



**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:

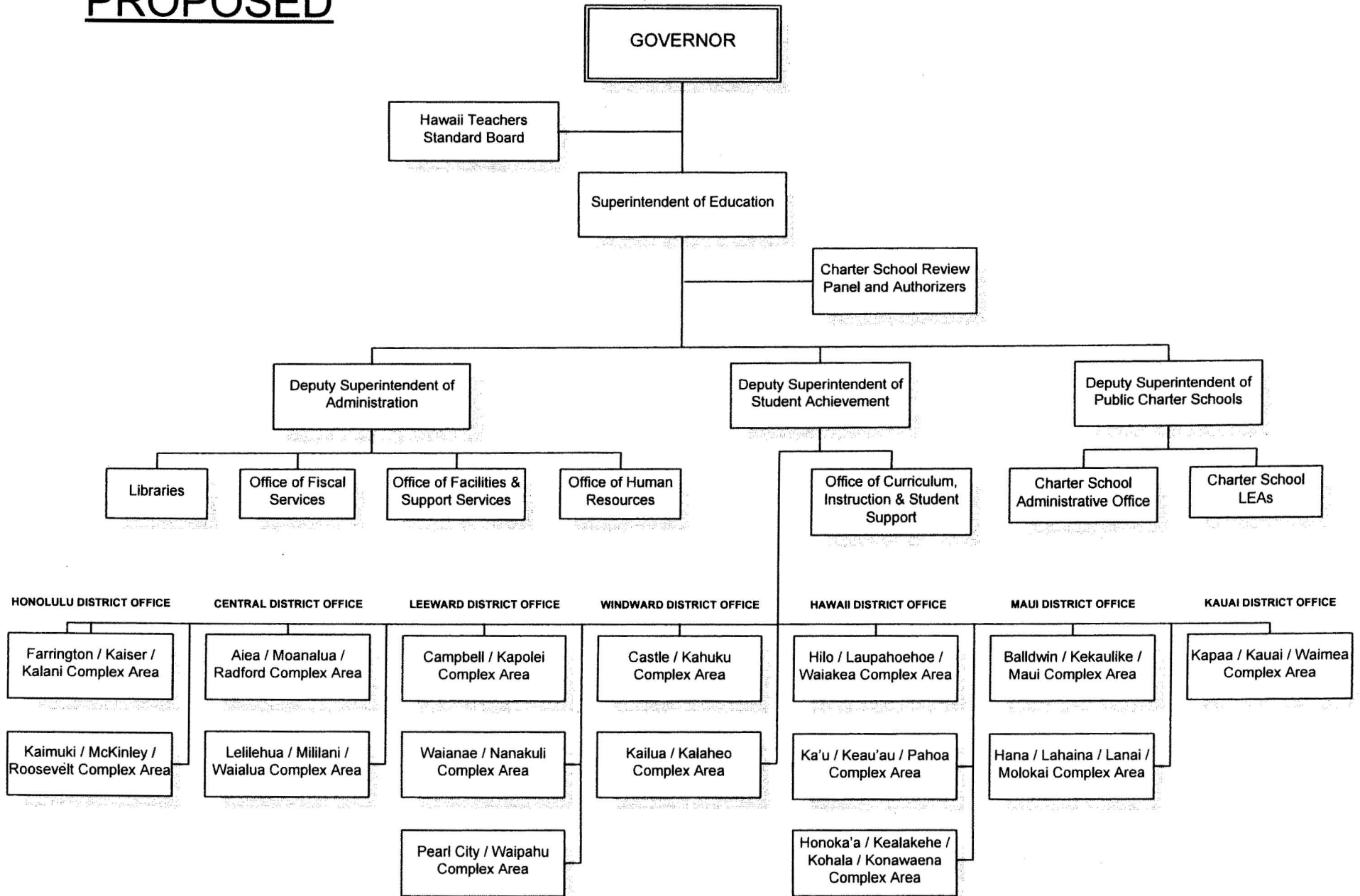
1. Repeals the powers and duties of the publicly-elected Board of Education and transferring most of these duties to the Superintendent of Education. For example, the Superintendent will have the authority to adopt administrative rules.
2. Authorizes the Governor to appoint the Superintendent of Education 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. 2377, H.D. 2, Relating to Education

Purpose of Bill: Implements, upon ratification, the constitutional amendment that allows the Governor to nominate and, by and with the advice and consent of the Senate, appoint the members of the Board of Education (Board), as provided by law. Specifically, this bill, among other things: (1) Creates a nine voting-member Board that is appointed by the Governor, (2) Specifies that there shall be one nonvoting member who is a public school student at the time of the initial appointment, and selected by the Hawaii State Student Council; (3) Creates the Board of Education Selection Advisory Council to establish criteria for qualifying, screening, and presenting candidates for membership to serve on the board, to the Governor; and (4) Presents to the Governor lists of qualified candidates from which Board members shall be nominated.

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. 2377, H.D. 2.

The Board of Education (Board) opposes H.B. No. 2377, H.D. 2, which is enabling legislation 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. 2377, 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 of Education Selection Advisory Council established under H.B. No. 2377, H.D. 2 is an attempt to broaden the one-person/one-governor appointment process for selecting individuals to serve on the Board of Education. Similar to the University of Hawaii Board of Regents Candidate Advisory Council established in law, the creation of the Board of Education Selection Advisory Council reflects recognition by the Legislature and the public's desire of the need to minimize sole control and sole decision-making by one person, i.e., the governor, over the appointment of individuals to serve on our public institutions. The establishment of these nonpartisan citizen advisory groups is an acknowledgement of the heed necessary and political nature of entrusting the governor, a sole individual, to appointment individuals to serve on our K-12 *and* higher education institutions. Direct citizen control through an *elected* board, not an *appointed* Board of Education, is the best way to ensure fairness, independence, and public participation and involvement in education.

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.



1200 Ala Kapuna Street • Honolulu, Hawaii 96815  
Tel: (808) 833-2711 • Fax: (808) 839-7106 • Web: www.hsta.org

**Wil Okabe**  
President  
**Karolyn Mossmar**  
Vice President  
**Joan Kamila Lewis**  
Secretary-Treasurer  
**Jim Williams**  
Interim Executive Director

**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.



888 Mililani Street, Suite 601  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000  
Facsimile: 808.528.4059

www.hgea.org

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.

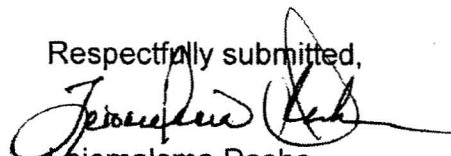
The governance model for public education is not the panacea for student achievement although it may be a component of accountability. Historically educators have supported an elected school board but that position is being evaluated. As a general rule, the electorate has remained apathetic and we've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

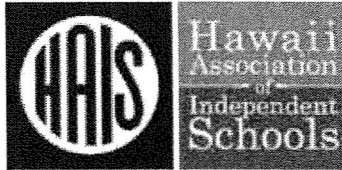
We strongly recommend the insertion of language that assures at least part of the membership of the board shall represent geographic subdivisions of the State. H.B. 2377 H.D. 2 page 8, related to the BOE selection advisory council should be amended to include a member appointed by the Hawaii Government 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





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

TESTIMONY TO  
THE HOUSE COMMITTEE ON FINANCE

RE: HB 2377, HD2 – Relating to 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 2377 HD2**, which implements, upon its ratification, the constitutional amendment to Article X, Sections 2, of the Hawaii Constitution relating to the Board of Education.

HAIS is encouraged by this proposal by which the members of the Board of Education would 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 a Board of Education Selection Advisory Committee.

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. Our association pledges its participation in the ongoing dialogue concerning this measure and suggests that much more discussion will be required concerning the details already proposed concerning size of board, terms of board members, selection of board members, election of officers, and so forth.



**Testimony to the House Committee on Finance**

**Tuesday, February 23, 2010**

**11:30 a.m.**

**Conference Room 308**

**RE: Relating to Education - House Bill 2377 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 2377 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.



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

TESTIMONY TO  
THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

RE: HB 2377 – Relating To Education

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

My name is Randy Baldemor and I write on behalf of Hawai'i's Children First. Hawai'i's Children First is an organization comprised of concerned citizens who support a number of education reforms, including an appointed board of education.

We are strongly supportive of the intent of HB 2377. In view of the current state of our education system and widespread public dissatisfaction, we believe the time is ripe for letting the community decide on how Board of Education members should be selected.

We believe that any discussion about the governance structure of our public education system should begin with a simple question:

**Is Hawai'i's public education system serving our children and our community effectively?**

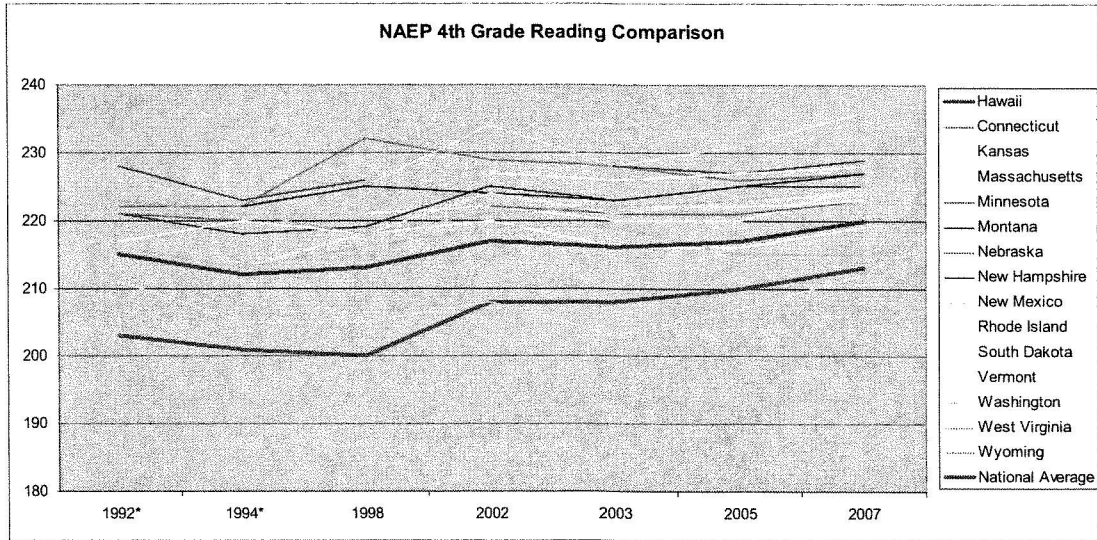
While there are many examples of excellent principals, teachers and students, there is one inescapable conclusion – the system as a whole is letting our children and the community down. Consider the following statistics:

- 74% of our 4<sup>th</sup> graders and 80% of our 8<sup>th</sup> graders were below proficient in reading;
- 64% of our 4<sup>th</sup> graders and 75% of our 8<sup>th</sup> graders were below proficient in mathematics.

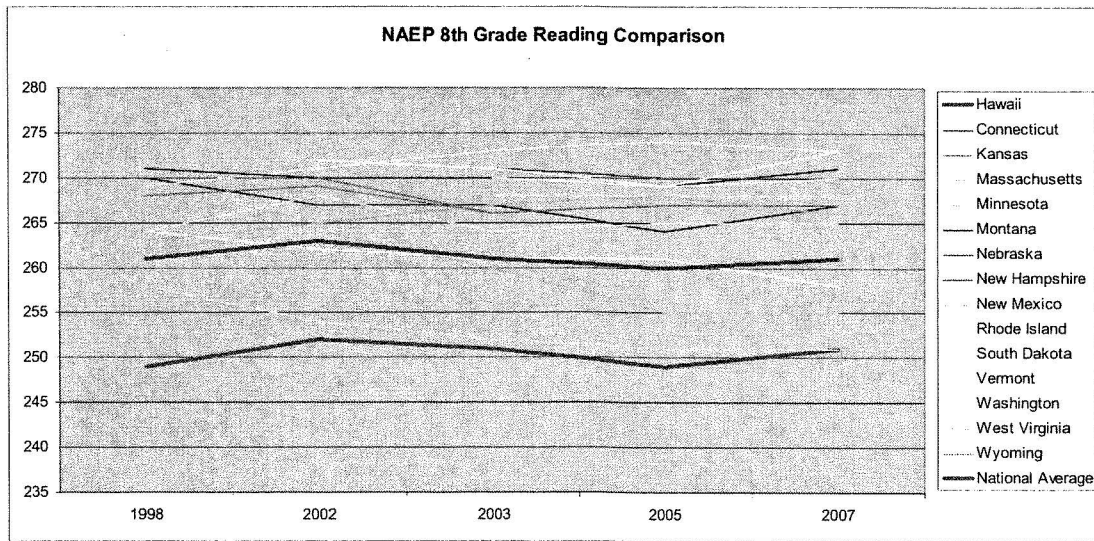
58% of our schools in 2008 did not meet Adequate Yearly Progress.



**2007 – 4<sup>th</sup> Grade Reading Ranking = 44th**



**2007 – 8<sup>th</sup> Grade Reading Ranking = 47th**



According to the U.S. Census Bureau, we rank 13<sup>th</sup> in the United States in terms of public education spending. We spend somewhere in the range of 40% to 50% or more of our general excise tax revenue on public education. Despite funding levels that appear to be very competitive with other states, we have one of the lowest amounts of instructional time in the year, made even worse by the school furloughs.

## **Who is responsible for the troubled state of our public education system?**

There are certainly many factors that influence student achievement, especially the quality of instruction in the classroom. But, when the education system seems to be underperforming on a statewide level over a prolonged period of time, we must look to leadership and governance.

Under our state constitution, the Board of Education has the responsibility to formulate statewide education policy. For approximately 45 years, our Board of Education has been elected and, during that period, spanning many terms of elected board members, the performance of our education system has been unsatisfactory. The problem is systemic and the method of selecting Board of Education candidates is a significant part of the problem.

## **How do we improve the system?**

Since the 45 year “experiment” of an elected board has not led to satisfactory results, the time is appropriate to give strong consideration to a system that appoints the Board of Education. An appointed board is the most reasonable approach. An appointed board has the following benefits:

- Greater accountability – the governor becomes accountable for the state of public schools;
- Better screening of candidates – a process that helps to ensure the selection of the most highly qualified individuals, such as individuals exhibiting good judgment and expertise in education policy, school leadership, teaching and other relevant subject areas, such as business;
- A more cohesive Board of Education that is less subject to electoral politics; and
- Improved structural alignment that is conducive to reform.

Most state boards (35) are appointed. Based on our analysis of the governance structures of other states and NAEP scores, eight of the top ten state boards in terms of NAEP achievement are appointed. There is only 1 state in the top ten with an elected state board. At the bottom of the rankings, forty percent of states in the bottom ten have elected boards, while only twenty percent have appointed boards. There are only five states with a mixed board or no board at all.

While we recognize Hawai'i is unique and many factors have an influence upon student achievement, the adoption of an appointed Board of Education is an important step toward an improved education system. An appointed board will promote more thorough consideration of board candidates, greater accountability and stronger policy. We expect, in turn, this will help make a positive impact throughout the education system and, particularly, in the classroom.

Thus, we strongly urge the Committee to pass HB 2377 to restore accountability and efficiency in public education and to support a more prosperous education system that places Hawai'i's children first.