



GOV. MSG. NO. 660

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2377 HD3 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2377 HD3 SD2 CD1

A BILL FOR AN ACT  
RELATING TO EDUCATION.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2377

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2377, entitled "A Bill for an Act Relating to Education."

This bill would implement the amendment to Article X, Section 2 of the Hawaii State Constitution, upon its ratification, as proposed in House Bill No. 2376. This measure creates a ten-member Board of Education, establishes a seven-member Board of Education Selection Advisory Council, and exempts this Council from the open meeting and public transparency provisions of Chapter 92, Hawaii Revised Statutes.

This bill is objectionable because it is a narrowly prescribed process for selecting Board of Education members that is intended to limit the number of candidates that a Governor can consider. Rather than permit the Governor to select candidates from the State's entire community, this bill transfers that duty to a seven member council that can recommend as few as only two names to the Governor to fill a position on the Board of Education.

I am also concerned that the process established in this bill fails to ensure that the Board of Education will be composed of members who reflect the best interests of the Department of Education and the State. Four of the seven members of the Selection Advisory Council will be selected by the Hawaii P-20 Council. The Hawaii P-20 Council is not a statutorily-based organization and is made up of approximately thirty-two members

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 2377  
Page 2

representing a variety of public and private interests. This process will not provide the public with a better understanding of who is accountable for setting the policies that guide our public education system.

This approach contradicts what public citizen trusteeship should be—that is, citizens who are independent in their individual and collective judgment and who serve the people of Hawaii, not special interest groups, as Board of Education members. Instead, House Bill No. 2377 establishes a narrowly focused constituency-based selection council with members appointed by separate interests. These individuals can recommend as few as only two names to fill a vacancy on the Board of Education, further contributing to the partisan and narrow focus of potential Board of Education candidates.

I am also troubled by the exemption of the selection council from Part I, Chapter 92, of the Hawaii Revised Statutes covering open meetings, also known as the Sunshine Law. This blanket exemption would allow this council to conduct its proceedings behind closed doors away from public scrutiny. This makes it difficult for the selection council members to be held accountable for the recommendations they make since the public will be unable to observe how candidates were selected, how qualifications were applied, what screening process was utilized, and whether political or partisan considerations were used.

A selection process that operates in secrecy benefits no one. It injures the people it seeks to serve, damages the integrity of the operation, breeds distrust, and dampens the enthusiasm of citizens to consider serving as Board of Education members.

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 2377  
Page 3

I affirmatively state that I support the proposed Constitutional amendment to establish an appointed Board of Education and urge its ratification. I propose that the next Governor offer implementing legislation that ensures the Board of Education members are selected directly by the Governor allowing for a fair, open and accountable process with the integrity this critical task deserves.

For the foregoing reasons, I am returning House Bill No. 2377 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingie", written in a cursive style.

LINDA LINGIE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. The purpose of this Act is to implement, upon  
3 its ratification, the constitutional amendments to Article X,  
4 Section 2 of the Hawaii Constitution, by requiring the members  
5 of the board of education to be nominated and, with the advice  
6 and consent of the senate, appointed by the governor from lists  
7 of qualified candidates presented to the governor by the board  
8 of education selection advisory council.

9 PART II

10 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
11 amended by adding two new sections to be appropriately  
12 designated and to read as follows:

13 "§302A-A Board of education members; appointment; terms;  
14 quorum and meetings; compensation. (a) The board shall consist  
15 of ten members as follows:

16 (1) Nine voting members who shall represent and reside in  
17 the specified geographic areas as follows:

18 (A) One member from the county of Hawaii;



- 1           (B) One member from the county of Maui;
- 2           (C) One member from the county of Kauai; and
- 3           (D) Six members from the city and county of Honolulu;
- 4           and

5           (2) One nonvoting member who shall be a public school  
6           student at the time of the initial appointment.

7           The members shall be appointed by the governor, with the advice  
8           and consent of the senate, and may be removed by the governor.

9           Except as otherwise provided by law, state officers shall  
10          be eligible for appointment and membership.

11          (b) Except for the student member, the governor shall set  
12          the terms of those initially appointed under this section to  
13          each seat on the board as follows:

- 14          (1) Three members shall serve one-year terms;
- 15          (2) Three members shall serve two-year terms; and
- 16          (3) Three members, including the chairperson of the board,  
17          shall serve three-year terms.

18          (c) Except for the student member:

19          (1) The term of each member shall be three years, except  
20          as provided for the initial appointment in subsection

21          (b); and



1       (2) Members shall serve no more than two consecutive  
2       three-year terms; provided that the members who are  
3       initially appointed to terms of two years or less  
4       pursuant to subsection (b) may be reappointed to two  
5       ensuing, consecutive three-year terms. If a member is  
6       to be appointed to a second consecutive term of three  
7       years, the senate shall consider the question of  
8       whether to reconfirm the member at least one hundred  
9       twenty days prior to the expiration of a member's  
10       first three-year term; provided that if the senate is  
11       not in session after the member's reappointment and  
12       prior to the one-hundred-twenty-day deadline by which  
13       the senate shall have considered the question of  
14       reconfirmation, the member shall continue to serve  
15       until the senate takes final action on the  
16       reconfirmation when it convenes for the next regular  
17       session or the next special session during which the  
18       senate is authorized to consider the question of  
19       reconfirmation.

20       (d) The term of the student member shall be two years.

21       The student member may be reappointed for one additional  
22       consecutive term even though the member is no longer a student



1 at the time of reappointment; provided that the senate shall  
2 consider the question of whether to reconfirm the member at  
3 least one hundred twenty days prior to the expiration of the  
4 member's first term; provided further that if the senate is not  
5 in session after the member's reappointment and prior to the  
6 one-hundred-twenty-day deadline by which the senate shall have  
7 considered the question of reconfirmation, the member shall  
8 continue to serve until the senate takes final action on the  
9 reconfirmation when it convenes for the next regular session or  
10 the next special session during which the senate is authorized  
11 to consider the question of reconfirmation.

12 (e) Every member may serve beyond the expiration date of  
13 the member's term of appointment until the member's successor  
14 has been appointed by the governor and confirmed by the senate  
15 in accordance with Article X, Section 2, of the Hawaii  
16 Constitution.

17 (f) The board shall select a chairperson from among its  
18 voting members.

19 The board shall select a vice chairperson from among its  
20 voting members, who shall serve as interim chairperson in the  
21 event the chairperson's seat becomes vacant.





1       (g) A majority of all the voting members to which the  
2 board is entitled shall constitute a quorum to conduct  
3 business. At any time the board has fewer than six voting  
4 members, three voting members of the board shall constitute a  
5 quorum to conduct business and the concurrence of three voting  
6 members shall be necessary to make any action of the board  
7 valid.

8       Notwithstanding chapter 92, from the convening of the  
9 legislature in regular session to adjournment sine die of each  
10 regular session, and during each special session of the  
11 legislature, the board may file any notice that specifies only  
12 legislation or legislation-related agenda items, no fewer than  
13 two calendar days before the meeting.

14       (h) The governor shall notify the board of education  
15 selection advisory council in writing within ten days of:

16       (1) Removing a member of the board; or  
17       (2) Receiving notification that a member of the board is  
18       resigning or has died.

19       (i) The members of the board shall serve without pay but  
20 shall be entitled to their travel expenses within the state when  
21 attending meetings of the board or when actually engaged in  
22 business relating to the work of the board.



1       §302A-B Board of education selection advisory council.

2       (a) There is established the board of education selection  
3       advisory council to present to the governor lists of qualified  
4       candidates from which the members of the board shall be  
5       nominated and, with the advice and consent of the senate,  
6       appointed by the governor. The council shall be attached to the  
7       department for administrative purposes.

8       (b) The council shall present a list of qualified  
9       candidates to the governor for each vacant seat on the board as  
10       provided by law, with no fewer than two and no more than four  
11       qualified candidates for each seat on the board:

12       (1) Within thirty days of convening its first meeting; and

13       (2) For all subsequent presentations to the governor:

14       (A) Within sixty days of a vacancy that arises by  
15       resignation, death, or removal by the governor;

16       or

17       (B) Within one hundred fifty days prior to the  
18       expiration of a board member's term.

19       The council shall be deemed to have fulfilled its obligation  
20       under this section upon presentation of the names of the minimum  
21       number of candidates required to be presented for each seat on  
22       the board.



- 1        (c) In selecting the candidates to be presented to the  
2 governor, the council shall:
- 3        (1) Establish the criteria for qualifying, screening, and  
4 presenting to the governor candidates for membership  
5 on the board;
- 6        (2) Develop a statement that includes the selection  
7 criteria to be applied and a description of the  
8 responsibilities and duties of a member of the board  
9 and distribute this statement to potential candidates;
- 10       (3) Screen and qualify candidates for membership on the  
11 board based on their background, experience, and  
12 potential for discharging the responsibilities of a  
13 member of the board;
- 14       (4) Publicly advertise pending vacancies and actively  
15 solicit and accept applications from potential  
16 candidates;
- 17       (5) Develop and implement a fair, independent, and  
18 nonpartisan procedure for selecting candidates to  
19 serve on the board; and
- 20       (6) Require each candidate to disclose any existing or  
21 anticipated contracts with the department or any



1 existing or anticipated financial transactions with  
2 the department.

3 No council member shall qualify to be a candidate.

4 Upon submission of the names of candidates to the governor,  
5 the council shall make available the names of candidates to the  
6 public through the department.

7 Notwithstanding any provision in this subsection, each  
8 member of the board serving on the day of the effective date of  
9 this Act, if the member accepts, shall be included in the list  
10 of candidates to be presented to the governor for the initial  
11 appointment of the members of the board, in addition to those  
12 candidates selected pursuant to this section; provided that:

13 (1) A member of the board serving on the day of the  
14 effective date of this Act shall only be a candidate  
15 for the seat in the geographic area in which the  
16 member resides, as provided in 302A-A(a), except in  
17 the case of the student member of the board serving on  
18 the day of the effective date of this Act; and

19 (2) The student member serving on the day of the effective  
20 date of this Act shall only be a candidate for the  
21 student member seat established in section 302A-A(a).



1        (d) For each board seat to be filled, the governor shall  
2 select one appointee from among the candidates submitted by the  
3 council; provided that no board member shall be appointed until  
4 December 6, 2010.

5        The appointee selected by the governor shall serve as an  
6 interim board member until the appointee has been confirmed by  
7 the senate; provided that the members initially appointed to the  
8 board shall not serve until five voting members are appointed  
9 and the elected members of the board are discharged from office  
10 pursuant to section 19 of this Act , Session Laws of Hawaii  
11 2010.

12        (e) The council shall consist of seven members to be  
13 appointed without regard to section 26-34 as follows:

14        (1) One member of the community appointed by the governor;  
15 provided that this member shall not be appointed until  
16 December 6, 2010;

17        (2) One member of the community appointed by the president  
18 of the senate;

19        (3) One member of the community appointed by the speaker  
20 of the house of representatives; and

21        (4) Four members appointed by the Hawaii P-20 Council, of  
22 which:



1           (A) Two members shall be parents, one of whom shall  
2           be a currently-serving school community council  
3           parent representative;

4           (B) One member shall be from the business or  
5           nonprofit community; and

6           (C) One member shall be an educator.

7 Individuals who are or have served as members of the Hawaii P-20  
8 Council within the last two years immediately preceding the  
9 establishment of or a vacancy on the board of education  
10 selection advisory council shall not be eligible to serve as  
11 members of the board of education selection advisory council.

12           The board of education selection advisory council shall be  
13 selected in a nonpartisan manner. Appointees to the council  
14 shall have a general understanding of the purposes of public  
15 education, the mission of the department, and the  
16 responsibilities of the board. Appointees shall be individuals  
17 who are widely viewed as having placed the broad public interest  
18 ahead of special interests, having achieved a high level of  
19 prominence in their respective professions, and being respected  
20 members of the community.

21           If any member has not been appointed within one hundred  
22 eighty days of a vacancy on the council, the other members on



1 the council shall make an interim appointment to fill the vacant  
2 seat. The interim appointee shall satisfy the requirements for  
3 appointment provided in this subsection and shall serve until  
4 the time when the appropriate appointing authority makes an  
5 appointment for the vacant seat as provided in this subsection.

6 (f) Members of the council shall serve four-year terms;  
7 provided that the three members initially appointed by the  
8 governor, president of the senate, and speaker of the house of  
9 representatives shall each serve for an initial term of two  
10 years; provided further that members shall serve no more than  
11 two consecutive four-year terms; and provided further that terms  
12 for members initially appointed to the council shall be deemed  
13 to begin on the day of the effective date of this Act,  
14 regardless of the actual date of appointment.

15 (g) If a vacancy occurs on the council, a successor shall  
16 be appointed in the same manner and subject to the same  
17 qualifications as the person's predecessor. The person  
18 appointed to fill a vacancy shall serve for the remainder of the  
19 term of the person's predecessor.

20 (h) The council shall operate in a nonpartisan manner. No  
21 individual, while a member of the council, shall run for or hold



1 any elected office under the United States or the State or any  
2 of its political subdivisions.

3 (i) The council shall convene its first meeting when a  
4 majority of its members have been appointed and as early as  
5 practicable. The members of the council shall select a  
6 chairperson from among themselves. A majority of all the  
7 members to which the council is entitled shall constitute a  
8 quorum to conduct business. The concurrence of a majority of  
9 all the members to which the council is entitled shall be  
10 necessary to make any action of the council valid. The council  
11 shall meet annually and at other times as necessary. The  
12 council shall be exempt from part I of chapter 92.

13 (j) Members of the council shall serve without  
14 compensation but shall be entitled to reimbursement for  
15 expenses, including travel, necessary for the performance of  
16 their duties.

17 (k) Notwithstanding chapter 92F or any other law to the  
18 contrary, all information required by the council shall be  
19 confidential, including all council information obtained,  
20 reviewed, or considered before and after a council decision  
21 making meeting. Confidential council information shall include





- 1 documents, data, or other information that is not of public  
2 record, including:
- 3       (1) Personal financial information;
  - 4       (2) The names of candidates;
  - 5       (3) Applications and the personal, financial, and other  
6           information contained therein submitted by the  
7           candidates to the council;
  - 8       (4) Interviews;
  - 9       (5) Schedules;
  - 10       (6) Reports;
  - 11       (7) Studies;
  - 12       (8) Background checks;
  - 13       (9) Credit reports;
  - 14       (10) Surveys and reports prepared for or on the council's  
15           behalf;
  - 16       (11) The results of any evaluations or assessments  
17           conducted by the council;
  - 18       (12) The substance and details of any discussions with  
19           council members; and
  - 20       (13) The substance and details of discussions and  
21           deliberations of the council and any of its committees  
22           during meetings."



## 1 PART III

2 SECTION 3. Section 11-157, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "§11-157 In case of tie. In case of the failure of an  
5 election by reason of the equality of vote between two or more  
6 candidates, the tie shall be decided by the chief election  
7 officer or county clerk in the case of county elections in  
8 accordance with the following procedure:

9 (1) In the case of an election involving a seat for the  
10 senate, house of representatives, [~~board of~~  
11 ~~education~~], or county council where only voters within  
12 a specified district are allowed to cast a vote, the  
13 winner shall be declared as follows:

14 (A) For each precinct in the affected district, an  
15 election rate point shall be calculated by  
16 dividing the total voter turnout in that precinct  
17 by the total voter turnout in the district. For  
18 the purpose of this subparagraph, the absentee  
19 votes cast for the affected district shall be  
20 treated as a precinct. The election rate point  
21 shall be calculated by dividing the total  
22 absentee votes cast for the affected district by



1 the total voter turnout in that district. All  
2 election rate points shall be expressed as  
3 decimal fractions rounded to the nearest hundred  
4 thousandth[-];

5 (B) The candidate with the highest number of votes in  
6 a precinct shall be allocated the election rate  
7 point calculated under subparagraph (A) for that  
8 precinct. In the event that two or more persons  
9 are tied in receiving the highest number of votes  
10 for that precinct, the election rate point shall  
11 be equally apportioned among those candidates  
12 involved in that precinct tie[-];

13 (C) After the election rate points calculated under  
14 subparagraph (A) for all the precincts have been  
15 allocated as provided under subparagraph (B), the  
16 election rate points allocated to each candidate  
17 shall be tallied and the candidate with the  
18 highest election rate point total shall be  
19 declared the winner[-]; and

20 (D) If there is a tie between two or more candidates  
21 in the election rate point total, the candidate  
22 who is allocated the highest election rate points



1 from the precinct with the largest voter turnout  
2 shall be declared the winner[-];

3 and

4 (2) In the case of an election involving a federal office  
5 or an elective office where the voters in the entire  
6 [State] state or in an entire county are allowed to  
7 cast a vote, the winner shall be declared as follows:

8 (A) For each representative district in the [State]  
9 state or county, as the case may be, an election  
10 rate point shall be calculated by dividing the  
11 total voter turnout in that representative  
12 district by the total voter turnout in the state,  
13 county, or federal office district, as the case  
14 may be; provided that for purposes of this  
15 subparagraph:

16 (i) The absentee votes cast for a statewide,  
17 countywide, or federal office shall be  
18 treated as a separate representative  
19 district and the election rate point shall  
20 be calculated by dividing the total absentee  
21 votes cast for the statewide, countywide, or  
22 federal office by the total voter turnout in



1 the state, county, or federal office

2 district, as the case may be [-]; and

3 (ii) The overseas votes cast for any election in  
4 the [State] state for a federal office shall  
5 be treated as a separate representative  
6 district and the election rate point shall  
7 be calculated by dividing the total number  
8 of overseas votes cast for the affected  
9 federal office by the total voter turnout in  
10 the affected federal office district. The  
11 term "overseas votes" means those votes cast  
12 by absentee ballots for a presidential  
13 election as provided in section 15-3.

14 All election rate points shall be expressed as  
15 decimal fractions rounded to the nearest hundred  
16 thousandth [-] i.

17 (B) The candidate with the highest number of votes in  
18 a representative district shall be allocated the  
19 election rate point calculated under subparagraph  
20 (A) for that district. In the event that two or  
21 more persons are tied in receiving the highest  
22 number of votes for that district, the election



1 rate point shall be equally apportioned among  
2 those candidates involved in that district  
3 tie [-];

4 (C) After the election rate points calculated under  
5 subparagraph (A) for all the precincts have been  
6 allocated as prescribed under subparagraph (B),  
7 the election rate points allocated to each  
8 candidate shall be tallied and the candidate with  
9 the election rate point total shall be declared  
10 the winner [-]; and

11 (D) If there is a tie between two or more candidates  
12 in the election rate point total, the candidate  
13 who is allocated the highest election rate points  
14 from the representative district with the largest  
15 voter turnout shall be declared the winner."

16 SECTION 4. Section 11-195, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read as follows:

18 "(d) For purposes of this subpart, whenever a report is  
19 required to be filed with the commission, "filed" means  
20 electronically filed on the commission's electronic filing  
21 system by the date and time specified for the filing of the  
22 report by the:



1 (1) Candidate or the committee of a candidate who is  
2 seeking election to the:

3 (A) Office of governor;

4 (B) Office of lieutenant governor;

5 (C) Office of mayor;

6 (D) Office of prosecuting attorney;

7 (E) County council;

8 (F) Senate;

9 (G) House of representatives; or

10 (H) Office of Hawaiian affairs; [~~or~~

11 ~~(I) Board of education;~~]

12 or

13 (2) Noncandidate committee required to be registered with  
14 the commission pursuant to section 11-194."

15 SECTION 5. Section 11-209, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) From January 1 of the year of any primary, special,  
18 or general election, the total expenditures for each election  
19 for candidates who voluntarily agree to limit their campaign  
20 expenditures, inclusive of all expenditures made or authorized  
21 by the candidate alone and all campaign treasurers and  
22 committees in the candidate's behalf, shall not exceed the



1 following amounts expressed respectively multiplied by the  
2 number of voters in the last preceding general election  
3 registered to vote in each respective voting district:

- 4 (1) For the office of governor--\$2.50;
- 5 (2) For the office of lieutenant governor--\$1.40;
- 6 (3) For the office of mayor--\$2.00;
- 7 (4) For the offices of state senator, state  
8 representative, and county council member--\$1.40; and
- 9 (5) For [~~the offices of the board of education and~~] all  
10 other offices--20 cents."

11 SECTION 6. Section 11-218, Hawaii Revised Statutes, is  
12 amended by amending subsection (d) to read as follows:

13 "(d) For [~~the board of education and~~] all other offices,  
14 the maximum amount of public funds available to a candidate  
15 shall not exceed \$100 in any election year."

16 SECTION 7. Section 12-5, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Nomination papers for candidates for members of  
19 Congress, governor, and lieutenant governor[~~, and the board of~~  
20 ~~education~~] shall be signed by not less than twenty-five  
21 registered voters of the State or of the Congressional district  
22 [~~or school board district~~] from which the candidates are running





1 in the case of candidates for the United States House of  
2 Representatives [~~or for the board of education~~]."

3 SECTION 8. Section 26-35.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) For purposes of this section, "member" means any  
6 person who is appointed, in accordance with the law, to serve on  
7 a temporary or permanent state board, including members of the  
8 board of education, the local school board of any charter school  
9 established under chapter 302B, council, authority, committee,  
10 or commission, established by law or elected to [~~the board of~~  
11 ~~education, or~~] the board of trustees of the employees'  
12 retirement system under section 88-24, or the corporation board  
13 of the Hawaii health systems corporation under section 323F-3  
14 and its regional system boards under section 323F-3.5; provided  
15 that "member" shall not include any person elected to serve on a  
16 board or commission in accordance with chapter 11 [~~other than a~~  
17 ~~person elected to serve on the board of education~~]."

18 SECTION 9. Section 84-17, Hawaii Revised Statutes, is  
19 amended by amending subsection (d) to read as follows:

20 "(d) The financial disclosure statements of the following  
21 persons shall be public records and available for inspection and  
22 duplication:



- 1 (1) The governor, the lieutenant governor, the members of  
2 the legislature, candidates for and delegates to the  
3 constitutional convention, [~~the members of the board~~  
4 ~~of education,~~] the trustees of the office of Hawaiian  
5 affairs, and candidates for state elective offices;
- 6 (2) The directors of the state departments and their  
7 deputies, regardless of the titles by which the  
8 foregoing persons are designated; provided that with  
9 respect to the department of the attorney general, the  
10 foregoing shall apply only to the attorney general and  
11 the first deputy attorney general;
- 12 (3) The administrative director of the State;
- 13 (4) The president, the vice presidents, the assistant vice  
14 presidents, the chancellors, and the provosts of the  
15 University of Hawaii;
- 16 (5) The members of the board of education, and the  
17 superintendent, the deputy superintendent, the state  
18 librarian, and the deputy state librarian of the  
19 department of education;
- 20 (6) The administrative director and the deputy director of  
21 the courts; and



1 (7) The administrator and the assistant administrator of  
2 the office of Hawaiian affairs."

3 SECTION 10. Section 84-41, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§84-41[+] Applicability of part. This part applies to  
6 legislators, [elected] members of the board of education,  
7 trustees of the office of Hawaiian affairs, the governor, the  
8 lieutenant governor, and executive department heads and  
9 deputies. This part does not apply to any other officer or  
10 employee of the State."

11 SECTION 11. Section 88-21, Hawaii Revised Statutes, is  
12 amended by amending the definition of "elective officer" or  
13 "elective official" to read as follows:

14 "'Elective officer" or "elective official": any person  
15 elected to a public office or appointed to fill a vacancy of an  
16 elective office, except as a delegate to a constitutional  
17 convention [~~or member of the board of education~~], in accordance  
18 with an election duly held in the [State] state or counties  
19 under chapter 11; provided that the person receives  
20 compensation, pay, or salary for such office."

21 SECTION 12. Section 302A-1101, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) There shall be a principal executive department to be  
2 known as the department of education, which shall be headed by  
3 ~~[an elected]~~ a policy-making board to be known as the board of  
4 education. The board shall have power in accordance with law to  
5 formulate statewide educational policy, adopt student  
6 performance standards and assessment models, monitor school  
7 success, and ~~[to]~~ appoint the superintendent of education as the  
8 chief executive officer of the public school system."

9           SECTION 13. Section 302A-1110, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "~~[f]~~ §302A-1110 ~~[f]~~ Educational districts not applicable.  
12 The educational districts established by section 4-1 shall not  
13 be applicable to, nor alter, ~~[the school board or departmental~~  
14 ~~school districts, established by section 13-1, or]~~ the school  
15 districts established for administrative purposes by the  
16 department."

17           SECTION 14. Section 17-6, Hawaii Revised Statutes, is  
18 repealed.

19           "~~§17-6 Board of education members. (a) The governor~~  
20 ~~shall make an appointment to fill any vacancy in the membership~~  
21 ~~of the board of education for the unexpired term of that vacancy~~



1 ~~whenever a vacancy occurs and the term of that vacancy ends at~~  
2 ~~the time of the next succeeding general election.~~

3 ~~(b) In the case of a vacancy, the term of which does not~~  
4 ~~end at the next succeeding general election:~~

5 ~~(1) If it occurs not later than on the sixtieth day prior~~  
6 ~~to the next succeeding general election, the vacancy~~  
7 ~~shall be filled for the unexpired term at the next~~  
8 ~~succeeding general election. The chief election~~  
9 ~~officer shall issue a proclamation designating the~~  
10 ~~election for filling the vacancy. All candidates for~~  
11 ~~the unexpired term shall file nomination papers not~~  
12 ~~later than 4:30 p.m. on the fiftieth day prior to the~~  
13 ~~general election (but if such day is a Saturday,~~  
14 ~~Sunday, or holiday then not later than 4:30 p.m. on~~  
15 ~~the first working day immediately preceding) and shall~~  
16 ~~be elected in accordance with this title. Pending the~~  
17 ~~election the governor shall make a temporary~~  
18 ~~appointment to fill the vacancy and the person so~~  
19 ~~appointed shall serve until the election of the person~~  
20 ~~duly elected to fill such vacancy.~~

21 ~~(2) If it occurs after the sixtieth day prior to the next~~  
22 ~~succeeding general election, the governor shall make~~



1           ~~an appointment to fill the vacancy for the unexpired~~  
2           ~~term.~~

3           ~~(c) All appointments made by the governor under this~~  
4           ~~section shall be made without consideration of the appointee's~~  
5           ~~party affiliation or preference or nonpartisanship, however the~~  
6           ~~persons so appointed shall meet the residency requirement~~  
7           ~~specified in section 13-1." ]~~

8           SECTION 15. Section 302A-1105, Hawaii Revised Statutes, is  
9           repealed.

10           ~~[ "§302A-1105 Compensation, expenses. Board of education~~  
11           ~~members shall be allowed:~~

- 12           ~~(1) Compensation at the rate of \$100 per day for each~~
- 13           ~~day's actual attendance at meetings;~~
- 14           ~~(2) Transportation fares between islands and abroad; and~~
- 15           ~~(3) Personal expenses at the rates specified by the board~~
- 16           ~~while attending board meetings or while on official~~
- 17           ~~business as authorized by the chairperson, when the~~
- 18           ~~board meetings or official business require a board~~
- 19           ~~member to leave the island upon which the board member~~
- 20           ~~resides." ]~~

21           SECTION 16. Section 302A-1106, Hawaii Revised Statutes, is  
22           repealed.



1       ~~["§302A-1106 Organization, quorum, meetings. (a) The~~  
2 ~~board shall elect from its own membership a chairperson and a~~  
3 ~~vice chairperson. A majority of all members to which the board~~  
4 ~~is entitled shall constitute a quorum to do business and the~~  
5 ~~concurrence of a majority of all members to which the board is~~  
6 ~~entitled shall be necessary to make any action of the board~~  
7 ~~valid; provided that due notice shall have been given to all~~  
8 ~~members of the board or a bona fide attempt shall have been made~~  
9 ~~to give due notice to all members of the board to whom it was~~  
10 ~~reasonably practicable to give due notice. Meetings shall be~~  
11 ~~called and held, at the call of the chairperson or by a quorum,~~  
12 ~~as often as may be necessary for the transaction of the~~  
13 ~~department's business.~~

14       ~~(b) Chapter 92 notwithstanding, from the convening of the~~  
15 ~~legislature in regular session to adjournment sine die of each~~  
16 ~~regular session, and during each special session of the~~  
17 ~~legislature, the board may file any notice that specifies only~~  
18 ~~legislation or legislation related agenda items, no fewer than~~  
19 ~~two calendar days before the meeting." ]~~

20       SECTION 17. Section 302A-1106.5, Hawaii Revised Statutes,  
21 is repealed.







1 appointment of five voting interim members of the board of  
2 education, at which time the elected members are discharged from  
3 office; provided that any vacancy occurring between the  
4 effective date of this Act and the discharge from office of all  
5 the elected members of the board of education, shall not be  
6 filled.

7 SECTION 20. Except as provided in section 21 of this Act,  
8 all employees, including secretarial staff and analysts, serving  
9 the board of education on the day of the effective date of this  
10 Act, shall continue to be exempt employees of the department of  
11 education.

12 SECTION 21. On the day of the effective date of this Act,  
13 the executive director of the board of education shall no longer  
14 be an employee of the department of education and shall serve at  
15 the pleasure of the board of education.

16 PART V

17 SECTION 22. The revisor of statutes shall insert the  
18 effective date of this Act and the number of this Act in the  
19 appropriate places in section 2 of this Act.

20 SECTION 23. In codifying the new sections added by section  
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 24. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 25. This Act shall take effect upon ratification  
6 of the constitutional amendments requiring the members of the  
7 board of education to be appointed; provided that Part III of  
8 this Act shall take effect when the elected members of the board  
9 of education are discharged from office pursuant to section 19  
10 of this Act.

