



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

Written Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to the Governor

Before the  
**HOUSE COMMITTEE ON FINANCE**  
Tuesday, February 23, 2010, 11:30 a.m.  
State Capitol, Room 308

**AGENDA #2: H.B. 2376 HD2 and H.B. 2377 HD2**

Chair Oshiro, Vice Chair Lee, and members of the Committee:

Thank you for hearing bills today relating to Hawaii's public education system. HB 2376 HD2 proposes a constitutional amendment to require the Governor to nominate and, by and with the advice and consent of the Senate, appoint the members of the Board of Education, as provided by law. The companion measure to this bill is HB 2377 HD2, which makes the statutory changes necessary to effectuate the proposed constitutional amendment as well as establishes a Board of Education Selection Advisory Council.

The Administration has **concerns** with these measures as they have the appearance of education reform, but merely make changes to the way in which Board of Education members are selected. For example, HB 2377 HD2 establishes an advisory council to select candidates for the Board of Education. To do so would create another layer of bureaucracy to an already opaque governance system and move the State further away from increasing accountability for the condition of public schools.

The Administration recommends that the Committee **amend** these measures by adopting the approach and language contained in the Administration-sponsored bills, HB 2552 and 2553.

The first bill, HB 2553, gives Hawaii voters the opportunity to decide whether or not to amend the State Constitution to repeal the publicly-elected Board of Education and establish the Department of Education as a cabinet-level department. These constitutional changes lay the groundwork to restructure the State's public education system in which the Department of Education is headed by a superintendent that is appointed by the Governor and confirmed by the Senate. The proposed question to be placed on the ballot is:

"Shall the State Constitution be amended to make the department of education into a cabinet-level department, without an elected Board of Education, headed by a superintendent appointed by the governor and confirmed by the state senate, similar to other departments of state government?"

These changes will make the Governor directly accountable for the condition of public education within the State, as the Governor will be held accountable for his or her selection of the Superintendent, and the subsequent educational performance under that Superintendent. Under this structure, Board of Education functions are transferred to the Superintendent with final decision-making resting with the Governor.

The second bill, HB 2552, makes the statutory amendments necessary to effectuate the new governance system proposed in HB 2553. The bill's key provisions are:

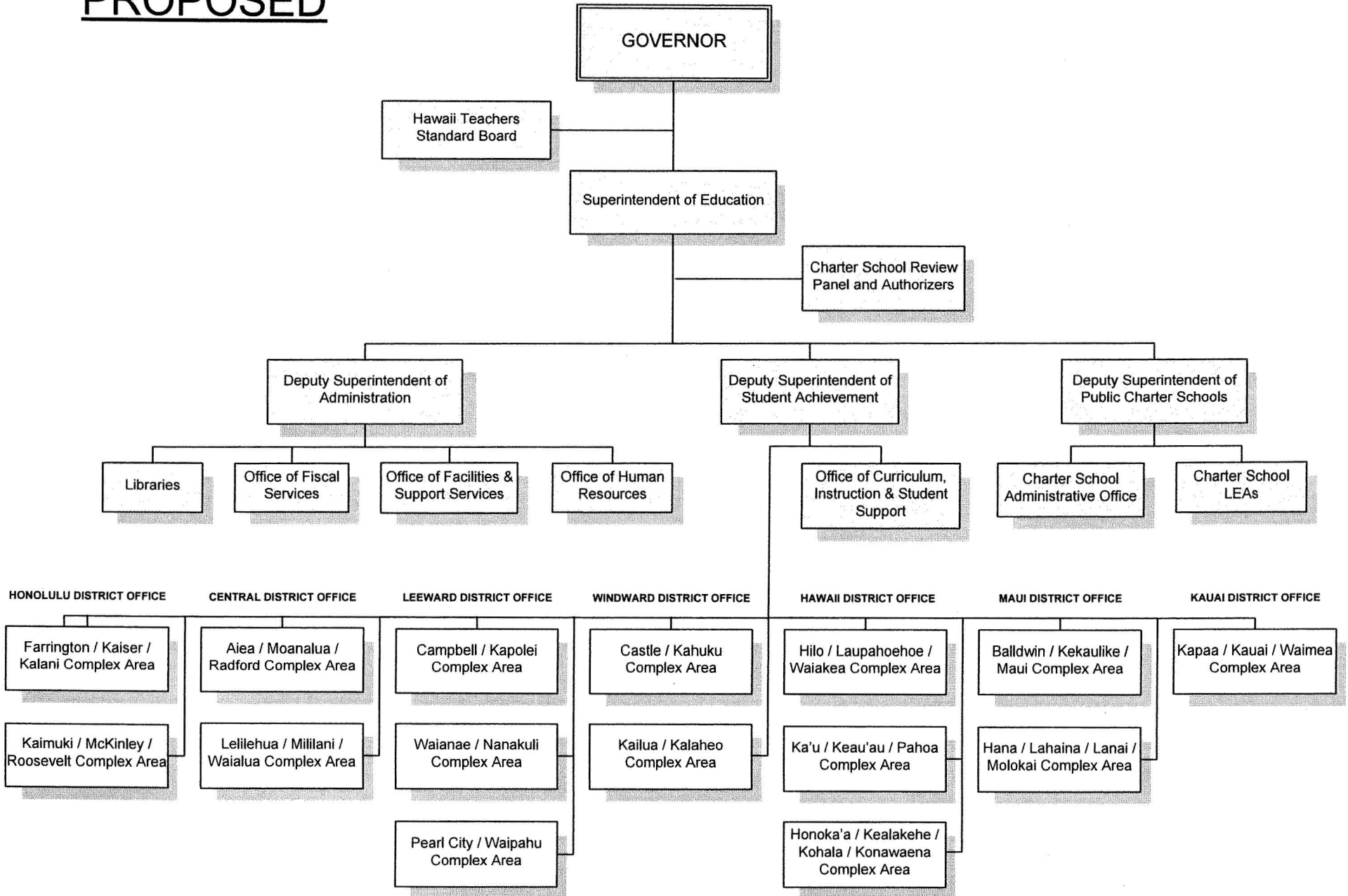
1. Repeals the powers and duties of the publicly-elected Board of Education and transferring most of these duties to the Superintendent of Education. For example, the Superintendent will have the authority to adopt administrative rules.
2. Authorizes the Governor to appoint the Superintendent of Education with the advice and consent of the Senate, which will align with the current process for selecting all other state department heads.
3. Authorizes the Superintendent to appoint three deputy directors. One deputy will be assigned to oversee the management of school administration, which will include the state libraries, fiscal services, facilities, and human resources. One deputy will focus on the department's efforts to improve student achievement through managing curriculum and providing students with the necessary support to improve student performance. One deputy will oversee the Charter School Administrative Office and facilitate development of public charter schools.

These changes will improve the State's ability to effectively manage its educational resources and execute policies and procedures. More importantly, it also creates a school system in which parents, teachers, students, and the public at large will be able to hold the governor, as the State's chief executive as provided by law, directly accountable for the condition of public education within the State.

Therefore, we strongly urge the committee to adopt the language in HB 2552 and 2553, in lieu of the provisions in HB 2376 HD2 and 2377 HD2. A proposed organizational chart for the Department of Education is attached for the Committee's review.

Thank you for the opportunity to provide testimony on these important measures.

# PROPOSED



Date of Hearing: Tuesday, February 23, 2010

Committee: House Committee on Finance

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: H.B. No. 2376, H.D. 2, Proposing Amendments to the Hawaii  
Constitution Relating to the Board of Education

Purpose of Bill: Proposes amendments to Article X, Section 2, of the Hawaii State  
Constitution to allow the Governor to nominate and, by and with the  
advice and consent of the Senate, appoint the members of the  
Board of Education, as provided by law.

Board's Position: Chairperson Oshiro, Vice Chairperson Lee, and members of the  
House Committee on Finance, thank you for the opportunity to  
testify on H.B. No. 2376, H.D. 2.

The Board of Education (Board) opposes H.B. No. 2376, H.D. 2,  
which proposes a constitutional amendment to allow the Governor  
to nominate and, by and with the advice and consent of the Senate,  
appoint the members of the Board of Education, as provided by  
law.

Under this bill, Hawaii's elected Board of Education, *determined by  
the voters* of our State, would be replaced with an appointed board,  
*determined by the Governor*.



A Governor-appointed board would centralize educational decision-making too largely in the Executive Branch. Under H.B. No. 2376, H.D. 2, educational decision-making would be weighted heavily under the Governor, with Board members falling under the Governor's direction and appointment. Under such a governance structure, a Board member would have but one constituent: the Governor who appoints the Board member to office.

An appointed board would be partisan in nature, subject to the political affiliation of the governor at that particular time. An appointed board would also be beholden to the governor, the appointing authority, with the governor having varying degrees of influence over his or her appointed members in driving educational decisions and policy. An appointed board is inclined to be in lock-step with the governor. For example, an appointed board under Governor Lingle would likely have furloughed teachers and other employees 36 days each year under the Governor's initial proposal.

Unlike an appointed board, elected Board of Education members are nominated in a *nonpartisan* primary election and are elected in a *nonpartisan* general election. A nonpartisan elected board assures independence in appointing a superintendent, without the

trappings of political party affiliation.

An elected board is representative of a diverse cross section of viewpoints and individuals who are reflective of our communities. An elected board offers varying viewpoints that are discussed and hashed out publicly to form a Board position on policy and other educational matters. The great thing about an elected board is that anyone who meets the residency and candidate requirements, is a registered voter, and does not hold any other public state or county government office, can run for a seat on the state Board of Education. Former legislators, school administrators, teachers, a police chief, attorneys, social workers, a military officer, business executives, and others from diverse and varied professional backgrounds and experiences have all served or serve on our elected board.

The Board believes that direct citizen control over education is essential to ensure that all members of our community have a say, a voice, and a vote as to who represents them on their state education board. Under an elected governance structure, voters assert their right to determine who serves them on their Board of Education. Voters also have the ability to elect Board of Education

members out of office.

Changing the Board of Education from an elected board to an appointed board is no panacea for the challenges facing education in our State. There is no evidence that a shift to an appointed board will be more effective, or accountable, or improve student achievement. In fact, while the federal Race to the Top Fund grant advances educational reform in four specific areas: (1) adopting standards and assessments for student success; (2) building data systems that measure student growth and success; (3) recruiting, developing, rewarding, and retaining effective teachers and principals; and (4) turning around our lowest-achieving schools, the grant competition does not suggest an appointed board governance structure.

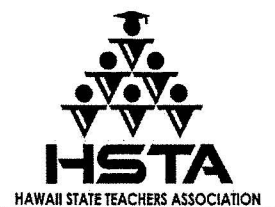
Educational improvements are a continuous process that occurs over time. Educational improvements occur when our educational system, schools, and classrooms are supported with adequate resources, a strong curricula, effective teachers, and other direct learning supports and resources to help children learn. These supports will have the strongest and most direct impact on student learning and achievement.

Education should be supported by all decision-makers and important stakeholders involved in education: the Board, the Superintendent, the Governor, the Legislature, and the community. Responsibility and accountability must be shared by all involved.

Lastly, state boards have always been regarded as critical to insuring education as a state function, with the responsibilities of state boards reflecting two deeply-held educational values: the lay governance of education and the separation of educational policymaking from partisan politics.

We ask you to entrust the public with the power to vote for their Board of Education members, as they do for their governor and legislators. Education is everyone's business, not just a few.

Thank you for the opportunity to testify on this measure.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
FINANCE**

**RE: HB 2376, HD2 – PROPOSING AMENDMENTS TO THE HAWAII  
CONSTITUTION RELATING TO THE BOARD OF EDUCATION.**

**HB 2377, HD2 – RELATING TO EDUCATION.**

February 23, 2010

**WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION**

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association opposes HB 2376, HD2, and HB 2377, HD2. We support having an elected board.

From the earliest days, American leaders recognized the central role public education played in educating the whole people and creating a shared American culture and cohesive society. They created a citizenry group to guide and develop policies for education. These citizen groups are in every community across the nation and are known as school boards. School boards were chosen by the people they served. Today, 96% of the school boards are elected.

We believe in an elected Board of Education because we believe that an elected board is more likely to represent the view of the voters rather than the interest of the governor who appoints them.

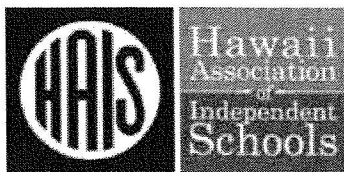
Elected board members would be accountable to the community, rather than be accountable to an individual, the governor. The electorate would hear what the candidates stand for and so would know what they were electing. Voters are more engaged, to know who the candidates are and to ask them questions about their positions.

Under a system where offices are appointed, voters are not given an opportunity to directly question the people who will be making decisions. This interaction generates interest and ownership of our school system. An appointed board would disenfranchise the parents who are active in the development of the school system.

The governor of the State of Hawaii is one of the most powerful governors in this nation. To allow the governor to appoint the board of education is to consolidate even more power in this office.

We urge this committee to hold HB 2376, HD2, and HB 2377, HD2.

Thank you for the opportunity to testify.



Tuesday, February 23, 2010  
11:30 a.m.  
Conference Room 308

TESTIMONY TO  
THE HOUSE COMMITTEE ON FINANCE

RE: HB 2376, HD2- Proposing amendments to the Hawaii Constitution  
relating to the Board of Education

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide.

**The Association is in strong support of House Bill 2376 HD2**, which amends Article X, Sections 2 and 3, of the Hawaii Constitution to provide for the Board of Education to be appointed by the Governor, as provided by law.

HAIS is encouraged by this proposal by which the members of the Board of Education would be nominated and, by and with the advice of the Senate, appointed by the Governor, as provided by law.

HAIS believes that discussion of the merits of this measure is urgently needed during the 2010 Legislative Session, and further believes that this measure may be aptly designed, in general, to increase accountability concerning public education in Hawaii.

We believe this measure will also encourage the Board of Education to restructure and decentralize public education for the purposes of increasing student achievement and protecting student rights. This provides added incentive for our association to support ongoing discussion of this measure in the weeks ahead.

Thank you for the opportunity to testify in strong support of this measure. As this measure moves forward for continuing discussion, we pledge our involvement in the discussion of the merits of this idea, along with a full examination of the details that may be needed to support implementation should the measure be placed before the voters next November.



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The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance  
Testimony by  
Hawaii Government Employees Association  
February 23, 2010

H.B. 2376 H.D. 2 – PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION  
RELATING TO THE BOARD OF EDUCATION  
AND  
H.B. 2377 H.D. 2 – RELATING TO EDUCATION

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO provides the following comments and recommendations on H.B. 2376 H.D. 2 and H. B. 2377 H.D. 2.

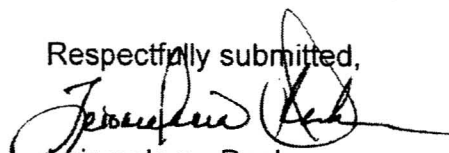
The governance model for public education is not the panacea for student achievement although it may be a component of accountability. Historically educators have supported an elected school board but that position is being evaluated. As a general rule, the electorate has remained apathetic and we've seen the results with "blank votes" receiving the most votes.

Educators want leadership in the public school system. They want public officials including the governor, legislature, board of education and superintendent that support public education. Principals are educational leaders of their schools and they need the support of the system in order to do their jobs.

We strongly recommend the insertion of language that assures at least part of the membership of the board shall represent geographic subdivisions of the State. H.B. 2377 H.D. 2 page 8, related to the BOE selection advisory council should be amended to include a member appointed by the Hawaii Government Employees Association. Section 20 should clearly state that all employees serving the board of education are exempt employees. We agree with section 21 as written. The executive director should serve at the pleasure of the board of education.

Thank you for the opportunity to testify to H.B. 2376 H.D.2 and H.B. 2377 H.D. 2.

Respectfully submitted,

  
Leiomalama Desha  
Executive Assistant







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**Testimony to the House Committee on Finance**

**Tuesday, February 23, 2010**

**11:30 a.m.**

**Conference Room 308**

**RE: Relating to Education - House Bill 2376 HD2**

Chair Oshiro, Vice Chair Lee and Members of the Committee:

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable fully supports HB 2376 HD2 that proposes amendments to the Hawaii Constitution relating to the Board of Education. The Hawaii Business Roundtable supports the requirement that the Board of Education members to be nominated and, by and with the advice and consent of the Senate, appointed by the Governor from pools of qualified candidates presented to the Governor.

The members of the Hawaii Business Roundtable represent companies in Hawaii that collectively employ over 70,000 people in Hawaii. These employees and their families and all of Hawaii, deserve a high quality Public Education System.

We believe that the current governance structure is ambiguous and has led to mixed priorities, conflicted leadership and a lack of accountability. Hawaii has had an elected board of education for 45 years that has contributed to the current status. What is truly needed is clear accountability and vision. The ultimate responsibility for the quality of our Public Education System should be that of the highest ranking position in our State Government, the Governor, giving education the top priority it deserves. A professional appointed Board will help to achieve that goal.

While there are many issues to be resolved as we move forward, we believe that this change is a step in the right direction. Our members are prepared to be a part of, and support a team to create a new vision for Public Education in Hawaii.

Thank you very much for the opportunity to testify and we look forward to joining your efforts to improve Public Education in Hawaii.

**Lisa Diaz**  
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**TO:**

**HOUSE OF REPRESENTATIVES    COMMITTEE ON FINANCE**

Rep. Henry J.C. Aquino	Rep. Scott Y. Nishimoto
Rep. Karen Leinani Awana	Rep. Roland D. Sagum, III
Rep. Tom Brower	Rep. James Kunane Tokioka
Rep. Isaac W. Choy	Rep. Jessica Wooley
Rep. Denny Coffman	Rep. Kyle T. Yamashita
Rep. Sharon E. Har	Rep. Lynn Finnegan
Rep. Gilbert S.C. Keith-Agaran	Rep. Gene Ward
Rep. Chris Lee	

**Re: HB 2376, HD2    (HSCR349-10)**

RELATING TO EDUCATION. Requires Board of Education members to be nominated and, by and with the advice and consent of the Senate, appointed by the Governor from lists of qualified candidates presented to the Governor by the Board of Education Selection Advisory Council. Effective December 21, 2058.

**Aloha Committee on Finance Chair Marcus Oshiro, & members:**

**I strongly oppose HB 2376 HD2 as written, as it will limit Hawaii citizens' democratic rights to vote for local BOE members to represent their education district. As written, HB 2376 HD2 will destroy democratic process for public education & also politicize education policies. A governor with a strong political agenda could unduly influence BOE, eliminating public input into policy. This is a very dangerous situation, as political agendas such as teaching abstinence only, teaching creationism and banning books could more easily be accomplished. Maybe this seems o.k. if your political party is in power, but just think what could happen if the power flips.**

**HB 2376 HD2 & bills similar to it are knee-jerk reactions to the dire furlough day policy. I am a dedicated Hawaii public school teacher at Kealakehe Intermediate. I am just as frustrated by furlough days as all people who truly care about the education of Hawaii's children. I worry about days of missed school. I use unpaid furlough days to plan curriculum & often spend time w/ students after 3pm on science fair & robotics projects.**

**We did not get to this furlough situation via BOE, DOE alone. Teachers, BOE, DOE & HSTA were pushed by Gov. Lingle to follow the lead of other states to furlough rather than mass layoff state workers. We were given no choice. The furlough policy was poorly thought out by the Governor's office, & now as we try to add back days, the true costs of opening schools safely for kids have surfaced. The problem lies really with a view that public education for kids was not truly a priority, & DOE deserved the same across the board cuts as every other state agency. Valuing our children's education was not a priority in this process, spearheaded by Gov. Lingle.**

**However just because the Governor's leadership was poor on the furlough & DOE budget crisis issue does not mean that we should suspend the democratic rights of Hawaii citizens to elect our BOE representation. Please remember that the Patriot Act, was also a knee jerk reaction which has seriously compromised our constitutional rights.**

**How can we be assured as citizens that nominees to the BOE by the Senate & governor are democratically chosen without political influence?**

**If you can explain in detail how the Senate or Governor's nomination process would work to ensure that school districts and children get fair and uncompromised representation, then I may be able to consider support. However these bills as written lack details of the nomination process, and are not well thought out—just like the furlough plan. Therefore, I cannot support bills that take away citizen's rights to democratic process at the BOE.**

**Sincerely,**

**Lisa Diaz**

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## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 22, 2010 8:46 AM  
**To:** FINTestimony  
**Cc:** douglasperrine@yahoo.com  
**Subject:** Testimony for HB2376 on 2/23/2010 11:30:00 AM

Testimony for FIN 2/23/2010 11:30:00 AM HB2376

Conference room: 308  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Doug Perrine  
Organization: Individual  
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Phone: 808-329-4523  
E-mail: [douglasperrine@yahoo.com](mailto:douglasperrine@yahoo.com)  
Submitted on: 2/22/2010

Comments:

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 22, 2010 10:29 PM  
**To:** FINTestimony  
**Cc:** piikea@earthlink.net  
**Subject:** Testimony for HB2376 on 2/23/2010 11:30:00 AM

Testimony for FIN 2/23/2010 11:30:00 AM HB2376

Conference room: 308  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Susan Rocco  
Organization: Special Education Advisory Council  
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E-mail: [piikea@earthlink.net](mailto:piikea@earthlink.net)  
Submitted on: 2/22/2010

Comments:

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 22, 2010 1:36 PM  
**To:** FINTestimony  
**Cc:** stevep@hawaiibusiness.com  
**Subject:** Testimony for HB2376 on 2/23/2010 11:30:00 AM  
**Attachments:** 20.doc

Testimony for FIN 2/23/2010 11:30:00 AM HB2376

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Steven Petranik  
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Submitted on: 2/22/2010

Comments:

Our public education system has failed our students over and over for decades. Furlough Fridays are simply that latest indication of a broken system. **Changing the school board from an elected board to one that is appointed by the governor is the first, crucial step in fixing the system.**

The other evidence of a broken school system is plentiful: test scores put Hawai'i near the bottom of all the states; public school graduates often can't pass union apprentice exams; UH says a majority of public high school graduates need remediation to take college courses; and local companies say most high school graduates are unprepared for entry-level jobs.

The current system is controlled by the Board of Education, Legislature and Governor. The divided responsibilities make it impossible to fix the schools; we need the governor to be fully in charge.

Though an elected school board may seem more democratic, these elected boards have failed to give our children the education they need. Few individual voters watch school board campaigns nearly as closely as do the unions that represent teachers, administrators, and other employees of the DOE. But voters closely watch each election for Governor and the major issues in the campaigns are well reported and understood. If the Governor were accountable for public education, student outcomes and key education issues would be highlighted as a major part of the state's main political campaign.

Over the past 50 years, many attempts have been made to reform the DOE. Despite public support, the reforms have failed because the system defeated the people who are supposed to run the system because those people have divided authority.

There are many steps that are needed to fix our schools, but an essential first step is to give the governor the constitutional power to appoint the school board members.

Thank you for your consideration.

Steven Petranik  
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Kailua