is clear that the issue is not the need to protect the public since the proposal covers only public school teachers. It does not include private school teachers.

Hawaii has a larger proportion of its students in private and parochial schools than the nation as a whole. There is a significant number of private school teachers, about 1,750. If the current system of licensing by the DOE is inadequate and endangers the public, then new regulation should cover both private and public school teachers. The fact that private school teachers are not included appears to negate the argument that the new board is needed to raise the qualifications of practitioners.

No evidence of consumer disadvantage. Because education is a compelling state interest, various mechanisms are already in place to protect the public. Consumers have recourse to an established system of accountability. The State Constitution provides for public control over public schools: a statewide system with an elected Board of Education, a Legislature to appropriate state funds, and an executive branch led by an elected governor.

The individuals subject to the new regulation are employees of government. Levels of supervision and quality control are built into the governmental organization. For teachers, these levels include grade-level or department chairs, principals, district superintendents, the superintendent of education, and the Board of Education. Except for grade-level or department chairs, all others evaluate and supervise the personnel next below them in the structure.

Government is the principal consumer on behalf of students and parents. The State buys services when it hires public teachers. It has policies and procedures for determining the qualification of those it hires and for oversight of their subsequent performance. This state role does not eliminate the need for the public to watch for its own interests for there may be situations where government's interest and the public's interest are not the same. But in public education the public is not a disadvantaged consumer who needs another government avenue for protection.

Purpose is to advance the teaching profession. Advocates of the proposed board say that a teacher-controlled board would "professionalize" teaching with benefits ultimately flowing to consumers. Their argument can be summarized as follows: since teachers know best what constitutes good teaching, they are the most qualified to determine what the standards of admission ought to be; all other professions control entry; if teachers control admission, they will raise the standards in order to elevate their own status; consumers will benefit because teachers will be more qualified to teach.

However, the purpose of regulation is not to advance the standing of a profession or to establish higher professional standards. Licensing is used to establish the *minimum level of competency* that is needed to protect the public from harm. The purpose of licensing is not to establish a higher level of quality in the services provided.

The current effort to establish a teacher-controlled licensure board in Hawaii is part of a campaign by the National Education Association (NEA) that began in 1961. The basic thrust of this campaign is that "control equals professionalization." Only four states have adopted autonomous boards. Iowa's board is the only one that has given teachers the majority with Minnesota soon to do the same. The NEA has introduced legislation in some states and may be close to succeeding in a few. But there is no overwhelming acceptance of the professionalization argument. States have been cautious about using their licensing authority for the purpose of professionalizing teaching.

Licensing is not an appropriate means of professionalizing an occupation. Many professional organizations seek to elevate the status of their members but they do this through their professional certification programs. These differ from the minimum standards set by state licensing agencies. For example, a state board of medicine sets minimum entry standards for licensing physicians, but national medical specialty boards have certification standards for those with training and skills over and above that minimum level for their "board-certified" specialties.

Proposal too vague to meet criteria to be rational, specific, and fair. In deciding to exercise its police power through licensure, a legislature must ensure that the regulatory scheme contains some substantive standards. General case law says that regulation must meet the criteria of *rationality* (some reasonable relationship between the purpose of regulation and how regulation will accomplish that purpose), *specificity* (certainty in terms and conditions), and *fairness* (adherence to due process requirements). Almost all other occupational licensing statutes in Hawaii spell out some minimum standards for licensing.

Perhaps because there is no evidence of any public harm from public school teachers and it is not clear how the new board will protect the public, the proposal for a teacher standards board contains little substantive information about what the licensing requirements will be. Instead, the board is given complete discretion to decide. For example, there is no information about whether new standards would change teacher preparation programs and curricula at Hawaii's higher education institutions, which teacher tests would be used, the procedure for selecting the test instruments, or for setting minimum scores.

Thus there is no assurance that new licensure requirements would have any reasonable relationship to protecting the public. There is no assurance that the new regulatory scheme would not unnecessarily restrict entry, thereby extending the police power of the state beyond that required to protect the public. The vagueness and lack of clarity in Senate Bill 896, S. D. 1, could make it vulnerable to legal challenge.

New board could restrict the supply of teachers. The teacher majority on the proposed board and the lack of information about the licensing requirements would give a handful of teachers control over the supply of public school teachers in Hawaii.

The BOE currently determines licensing requirements for teachers through its public hearings on the *School Code*. The process is governed by the Administrative Procedures Act (APA). Senate Bill 896, S. D. 1, is silent on whether the APA would apply to the proposed teacher standards board.

There are no guidelines to prevent the proposed board from restricting the pool from which teachers may be employed. A restricted supply could increase pressures to raise the compensation rates of public school teachers.

Also, more restrictive licensing requirements would make it more difficult for the DOE to compete in the fields with teacher shortages.

Hawaii should remove barriers to teaching. Restricting the supply of potential teachers runs counter to the movement in other states. Of particular interest is the Northeast Regional Teaching Credential, which will take effect in April 1990. The agreement on the regional credential is part of a long-term effort among seven states--Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont--to attract qualified educators to the Northeast. The regional teaching credential will allow teachers licensed in one participating state to begin teaching in another participating state even if they do not meet all of that state's licensing requirements. Teachers moving to a new state would have up to two years to fulfill the requirements of that state.

The seven states view the regional credential as a means to encourage "the best and the brightest" to enter teaching by opening up a larger geographic area to qualified teachers. The member states also believe that a short-term benefit of the regional credential is that it would ease teaching shortages by making it easier for qualified professionals to cross state lines. The agreement has also been praised by a national expert on issues of teacher quality as an "exemplar for other regions and the nation."¹

It should be noted that the seven states are also members of the Interstate Agreement which permits some reciprocity for teachers already licensed by any of the participating members. The DOE is a member of this compact. The requirements for the regional credential, however, are reportedly stricter than those held by the members of the Interstate Agreement. The Northeast regional members made sure that the certification requirements of each state were comparable before they established the regional credential.

In view of efforts around the country to remove unnecessary barriers to teaching, Hawaii should avoid moving in the opposite direction. Hawaii should participate in expanding the supply of teacher candidates, not restricting it. S.B. 896, S.D. 1, with its teacher majority and silence on new licensure requirements, provides no assurance that Hawaii would follow the lead of the Northeast.

Proposal May Create More Problems Than It Solves

The proposed teacher standards board would displace parts of an existing licensing system. Thus the issue is not whether *to regulate*, but whether *to substitute* one form of regulation for another. It is not clear what the proponents of the new teacher standards board see as the shortcomings of the current system, although it can be improved. But the proposed teacher standards board would not be a better alternative since it would create confusion and duplication of effort. The new board would not correct what its proponents say are shortcomings of the current system.

Proponents of the proposal offer no specific evidence of the shortcomings of the existing licensure requirements or the licensing operations of the DOE. They point to out-of-field assignments and emergency certificates as problems but fail to identify any specific negative impacts of these practices.

Shortcomings of out-of-field assignment unclear. Out-of-field assignment is an employment practice that places teachers in classes outside their subject field of preparation. This usually occurs when there is a shortage in the supply of teachers with the needed specialty such as in special education or the sciences. Or it may occur because of a shortage in the demand, such as too few students requiring a full teaching

“line” in a single subject area so some courses are “left over.”

The HSTA and the DOE have no information on the number of teachers with out-of-field assignments, the number of students taught by teachers out of their field, the number of secondary school courses or sections taught by teachers out of their field, or the impact of this practice.

Officials of the DOE claim that if an individual is certified (that is, licensed), the teacher can teach in another subject with the assistance of the grade or department chair and other teachers. The department admits, however, that this is not ideal and has made some efforts to upgrade the subject matter backgrounds of teachers teaching out of their field. For example, the department occasionally pays the tuition for out-of-field teachers who take courses for their new assignments.

A new teacher standards board would not necessarily eliminate out-of-field assignments. The department makes these assignments at any time to meet the demands of schools and their students. The practice is not limited to the new hires who would be under the jurisdiction of the proposed board. It is not clear how licensing would correct an employment problem.

Only if licensure were highly specific, such as by subject area or age ranges, and if the DOE were forbidden to place teachers outside the bounds of their licenses at all times, could licensure be used to eliminate out-of-field assignments. But this would raise the question of how the DOE would meet its constitutional, statutory, and collective bargaining obligations whenever and wherever fully licensed teachers are not available or student enrollments do not justify full teaching “lines.”

Even states with teacher standards boards like that being proposed permit out-of-field assignment, recognizing the demands on the

employer. For example, California permits a teacher licensed in one area to teach in another in which the teacher has 9 upper level (junior or senior) or 18 total college hours in the second field. If the teacher does not have the requisite hours, the district is supposed to seek a limited emergency teaching credential and the teacher is supposed to work toward full certification. An acceptable argument for out-of-field assignment is the need to cover a “left-over” course. However, monitoring and enforcing this provision is reportedly not consistent.²

Oregon permits out-of-field assignments but requires the teachers to work toward full licensure. However, exceptions are granted if the executive secretary of the Teacher Standards and Practices Commission determines that the demographics of a district, its student population, its teaching force, and its educational practices justify exemption.³

The issue of out-of-field assignment should be explored further by both the HSTA and the DOE. Both should study whether teaching licenses need to be more specific to subject matter or grade levels, and why. There is a need for more information on the magnitude of the practice and on the impact of out-of-field assignments. It is not simply a licensing issue.

No information on negative impact of emergency certificates. Emergency or temporary certificates are licenses granted to teachers who do not have all the requirements for full licensure. In Hawaii, temporary certificates are issued to teachers that the DOE wants to hire but who (1) do not have the minimum scores on all parts of the National Teachers Examination (NTE) or (2) have not yet taken the NTE. In 1988-89, DOE issued 500 temporary certificates.⁴

The proponents of the new board criticize this practice but present no evidence of any negative impact. Here again, the use of emergency certificates is also not simply a

licensing issue. Even states with autonomous teacher licensing boards permit emergency certification.

Process can be improved. There is a need for a formal ongoing assessment of the department's licensing program. Teacher licensing requirements are part of the department's *School Code*. They come under scrutiny only when a change is proposed to the code. Proposed code changes may be initiated by DOE staff, Board of Education members, or members of the public. The BOE decides whether to take a proposed code change to public hearings. When hearings are held, the teachers' bargaining representative and any other interested groups may testify. The problem here is that there is no continuing formal assessment of the adequacy of the department's teacher licensing standards.

In 1986, amendments were considered for teacher licensing along with a number of other revisions to the *School Code*. Changes in teacher licensure requirements may have been lost in the array of proposed changes and may not have been adequately considered. More importantly, the absence of a formal approach to reviewing teacher licensure issues on a continuing basis means that no organization or individual has a regular opportunity to discuss concerns about licensure. There is no public forum, aside from BOE meetings and study sessions, to raise issues that do not merit code changes.

One way to improve the process is to establish an advisory group for the department's licensing program. Gaps in information, for example, could be more easily identified in the nonadversarial setting of an advisory group rather than in public hearings on code changes. An advisory group could pinpoint research needs that could be filled by higher education. A number of states have established such advisory groups. Hawaii is among the minority of states that has not provided for advisory participation in licensure by people outside the state department of education. Teachers'

representatives, the teacher preparation institutions, private schools, members of the public, and any other interested groups could bring insights that might not otherwise surface.

The group should be advisory to the BOE. But at least for an initial period, the advisory panel should be required to submit to both the BOE and the Legislature a report on its activities and the issues it studies. This would help to ensure that the advisory process maintains some momentum and give the critics of the present licensure program a public forum.

Proposed board could create problems. The proposed board could create confusion over the authority and responsibility of the department and the BOE. It would also result in duplication of functions.

Authority of BOE may change. The proposal forbids the DOE from hiring anyone not licensed by the new board. This means the new board and not the BOE would decide on the standards for the teachers that the department hires. The State Constitution assigns to the BOE the authority to manage the internal affairs of the department. But the new board could well shift some control over internal management away from BOE.

In supporting the proposal, the BOE stated that it has too much to do and is willing to give up the licensure responsibility to the proposed board. But the BOE appears to have acted hastily in supporting the proposal. The proposal was not reviewed by the BOE's own personnel committee or any other committee; it was heard only in a special study session two days prior to the Senate hearing on S.B. 896. The BOE's support of the HSTA proposal was given that same night in a special BOE meeting.

The DOE would still have licensing responsibility. The department would retain certain licensing responsibilities and would have to retain some staff to carry them out. The proposal shifts responsibility for licensing public

school teachers to the new board but leaves the licensure of private school teachers with the DOE. The DOE also issues school and administrator licenses. In 1988-89, it approved 135 of these.⁵

The proposal does not make clear whether the DOE or the new board would handle the licensure of substitute public school teachers and part-time public school teachers. The DOE currently recertifies all of these teachers every year, although officials say that this policy is under review.

These kinds of teachers are paid on a per-day or per-hour basis under the teacher salary schedule negotiated for Unit 5 teachers. The proposal defines "teacher" as anyone paid by that schedule and forbids the DOE to hire teachers not licensed by the new board. So it would appear that the new board would license all substitute, part-time, and full-time teachers. For 1988-89, the DOE certified 12,743 of these personnel.⁶ However, if the legislation is interpreted to mean that the DOE retains the right to license part-time and substitute teachers, the department would have to keep at least part of its licensure staff.

Proposal would result in duplication of activity. Officials of the DOE say that even if the licensing function were transferred to the new board, the department would still have to review applications for employment. The department believes that the current single process is more efficient. Applicants submit only one set of documents and apply to only one agency for both licensure and employment. The DOE uses two application forms: one for licensure only, and one for both licensure and employment. With the shortage of teacher candidates, the DOE reports that it mostly processes applications for both licensure and employment. Its workload in processing licensure-only applications is negligible.

The DOE says that with the proposed board, applicants would have to submit documents to both the new board and the DOE instead of

just one. The DOE would still have to review the same documents to make its employment decisions and would require staff to perform this employment function.

Professional Certification Under Development

The teachers standards board proposed in Senate Bill 896, S. D. 1, does not meet the criteria for a licensing board. Its purpose, however, makes it akin to the National Board for Professional Teaching Standards (NBPTS). The professional certification activities of the National Board are just beginning and the proposed teacher standards board may be premature. The National Board was established in October 1987 upon the recommendation of the Carnegie Task Force on Education and the Economy. In its report, *A Nation Prepared: Teachers for the 21st Century*, the Carnegie task force had urged the creation of a voluntary *advanced certificate* program for teachers with three years' experience.

The National Board plans "to establish high and rigorous standards for what teachers should know and be able to do and to certify teachers who meet those standards." A governing board of 63 members plus a salaried president was selected, a staff was appointed, and two offices were established. The National Board's perception of professional certification is that: (1) it differs from licensure, which should remain a state function; (2) it will not circumscribe college preparation curricula; and (3) certification should be specific to subject matter and a small student age range. The National Board identified approximately 30 professional certificates that it plans to issue.

Composition of the National Board. The initial governing membership of the National Board reflects a spectrum of interests, from governors who have led education reforms in their states, to major corporate officials, to classroom teachers. Two-thirds of the membership are teachers and one-third are

business, government, or public members. The two-thirds portion currently consists of seven elected NEA officials, a like number from The American Federation of Teachers (AFT), and other teachers and school officials. Once board certification begins, however, all two-thirds are to be classroom teachers elected by board-certified teachers.

Phases of the National Board's work. The work of the National Board is organized into three phases: Phase I, 1987-89, to develop a guiding philosophy, set directions, organize, and seek financial support; Phase II, 1989-93, to develop the assessment instruments; and Phase III, 1993 and beyond, to issue certificates.

Phase I. Phase I was completed in July 1989 with the issuance of a set of initial policies and perspectives. A nationwide forum was held in Chicago to obtain reaction to these policies. The policy development was organized around the three topics of certification standards, assessment methods and processes, and educational policy and reform.

The Board's policy position is that: (1) there is a common core of professional knowledge and skills applicable for all teachers; (2) there is knowledge of human development and pedagogy that is distinctive to students at particular stages of development; (3) there is knowledge of pedagogy that is specific to subject matter; and (4) there is a need for teachers to demonstrate depth of content knowledge as well as breadth.⁷

On these bases, the National Board has planned to develop a range of certificates specific to subject matter and age levels. For example, tentative certificates include a certificate for Science in Middle Childhood and Early Adolescence, for grades 4-9; a certificate for Foreign Language in Early Childhood Through Young Adulthood, for grades kindergarten through 12; and so on.

Phase II. Phase II will be devoted to implementing the National Board's assessment plans. The Board considered numerous assessment methodologies, weighing them by criteria for selection (validity, efficiency, and impact). The Board intends to consider a variety of assessment approaches including assessment centers, essay or multiple-choice exams, simulation, observation, and documentation. The staff has been developing requests for proposals for the identification of standards and appropriate assessment systems. The Board expects to award the first of the contracts in the first quarter of calendar year 1990. The staff expects that development is complex enough that respondents will probably form consortia to compete for these contracts.

Phase III. Phase III should see the first of 75,000 certificates the Board expects to issue annually.

Financing. The National Board is a nonprofit organization and thus far has been supported by private grants. The Carnegie Corporation has committed \$1 million per year for the first five years; other corporations have donated another \$2 million. Each of the 30 certificates is expected to cost \$1.5 to \$2 million to develop. The Board intends to raise half of the \$50 million required for all 30 certificates from private sources. The other half is currently being sought from the federal government. At this time, legislation in Congress has cleared the major committees and is headed for the floors of the respective houses. Once the certificates begin to be issued, the National Board intends to be supported by certificate fees.⁸

Support for the National Board. The National Board has received the support of both the NEA and AFT and the opposition of the American Association of Colleges of Teacher Education.⁹ The latter is not unexpected, since the Board has decided to recognize any bachelor's degree, not just a bachelor's degree from a teacher education curriculum. It has received qualified support from the National Association

of State Directors of Teacher Education and Certification and from the National Commission on the Accreditation of Teacher Education.¹⁰

In an effort to stimulate discussion and reaction, the Board will sponsor a second national forum in the summer of 1990. Over the next two years, it will also sponsor state forums in every state that expresses interest in having one. A vice president has been appointed expressly to organize these state forums.

Policy impact of the National Board. The National Board for Professional Teaching Standards is the only concrete outgrowth of the work of the Carnegie Task Force on Education and the Economy. It appears to be headed for a leadership role in bringing about some of the reforms advanced by that task force and other reform advocates of the 1980s. The Board sees this broader role for itself, including:

- . Creating a more effective environment for teaching and learning in schools;
- . Increasing the supply of high quality entrants into the profession, with special emphasis on minorities; and
- . Improving teacher education and continuing professional development.¹¹

Thus the importance of the National Board will be greater than just a means for experienced teachers to obtain certification. The federal government has recognized the potential impact of the National Board's work as well. In a 1989 report on the condition of education in the U.S., the Office of Education states, "As the National Board for Professional Teaching Standards develops and administers its tests, some standardization may occur. Such standardization would, it is hoped, enable competent teachers to move from one State to another more easily."¹²

Recommendations

1. *Senate Bill No. 896, Senate Draft 1, should not be enacted.*
2. *The Department of Education should consider ways to expand the supply of teachers through greater reciprocity and participation in regional credentialing programs.*
3. *The Board of Education and the Department of Education should improve its licensure program by establishing an advisory group to the Board of Education on licensing standards for public school personnel. The advisory group should submit a biennial report to the Legislature which summarizes its activities and the extent to which teachers have been assigned outside their fields of preparation.*
4. *The DOE should develop information on the extent to which out-of-field assignments are made and the impact of this practice.*
5. *The Legislature, the Board of Education, the Department of Education and all teachers should monitor and, as appropriate, participate in the national certification efforts under way.*



NOTES

Chapter 2

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4. U.S. Department of Education, *The Condition of Education 1988*, p. 2.
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8. Letter to Marion Higa, Legislative Analyst, from Ron Toma, Personnel Specialist, Department of Education, October 25, 1989.
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Chapter 3

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2. Testimony on Senate Bill No. 896 submitted by Tom Aitken, Chairman, HSTA Instruction and Professional Development Committee, to the Honorable Bertrand Kobayashi, Chair, Senate Education Committee, February 11, 1989.
3. Testimony on Senate Bill No. 896 submitted by Francis R. McMillen, Chairperson, Board of Education, to the Honorable Bertrand Kobayashi, Chair, Senate Education Committee, February 11, 1989.
4. Testimony on House Bill No. 90 submitted by Association of Pacific Post-Secondary Private Schools to the Honorable Rod Tam, Chair, House Education Committee and to the Honorable Mazie Hirono, Chair, House Consumer Protection Committee, February 10, 1989; testimony submitted by Margaret Williams, President, Hawaiian Institute of Hair Design.
5. Testimony on House Bill No. 90 submitted by John Dolly, Dean, College of Education, University of Hawaii at Manoa, to the Honorable Rod Tam, Chair, House Education Committee and to the Honorable Mazie Hirono, Chair, House Consumer Protection Committee, February 11, 1989.
6. Statement on House Bill No. 90 submitted by the Department of Commerce and Consumer Affairs to the Honorable Rod Tam, Chair, House Education Committee, February 2, 1989.
7. Testimony on Senate Bill No. 625, 1987 Session, submitted by John H. Radcliffe, Executive Director, Hawaii State Teachers

Association, to the Honorable Malama Solomon, Chair, Senate Education Committee, February 24, 1987.

8. Testimony on Senate Bill No. 625, 1987 Session, submitted by John P. Dolly, Dean, College of Education, University of Hawaii at Manoa.

Chapter 4

1. The Regional Laboratory for Educational Improvement of the Northeast & Islands, "Seven Northeast Education Commissioners Agree to Establish Regional Teaching Credential, the First in the United States," press release, Andover, Massachusetts, December 20, 1989, p. 2.
2. Council for Basic Education, *Making Do In The Classroom: A Report on the Misassignment of Teachers*, in cooperation with American Federation of Teachers, Washington, 1985, p. 11.
3. *Ibid.*, p. 21.
4. Letter to Marion Higa, Legislative Analyst, from Ron Toma, Personnel Specialist, Department of Education, October 25, 1989.
5. Letter to Marion Higa, Legislative Analyst, from Albert Yoshii, Personnel Director, Department of Education, September 11, 1989.
6. *Ibid.*
7. National Board for Professional Teaching Standards, *Toward High and Rigorous Standards for the Teaching Profession: Initial Policies and Perspectives of the National Board for Professional Teaching Standards*, Detroit, 1989, pp. 57-58.
8. National Board for Professional Teaching Standards, *President's 1987/88 Annual*

Report, Detroit, n.d., p. 9.; interview with James A. Kelly, President and Chief Executive Officer, November 7, 1989; *National Board for Professional Teaching Standards*, Detroit, n.d., p. 6.

9. Gary Putka, "Education Degree Isn't A Requirement In Plan To Certify Teachers Nationally," *Wall Street Journal*, July 17, 1989.
10. Interview with James A. Kelly.
11. National Board for Professional Teaching Standards, *Toward High and Rigorous Standards for the Teaching Profession*, p. 82.
12. U.S. Department of Education, National Center for Education Statistics, *The Condition of Education 1989*, Vol. 1, Washington, 1989, p. 70.

RESPONSES OF THE AFFECTED AGENCIES

COMMENTS ON AGENCY RESPONSES

A preliminary draft of this report was transmitted on January 2, 1990, to the Board of Education (BOE), the Department of Education (DOE), and the Hawaii State Teachers Association (HSTA). A draft was also sent to the Department of Commerce and Consumer Affairs (DCCA). A copy of the transmittal letter to the BOE is included as Attachment 1. Similar letters were sent to DOE, HSTA, and DCCA. As is our practice, we invited the agencies to comment on the recommendations made in the report. The agencies' responses are included as Attachments 2, 3, 4, and 5.

The BOE did not have any comments at this time on the recommendations in the report but commended the office on conducting a comprehensive study.

DOE found the report to be satisfactory and also commended the office on conducting a comprehensive study.

DCCA noted that the report paralleled many of the department's concerns. The department concluded that the proposal differs significantly from the other state professional licensing laws administered by DCCA.

HSTA disagreed with the majority of the findings and recommendations. HSTA maintains that current licensure procedures, in combining certification and hiring, do not assure that every teacher hired is qualified to teach. HSTA also maintains that students in rural areas are disproportionately exposed to less trained and experienced teachers. It is the association's belief that preparing teachers for the students who need them most also requires improving the capacity of all teachers, and this would be done by professionalizing teaching. HSTA cites the support for teacher standards boards from two other sources besides itself and the National Education Association. HSTA also objected to what it considers the report's "strict interpretation" of Hawaii's Sunset Law without discussion as to whether the sunrise provision should be applied to occupations already regulated by the State.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813



(808) 548-2450
FAX: (808) 548-2693

January 2, 1990

C O P Y

Mr. Francis McMillen
Chairperson, Board of Education
Department of Education
1390 Miller Street
Honolulu, Hawaii 96813

Dear Mr. McMillen:

Enclosed are two copies, numbers 6 and 7 of our draft report, **Sunrise Analysis Of A Proposed Teacher Standards Board**. We ask that you telephone us by January 5, 1990, on whether you intend to comment on our recommendations. Should you decide to respond, please transmit the written comments to us by January 16, 1990. We will append your response to the report submitted to the Legislature. The Governor and the presiding officers of the Legislature have also been provided copies of this draft report.

Since the report is not in final form and changes may be made, access to it should be restricted to those persons whom you might wish to assist you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Newton Sue
Acting Legislative Auditor

Enclosures

ATTACHMENT 2



STATE OF HAWAII
BOARD OF EDUCATION

P. O. BOX 2380
HONOLULU, HAWAII 96804

January 4, 1990

Mr. Newton Sue
Acting Legislative Auditor
Office of the Auditor
465 King Street, Room 500
Honolulu, Hawaii 96814

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STATE OF HAWAII

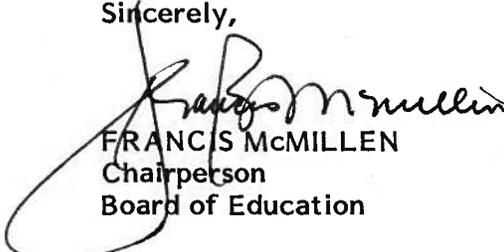
Dear Mr. Sue:

Thank you for sharing copies of the draft reports, Study of A New Salary Class for Teachers and Sunrise Analysis of A Proposed Teacher Standards Board, with the Board of Education.

The Board does not have any comments to offer at this time on the recommendations presented in the reports.

We wish to commend the Office of the Auditor for conducting a comprehensive study of both issues.

Sincerely,


FRANCIS McMILLEN
Chairperson
Board of Education

FM:cai

c.c. Office of Personnel Services



STATE OF HAWAII
DEPARTMENT OF EDUCATION

P. O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

January 5, 1990

Mr. Newton Sue
Acting Legislative Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

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OFFICE OF THE AUDITOR
STATE OF HAWAII

Dear Mr. Sue:

Thank you for sharing a copy of the draft report, Sunrise Analysis of A Proposed Teacher Standards Board.

The Department finds the report to be satisfactory in its present form and would like to commend the Office of the Auditor for conducting a comprehensive study on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Charles T. Toguchi".

CHARLES T. TOGUCHI
Superintendent

CTT:csh

cc: Donald Nugent

ATTACHMENT 4

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR
COMMISSIONER OF SECURITIES

SUSAN DOYLE
DEPUTY DIRECTOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

January 22, 1990

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OFFICE OF THE DIRECTOR
STATE OF HAWAII

Mr. Newton Sue
Acting Legislative Auditor
Office of the Legislative Auditor
465 South King Street, Suite 500
Honolulu, Hawaii 96813

Dear Mr. Sue:

Thank you for the opportunity to comment on the Sunrise Analysis of a Proposed Teacher Standards Board.

The findings of your report parallel many of our concerns about the creation of the Teacher Standards Board within the Department of Commerce and Consumer Affairs. The regulatory scheme proposed in Senate Bill No. 896, S.D. 1, differs significantly with the other professional or vocational licensing laws created in this State and administered by the Department.

Very truly yours,

ROBERT A. ALM
Director

RAA:kh



2828 Paa Street, Suite 2050
Honolulu, Hawaii 96819
(808) 833-2711

Hawaii State Teachers Association

Teaching Today for Hawaii's Tomorrow

January 17, 1990

Mr. Newton Sue
Office of the Auditor
465 South King Street, Room 500
Honolulu, HI 96813

Dear Mr. Sue:

We appreciate the opportunity to submit our comments on the Auditor's draft report, Sunrise Analysis of a Proposed Teacher Standards Board.

We disagree with the majority of your findings and recommendations. Your report reflects a very strict interpretation of the Hawaii Regulatory Licensing Act (Chapter 26H, Hawaii Revised Statutes), without any discussion as to whether or not the "sunrise" provision should be applied to an occupation that is already regulated by the state.

Hawaii currently regulates entry into teaching through the Department of Education's combined certification and hiring process. When an applicant does not meet the Department's standards for Basic Certification, temporary certificates are issued in order to fill vacant positions. The result is that unqualified personnel (not meeting Basic Certification requirements set by the BOE and DOE) receive a license to practice. The temporary certificates do little to ensure a minimum level of competency because they are stop-gap measures. They prevent any public assurance that Hawaii's public school teachers have met the academic and credentialing standards set by the state such as graduation from an approved teacher training institution, passing an approved examination, etc. Senate Bill No. 896, Senate Draft 1, if enacted, would not restrict qualified applicants from teaching in Hawaii's public schools.

The purpose of the Teacher Standards Board is to remove the setting of certification standards from the Board of Education and Department of Education and placing this function within an autonomous board whose function is independent of the hiring of personnel.

Earl A. Arruda
President
Roy K. Kawamura
Vice President
John W. Stephens
Treasurer
Dominick J. Summa, Jr.
Executive Director

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STATE OF HAWAII

Mr. Newton Sue
January 17, 1990
Page 2

The license to teach must be a meaningful credential. All prospective teachers should be expected to master the liberal arts, at least one academic discipline, and demonstrate a professional knowledge base. Knowledge base for beginning teachers must include a flexible understanding of how knowledge is organized, processed and put to use. Teachers must link this knowledge base with the needs of students and thereby exercise professional judgement in selecting appropriate teaching methods.

Hawaii needs a means to mitigate the teacher shortage without mutilating professional standards. We will never solve the teacher shortage until we make teaching an attractive, respected, rewarding, life-long, professional option. The hiring of the unqualified and the unprepared amounts to a statement that fully qualified teachers are imminently replaceable.

By establishing a Teacher Standards Board, the state will begin to assure the public that whoever is in the classroom is qualified to teach and is not there as a result of certification practices that in essence put the filling of vacancies above the hiring of qualified applicants.

As Linda Darling-Hammond of the Rand Corporation points out in her article entitled "Teacher Quality and Educational Equality," the students who most need the best teaching are the least likely to get it.

When the distribution of teacher quality is skewed toward those students who reside in affluent, well-endowed schools and districts, students in rural areas are chronically and disproportionately exposed to less trained and experienced teachers. If we are to help disadvantaged students master the basic skills they need to succeed in the 21st Century, they must first be exposed to highly qualified teachers.

Darling-Hammond goes on to point out that providing equity in the distribution of teacher quality requires changing policies and long-standing incentive structures. Preparing teachers to teach the children who need them most also requires improving the capacity of all teachers - their knowledge, and their ability to use that knowledge - by professionalizing teaching.

The Hawaii Plan: Educational Excellence for the Pacific Era authored by Berman-Weiler Associates recommends the establishment of the Hawaii Teacher Standards and Certification Board to "set

Mr. Newton Sue
January 17, 1990
Page 3

professional standards to issue and revoke teacher credentials and oversee beginning teacher evaluation." Berman went on to point out that, although virtually every state has an agency outside the state education agency which sets teacher licensing standards, Hawaii does not. Berman points out that having the authority for licensing and employment in the Department of Education creates a potential conflict when the state faces a teacher shortage. "Standards could be lowered in order to fill positions. Separate agencies for employment and licensing would facilitate the balance of power to maintain high standards."

The benefit to the public, and to students in particular, of a Teacher Standards Board can be understood when one distinguishes between the need to assure the public of a need for a qualified teaching force and the bureaucratic need/responsibility to fill vacancies.

The national certification effort currently under way through the National Board for Professional Standards applies only to those teachers currently certified and employed. The Teacher Standards Board proposed in Senate Bill No. 896, Senate Draft 1, would set standards for new teachers in Hawaii.

The Hawaii State Teachers Association and the National Education Association are not alone in endorsing Teacher Standards Boards. The Association of Colleges and Schools of Education in State Universities and Land Grant Colleges and Affiliated Private Universities continues to support the concept of autonomous professional standards and practice boards.

The HSTA is ready to work with all the actors involved in formulating a transition plan in order to facilitate the transfer of functions from the Department of Education to the Teacher Standards Board. Senate Bill No. 896, Senate Draft 1, provides a phase-in period of three years.

Thank you again for the opportunity to submit our comments for attachment to the final report.

Sincerely,


Earl A. Arruda
President