

Presented to the House of Representatives in accordance with Standing Order 272 J.17

Legislative Statement – the Education and Training Amendment Bill (No 3): Second Reading

This Legislative Statement supports the Second Reading of the Education and Training Amendment Bill (No 3) (the Bill). The Bill contains new policies and minor and technical amendments to existing provisions in the Education and Training Act 2020 (the Act). These changes progress the education work programme and contribute to the continuous improvement of the education sector.

The Bill amends the Act to:

Establish a governance framework for wānanga

- establish a framework that better recognises the mana and rangatiratanga of wānanga, and the unique role the wānanga play in the tertiary education system. The Bill does this by enabling existing wānanga by Order in Council to either:
 - reconstitute themselves as a Crown Entity Wānanga, with bespoke purpose, functions and governance arrangements; or
 - convert to a non-Crown Entity Wānanga (that is primarily accountable to iwi, hapū or another Māori organisation while retaining some accountability to the Crown, and with bespoke purpose, functions and governance arrangements);
- clearly articulate the characteristics that define Wānanga collectively;
- set out the Wānanga disestablishment provisions;
- provide for new accountability and monitoring arrangements for non-Crown Entity Wānanga;
- provide for appropriate transition arrangements;

Changes to school board ineligibility criteria

- supplement the current school board ineligibility criteria with the standards set out for core children's workers in the Children's Act 2014. The Bill ensures that those convicted of a specified offence listed in Schedule 2 of the Children's Act 2014 are ineligible to serve on a school board unless an exemption has been granted by the Secretary for Education. To grant an exemption, the Secretary for Education must be satisfied that the person would not pose an undue risk to the safety of children;
- enable the Secretary for Education to conduct audits on school board members to determine whether they meet eligibility requirements, with board members being required to permit the Secretary to obtain any relevant information for the audit. A refusal to provide this information would result in the board member's removal from office. The changes to school board ineligibility criteria come into force six months after the Bill receives Royal assent;

Changes to school board election processes

- move the timing of mid-term elections from March 2024 back to their usual timing in November 2023 to support timely and efficient election processes;

- update the criteria for co-opting board members for schools and special institutions to reflect today's school communities by adding the genders, sexualities and sexes of the school's students and of the school community, and disabled students at the school and the school's disability community, to the co-option criteria;
- remove the requirement that prevents schools from filling a student representative position if one is not elected at the annual election. This ensures that schools do not have to wait until the next election to fill the vacancy;

Other changes to the Act

- permit the Ministry of Education to access early childhood education (ECE) data from Statistic NZ's integrated data infrastructure (IDI) to enable it to develop an equity index based on accurate socio-economic information. This addresses an issue where the Data and Statistics Act 2022 restricts the Ministry from disclosing data (via the equity index developed within the IDI) in a form that could identify an individual or organisation. The equity index data is required to calculate and allocate equity funding to ECE services that have children attending from low socio-economic backgrounds;
- restore the status of Kura Kaupapa Māori as a distinct type of State school under the Act and to ensure this change is reflected in other provisions in the Act;
- ensure employers of licensed early childhood services and schools assess Police vets for non-teaching employees and contractors and assess any risk to the safety of children before employees begin work, and in the case of contractors, before they have unsupervised access to children;
- restrict the appointment of the chief executive for Te Aho o Te Kura Pounamu (Te Kura) to a term of up to five years, with the ability to reappoint for further terms;
- require university and wānanga annual reports to include information about employee, former employee, and vice chancellor remuneration of \$100,000 per annum and above, in bands of \$10,000;
- ensure that governing council members of Te Pūkenga – New Zealand Institute of Skills and Technology can remain in their positions until they are either reappointed or replaced;
- remove the requirement to prepare a separate annual report for the Export Education Levy;
- remove the requirement for tertiary education institutions (when not bound by any collective agreement) to consult with the Public Services Commissioner on the appointment of senior staff;
- broaden the regulation-making power in the Act to ensure the Minister can be empowered by regulations to determine when schools may be open and closed for instruction;
- update the definition of 'domestic student' so that holders of a residence class visa studying overseas are required to satisfy criteria in the Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016; and
- make a number of minor and technical amendments.

The Committee recommended that the Bill is amended to:

- provide placeholder terms for Crown entity and non-Crown entity wānanga by referring to wānanga that are Crown entities as category A wānanga, referring to wānanga that are not Crown entities as category B wānanga, and referring to existing wānanga that have not been reconstituted or converted by an Order in Council as category C wānanga. This change removes the emphasis the Bill has on wānanga status as related to its relationship to the Crown;
- insert a regulation-making power that would allow the placeholder terms referred to above to be replaced by terms specified in an Order in Council made on the recommendation of the Minister. The Minister's recommendation would be based on a recommendation from Te Tauihu o Ngā Wānanga (an association of representatives from the three Wānanga). This approach enables Wānanga the time required to agree on terms they deem appropriate;
- require that an order must require category B wānanga to prepare annual financial statements and audited statements of performance. These documents should be prepared in accordance with generally accepted accounting practice, within the meaning of section 8 of the Financial Reporting Act 2013;
- require category B wānanga to publish an annual report on an Internet site, including remuneration data. The report must include the number of employees or former employees (including the chief executive) who received remuneration of \$100,000 or more. This should include compensation or other benefits, and be reported in brackets of \$10,000 increments;
- require that the iwi, hapū, or Māori organisations that are primarily accountable for the category B wānanga are instrumental in the Minister's decision whether to disestablish that wānanga;
- provide that disestablishment orders must require category B wānanga to provide a final annual report to the Minister and must specify the required content of this annual report;
- allow the council of a disestablished wānanga that was a category B wānanga to continue to exist for the purposes of complying or facilitating compliance with disestablishment orders;
- provide that, if property is vested in iwi or Māori under section 398ZC, they would be responsible for any obligations under section 40 of the Public Works Act;
- refer to property being vested in the Crown, rather than the Minister;
- insert 'wānanga that are not Crown entities' into schedule 1 of the Public Audit Act 1981;
- specify that, in order to develop the equity index for early childhood services, the Ministry of Education can only publish or disclose data at the level of an early childhood service and that the data cannot include personal information within the meaning of the Privacy Act 2020 without consent. The Committee recommended that an amendment to make it clear that data about an early childhood service that is operated by an individual, such as a sole trader, cannot be disclosed because this data would be considered personal information. These service providers must consent

to the publication or disclosure of information from the IDI regarding the ECE service they operate;

- require university and wānanga annual reports to also report information about compensation or other benefits for employees receiving remuneration packages of \$100,000 and above;
- Clarify the school board co-option and appointment criteria proposal so that:
 - The new criteria include references to special institutions for consistency with the existing criteria;
 - The existing criteria around ethnic and socio-economic diversity and the new criterion around genders, sexualities and sexes apply to the 'community of the school or special institution', as defined in the Bill (which mirrors the definition of a similar term in the Act); and
 - The existing criteria of ethnic and socio-economic diversity is separated into two criteria as the two concepts are not always linked;
- require employers at ECE services and schools to take into account guidelines on risk assessments issued by the Ministry of Education when undertaking a risk assessment based on Police vets obtained for their non-teaching and unregistered employees and contractors;
- clarify that notices issued by the Minister under regulations relating to school opening hours will be secondary legislation.