



**EXECUTIVE CHAMBERS**  
HONOLULU

**LINDA LINGLE**  
GOVERNOR

Testimony of  
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Before the  
**HOUSE COMMITTEE ON EDUCATION**

Wednesday, March 10, 2010, 2:30 PM  
State Capitol, Room 309

**SB 2570 SD1 and SB 2571 SD2**

Chair Takumi, Vice Chair Berg, and members of the Committee:

SB 2570 SD1 proposes a constitutional amendment to require voting members of the Board of Education to be appointed by the Governor, with the advice and consent of the Senate, from pools of qualified candidates presented to the Governor by the Board of Education Nomination Commission, as provided by law. The companion measure to this bill is SB 2571 SD2, in which a Board of Education Candidate Nomination Commission is established to select pools of candidates for the Board of Education.

The Administration has concerns that these bills have the appearance of education reform, but merely make changes to the way in which Board of Education members are selected. For example, establishing a Candidate Nomination Commission 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.

There were many bills introduced this legislative session to change Hawaii's public education system. These measures were introduced primarily in response to the inability of State leaders under the existing school system to quickly and comprehensively resolve the issue of Furlough Fridays for public schools. The publicly-elected Board of Education, which is supposed to represent the will of Hawaii's citizens, is presently incapable of adequately responding to the public's clear and repeated request to restore school instructional days. Creating clear lines of authority will create greater stability and allow for a more expedient execution of policies and procedures that govern the Department of Education.

The Administration recommends that the Committee **amend** these measures by adopting the approach and language contained in the Administration-sponsored bills, S.B. 2705 and 2706 (attached).

The first bill, S.B. 2706, 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, S.B. 2705, makes the statutory amendments necessary to effectuate the new governance system proposed in S.B. 2706. The bill's key provisions are:

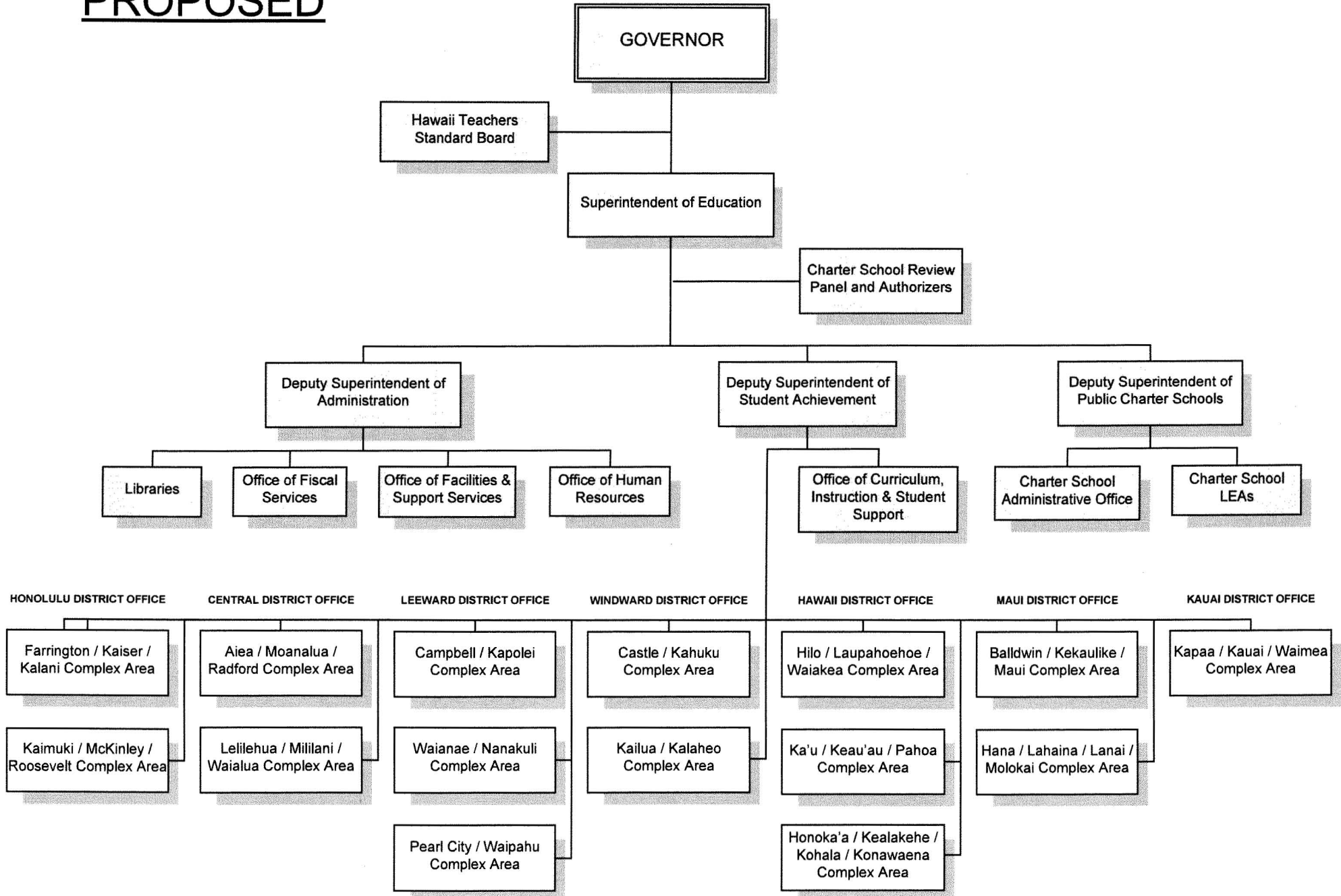
1. Repeals the powers and duties of the publicly-elected Board of Education and transferring most of these duties to the Superintendent of Education. For example, the Superintendent will have the authority to adopt administrative rules.
2. Authorizes the Governor to appoint the Superintendent of Education 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 S.B. 2705 and 2706, in lieu of the provisions in the bills being heard today. A proposed organizational chart for the Department of Education and suggested bill language are attached for the Committee's review. Thank you for the opportunity to provide testimony on these measures.

# PROPOSED



# S.B. NO. 2705

JAN 25 2010

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## A BILL FOR AN ACT

RELATING TO EDUCATION GOVERNANCE.

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

1           SECTION 1. The governance structure of Hawaii's public  
2 education system is unique compared to other states across the  
3 nation. Hawaii is the only state in the union with a single  
4 statewide school district. The department of education is  
5 managed by a superintendent, serving as its chief executive, who  
6 is appointed and overseen by a thirteen-member publicly elected  
7 board of education. The board theoretically sets statewide  
8 education policy to the extent allowed by law. The Hawaii state  
9 legislature controls the budgetary appropriations made to the  
10 department each year and establishes educational policy and  
11 procedures through the adoption of laws. The governor, who  
12 serves as the chief executive of the State, has the authority to  
13 release or withhold funds appropriated by the legislature to the  
14 department of education, but has no other direct powers over the  
15 department of education. This system results in a diffusion of  
16 control, a diffusion of accountability, and the inability of the  
17 public to hold one person accountable for the success or failure  
18 of public education in Hawaii.

1           It is critical that steps be taken to improve the  
2 performance of Hawaii's schools. Every year since 1992,  
3 Hawaii's fourth and eighth graders have scored below the  
4 national average on math and reading tests developed by the  
5 National Assessment of Education Progress, which is also known  
6 as the Nation's Report Card. According to the department of  
7 education, sixty-four per cent of schools failed to meet  
8 Adequate Yearly Progress standards as measured by the Hawaii  
9 State Assessment for the 2008-2009 school year. Local labor  
10 unions report that many department of education graduates have  
11 difficulty passing apprentice tests. Similarly, the University  
12 of Hawaii system reports they have had to increase remediation  
13 courses for Hawaii public school graduates who want to attend  
14 college to bridge the learning gap in students who are  
15 unprepared to deal with the rigor of college-level course work.

16           The legislature finds that the failure of the State to  
17 develop a high-performing public school system is not due to a  
18 lack of fiscal investment, nor a lack of commitment to education  
19 by the residents of the State. The high regard with which  
20 education is held in Hawaii is evidenced by the nearly  
21 \$2,000,000,000 dollars in state general funds appropriated to

1 the department of education each year and the diligent work of  
2 teachers in classrooms across the state.

3 The legislature further finds that the slow progress to  
4 improve Hawaii's public education system is due to a lack of  
5 clear governance. The poor outcomes are a result of an  
6 educational governance system that lacks accountability.

7 Accordingly, the purpose of this bill is to restructure  
8 Hawaii's public education system to set forth clear lines of  
9 accountability among state entities and officials, in order to  
10 create an effective public education system for the children of  
11 Hawaii. This is accomplished by:

- 12 (1) Repealing the powers and duties of the board of  
13 education;
- 14 (2) Authorizing the governor to appoint the superintendent  
15 of education with the advice and consent of the  
16 senate;
- 17 (3) Realigning the department of education within the  
18 state administration as a cabinet-level department;  
19 and
- 20 (4) Authorizing the superintendent to appoint three  
21 deputy directors to oversee the department's

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1 administration, student achievement, and public  
2 charter schools.

3 PART I.

4 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§302A- Deputy directors; appointment. The  
8 superintendent shall appoint, without regard to chapter 76,  
9 three deputy superintendents to serve at the superintendent's  
10 pleasure. Unless otherwise assigned by the superintendent, one  
11 deputy superintendent shall oversee the administration and  
12 operations of the department, one deputy superintendent shall  
13 oversee student achievement, and one deputy superintendent shall  
14 oversee public charter schools in accordance with chapter 302B."

15 SECTION 2. Section 26-12, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§26-12 Department of education. (a) The department of  
18 education shall be headed by [an executive board to be known as  
19 the board of education.

20 Under policies established by the board,] a single  
21 executive to be known as the superintendent of education.

1        The department of education shall administer programs of  
2 education and public instruction throughout the State, including  
3 education at the preschool, primary, and secondary school  
4 levels, adult education, school library services, health  
5 education and instruction (not including dental health treatment  
6 transferred to the department of health), and such other  
7 programs as may be established by law.

8        (c) ~~The [state librarian, under policies established by~~  
9 ~~the board of education,]~~ department of education, through the  
10 state librarian, shall be responsible for the administration of  
11 programs relating to public library services and transcribing  
12 services for the blind.

13        The functions and authority heretofore exercised by the  
14 ~~[department of education (except dental health treatment~~  
15 ~~transferred to the department of health),]~~ library of Hawaii,  
16 Hawaii county library, Maui county library, and the transcribing  
17 services program of the bureau of sight conservation and work  
18 with the blind, as heretofore constituted are transferred to the  
19 public library system established by this chapter.

20        The management contract between the board of supervisors of  
21 the county of Kauai and the Kauai public library association  
22 shall be terminated at the earliest time after November 25,



1 1959, permissible under the terms of the contract and the  
2 provisions of this paragraph shall constitute notice of  
3 termination, and the functions and authority heretofore  
4 exercised by the Kauai county library as heretofore constituted  
5 and the Kauai public library association over the public  
6 libraries in the county of Kauai shall thereupon be transferred  
7 to the public library system established by this chapter.

8 The management contracts between the trustees of the  
9 library of Hawaii and the Friends of the Library of Hawaii, and  
10 between the library of Hawaii and the Hilo library and reading  
11 room association, shall be terminated at the earliest time after  
12 November 25, 1959, permissible under the terms of the contracts,  
13 and the provisions of this paragraph shall constitute notice of  
14 termination.

15 Upon the termination of the contracts, the State or the  
16 counties shall not enter into any library management contracts  
17 with any private association; provided that in providing library  
18 services the [~~board~~] department of education may enter into  
19 contracts approved by the governor for the use of lands,  
20 buildings, equipment, and facilities owned by any private  
21 association.

1           Notwithstanding any law to the contrary, the [~~board of~~  
2 ~~education~~] superintendent may establish, specify the membership  
3 number and quorum requirements for, appoint members to, and  
4 disestablish a commission in each county to be known as the  
5 library advisory commission, which shall in each case sit in an  
6 advisory capacity to the [~~board of education~~] superintendent on  
7 matters relating to public library services in their respective  
8 county. The members of a library advisory commission shall  
9 serve at the pleasure of the superintendent and shall not be  
10 subject to section 26-34."

11           SECTION 3. Section 76-11, Hawaii Revised Statutes, is  
12 amended by amending the definition of "employer" or "public  
13 employer" to read as follows:

14           "Employer" or "public employer" means the governor in the  
15 case of the State, the respective mayors in the case of the  
16 counties, the chief justice of the supreme court in the case of  
17 the judiciary, [~~the board of education in the case of the~~  
18 ~~department of education,~~] the board of regents in the case of  
19 the University of Hawaii, the Hawaii health systems corporation  
20 board in the case of the Hawaii health systems corporation, and  
21 any individual who represents one of the employers or acts in  
22 their interest in dealing with public employees. In the case of

1 the judiciary, the administrative director of the courts shall  
2 be the employer in lieu of the chief justice for purposes which  
3 the chief justice determines would be prudent or necessary to  
4 avoid conflict."

5 SECTION 4. Section 89-2, Hawaii Revised Statutes, is  
6 amended by amending the definition of "employer" or "public  
7 employer" to read as follows:

8 "Employer" or "public employer" means the governor in the  
9 case of the State, the respective mayors in the case of the  
10 counties, the chief justice of the supreme court in the case of  
11 the judiciary, [~~the board of education in the case of the~~  
12 ~~department of education,~~] the board of regents in the case of  
13 the University of Hawaii, the Hawaii health systems corporation  
14 board in the case of the Hawaii health systems corporation, and  
15 any individual who represents one of these employers or acts in  
16 their interest in dealing with public employees. In the case of  
17 the judiciary, the administrative director of the courts shall  
18 be the employer in lieu of the chief justice for purposes which  
19 the chief justice determines would be prudent or necessary to  
20 avoid conflict."

21 SECTION 5. Section 89-6, Hawaii Revised Statutes, is  
22 amended by amending subsection (d) to read as follows:

1           "(d) For the purpose of negotiating a collective  
2 bargaining agreement, the public employer of an appropriate  
3 bargaining unit shall mean the governor together with the  
4 following employers:

5           (1) For bargaining units (1), (2), (3), (4), (5),  
6           (6), (9), (10), and (13), the governor shall have six  
7 votes and the mayors, the chief justice, and the  
8 Hawaii health systems corporation board shall each  
9 have one vote if they have employees in the particular  
10 bargaining unit;

11           (2) For bargaining units (11) and (12), the governor shall  
12 have four votes and the mayors shall each have one  
13 vote;

14           ~~[(3) For bargaining units (5) and (6), the governor shall~~  
15           ~~have three votes, the board of education shall have~~  
16           ~~two votes, and the superintendent of education shall~~  
17           ~~have one vote;~~

18           ~~(4)]~~ (3) For bargaining units (7) and (8), the  
19 governor shall have three votes, the board of regents  
20 of the University of Hawaii shall have two votes, and  
21 the president of the University of Hawaii shall have  
22 one vote.

1 Any decision to be reached by the applicable employer group  
2 shall be on the basis of simple majority, except when a  
3 bargaining unit includes county employees from more than one  
4 county. In such case, the simple majority shall include at  
5 least one county."

6 SECTION 6. Section 302A-619, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§302A-619 Classification, educational officers.** The  
9 [~~board~~] department of human resources development shall classify  
10 all educational officer positions of the department and shall  
11 adopt two separate classification/compensation plans for  
12 educational officers. One classification/compensation plan  
13 shall be for principals and vice-principals and shall be based  
14 on the general pattern of a school administrator's career  
15 development and associated school administrator's qualification  
16 requirements. A separate classification/compensation plan shall  
17 be for all other educational officers and shall be reflective of  
18 the career development pattern and qualification requirements  
19 for the respective professional field of expertise; provided  
20 that both classification/compensation plans shall include  
21 classification appeals procedures."

1 SECTION 7. Section 302A-621, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§302A-621 Salary; [~~deputy superintendent, assistant~~  
4 ~~superintendents, complex area superintendents.~~] department  
5 employees. The salaries of [~~the deputy superintendent,~~  
6 ~~assistant superintendents, and complex area superintendents]~~  
7 department employees shall be set [~~by the board; provided that~~  
8 ~~the salaries of the deputy superintendent, assistant~~  
9 ~~superintendents, and the complex area superintendents shall not~~  
10 ~~exceed eighty per cent of the superintendent's salary.] in  
11 accordance with any applicable classification law or collective  
12 bargaining agreement."~~

13 SECTION 8. Section 302A-801, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§302A-801 Hawaii teacher standards board established.

16 (a) There is established the Hawaii teacher standards board,  
17 which shall be placed within the department for administrative  
18 purposes only. The board shall consist of [~~fifteen~~] fourteen  
19 members, including not less than six licensed teachers regularly  
20 engaged in teaching at the time of the appointment, three  
21 educational officers employed at the time of the appointment,  
22 [~~the chairperson of the board of education or the chairperson's~~

1 ~~designee,~~] the superintendent or the superintendent's designee,  
2 a representative of independent schools, the dean of the  
3 University of Hawaii college of education or the dean's  
4 designee, and two members of the public; provided that the  
5 dean's designee shall be chosen from the member institutions of  
6 the teacher education coordinating committee established under  
7 section 304A-1202.

8 (b) Except for the [~~chairperson of the board of~~  
9 ~~education,~~] superintendent[~~,~~] and dean of the college of  
10 education, the governor shall appoint the members of the board  
11 pursuant to section 26-34, from a list of qualified nominees  
12 submitted to the governor by the departments, agencies,  
13 organizations representative of the constituencies of the board,  
14 and current members of the board; provided that the two members  
15 of the public shall be from lists of qualified nominees  
16 submitted to the governor by the Hawaii Business Roundtable,  
17 Hawaii P-20 council, and Hawaii workforce development council.  
18 To the extent possible, the board membership shall reflect  
19 representation of elementary and secondary school personnel from  
20 all islands.

21 (c) Appointed board members shall serve not more than  
22 three consecutive three-year terms.

1           (d) Board members shall receive no compensation. When  
2 board duties require that a board member take leave of the board  
3 member's duties as a state employee, the appropriate state  
4 department shall allow the board member to be placed on  
5 administrative leave with pay and shall provide substitutes,  
6 when necessary, to perform that board member's duties. Board  
7 members shall be reimbursed for necessary travel expenses  
8 incurred in the conduct of official board business.

9           (e) The chairperson of the board shall be designated by  
10 the members of the board.

11           ~~[(f) The board may employ an executive director for a term  
12 of up to four years, who shall be appointed by the board of  
13 education without regard to chapters 76 and 89; provided that  
14 the board shall submit a nominee to the board of education for  
15 approval or disapproval; provided further that if the nominee is  
16 disapproved, the board shall submit another nominee to the board  
17 of education for approval or disapproval.]~~

18           ~~The board may terminate the executive director's contract  
19 for cause; provided that the board shall submit the  
20 recommendation for termination to the board of education for  
21 approval or disapproval.]~~"



1 SECTION 9. Section 302A-803, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to establishing standards for the  
4 issuance and renewal of licenses and any other powers and duties  
5 authorized by law, the board's powers shall also include:

- 6 (1) Setting and administering its own budget;
- 7 (2) Adopting, amending, or repealing the rules of the  
8 board in accordance with chapter 91;
- 9 (3) Receiving grants or donations from private  
10 foundations, and state and federal funds;
- 11 (4) Submitting an annual report to the governor, the  
12 legislature, and the [~~board of education~~]  
13 superintendent on the board's operations and from the  
14 2007-2008 school year, submitting a summary report  
15 every five years of the board's accomplishment of  
16 objectives, efforts to improve or maintain teacher  
17 quality, and efforts to keep its operations responsive  
18 and efficient;
- 19 (5) Conducting a cyclical review of standards and  
20 suggesting revisions for their improvement;
- 21 (6) Establishing licensing fees in accordance with chapter  
22 91 and determining the manner by which fees are

- 1 collected and subsequently deposited into the state  
2 treasury and credited to the Hawaii teacher standards  
3 board special fund;
- 4 (7) Establishing penalties in accordance with chapter 91;
- 5 (8) Issuing, renewing, revoking, suspending, and  
6 reinstating licenses;
- 7 (9) Reviewing reports from the department on  
8 individuals hired on an emergency basis;
- 9 (10) Applying licensing standards on a case-by-case basis  
10 and conducting licensing evaluations;
- 11 (11) Preparing and disseminating teacher licensing  
12 information to schools and operational personnel;
- 13 (12) Approving teacher preparation programs;
- 14 (13) Administering reciprocity agreements with other  
15 states relative to licensing;
- 16 (14) Conducting research and development on teacher  
17 licensure systems, beginning teacher programs, the  
18 assessment of teaching skills, and other related  
19 topics;
- 20 (15) Participating in efforts relating to teacher  
21 quality issues, professional development related to

1 the board's standards, and promotion of high teacher  
2 standards and accomplished teaching;

3 (16) Adopting applicable rules and procedures; and

4 (17) Adopting, amending, repealing, or suspending the  
5 policies and standards of the board."

6 SECTION 10. Section 302A-1101, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§302A-1101 Department of education; [~~board of education,~~**  
9 **superintendent of education.** (a) There shall be a principal  
10 executive department to be known as the department of education,  
11 which shall be headed by [~~an elected policy making board to be~~  
12 ~~known as the board of education. The board shall have power in~~  
13 ~~accordance with law to formulate statewide educational policy,~~  
14 ~~adopt student performance standards and assessment models,~~  
15 ~~monitor school success, and to appoint the superintendent of~~  
16 ~~education as the chief executive officer of the public school~~  
17 ~~system.] a single executive to be known as the superintendent of  
18 education, who shall be appointed by the governor pursuant to  
19 section 26-31.~~

20 [~~(b) The board shall appoint, and may remove, the~~  
21 ~~superintendent by a majority vote of its members. The~~  
22 ~~superintendent.~~

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1 ~~(1) May be appointed without regard to the~~  
2 ~~state residency provisions of section 78-1(b);~~

3 ~~(2) May be appointed for a term of up to four~~  
4 ~~years; and~~

5 ~~(3) May be terminated only for cause.~~

6 ~~(c) The board]~~ (b) The governor shall invite the senior  
7 military commander in Hawaii to appoint a [~~nonvoting~~] military  
8 representative to [~~the board, who shall~~] serve [~~for a two year~~  
9 ~~term~~] without compensation[~~.—As~~] as a [~~the~~] liaison to the  
10 [~~board, the~~] department. The military representative shall  
11 advise the [~~board~~] department regarding state education policies  
12 and departmental actions affecting students who are enrolled in  
13 public schools as family members of military personnel. The  
14 military representative shall carry out these duties as part of  
15 the representative's official military duties and shall be  
16 guided by applicable state and federal statutes, regulations,  
17 and policies [~~and may be removed only for cause by a majority~~  
18 ~~vote of the members of the board~~].

19 [~~(d)~~] (c) The [~~board~~] governor shall appoint the charter  
20 school review panel[~~, which~~] pursuant to section 26-34. The  
21 charter school review panel shall serve as [~~the~~] a charter  
22 authorizer for charter schools, with the power and duty to issue

1 charters, oversee and monitor charter schools, hold charter  
2 schools accountable for their performance, and revoke charters."

3 SECTION 11. Section 302A-1111, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " **§302A-1111 Duties of superintendent.** (a) [~~Under~~  
6 ~~policies established by the board, the~~] The superintendent shall  
7 be designated as the chief executive officer of the public  
8 school system having jurisdiction over the internal  
9 organization, operation, and management of the public school  
10 system, as provided by law; and shall administer programs of  
11 education and public instruction throughout the State, including  
12 education at the preschool, primary, and secondary school  
13 levels, and such other programs as may be established by law.

14 (b) Except as otherwise provided, the superintendent shall  
15 sign all drafts for the payment of moneys, all commissions and  
16 appointments, all deeds, official acts, or other documents of  
17 the department. The superintendent may use a printed facsimile  
18 signature in approving appointments, contracts, and other  
19 documents."

20 SECTION 12. Section 302A-1112, Hawaii Revised Statutes, is  
21 amended to read as follows:

1           " **§302A-1112 Rules.** Subject to chapter 91, the [board]  
2 department may adopt rules for the government of all teachers,  
3 educational officers, other personnel, and pupils, and for  
4 carrying out the transaction of its business."

5           SECTION 13. Section 302A-1120, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           " **§302A-1120 Public library system[~~;~~ ~~board control~~].** The  
8 [board] department, through the state librarian, shall have  
9 direct control of the public library system, but not including  
10 school libraries. The [board] department may adopt rules under  
11 chapter 91 for the purpose of this section."

12          SECTION 14. Section 302A-1124, Hawaii Revised Statutes, is  
13 amended to read as follows:

14          " **§302A-1124 Mandate to initiate school community**  
15 **councils.** (a) The department, through the [board ~~and its~~]  
16 superintendent, shall establish a school community council  
17 system under which each public school, excluding public charter  
18 schools, shall create and maintain a school community council.  
19 Each school community council shall:

20           (1) Review and evaluate the school's academic plan and  
21           financial plan, and either recommend revisions of the

1 plans to the principal, or recommend the plans for  
2 approval by the complex area superintendent;

3 (2) Ensure that the school's academic and financial plans  
4 are consistent with the educational accountability  
5 system under section 302A-1004;

6 (3) Participate in principal selection and evaluation, and  
7 transmit any such evaluations to the complex area  
8 superintendent; and

9 (4) Provide collaborative opportunities for input and  
10 consultation.

11 (b) School community councils shall be exempt from the  
12 requirements of chapters 91 and 92. The school community  
13 councils shall:

14 (1) Make available the notices and agendas of public  
15 meetings:

16 (A) At a publicly accessible area in the school's  
17 administrative office so as to be available for  
18 review during regular business hours; and

19 (B) On the school's internet web site, not less than  
20 six calendar days prior to the public meeting,  
21 unless a waiver is granted by the superintendent  
22 in the case of an emergency; and

1 (2) Make available the minutes from public meetings on a  
2 timely basis in:

3 (A) The school's administrative office so as to be  
4 available for review during regular business  
5 hours; and

6 (B) On the school's internet web site.

7 (c) Complex area superintendents may require revisions to  
8 a school's academic and financial plans if the plans are in  
9 violation of law or conflict with statewide educational policies  
10 and standards, or are otherwise in the best interests of the  
11 school.

12 (d) The superintendent of education may [~~recommend to the~~  
13 ~~board of education~~] facilitate the dissolution of a school  
14 community council [~~and establish~~] by establishing an interim  
15 school community council if the school community council engages  
16 in any act or omission that would constitute gross negligence,  
17 wilful and wanton misconduct, or intentional misconduct. The  
18 superintendent may [~~recommend to the board the removal of~~]  
19 remove any member of a school community council[-] for cause.  
20 The superintendent shall appoint or facilitate the creation of  
21 an interim school community council at any school that has not  
22 established a council or has had its council dissolved. In



1 appointing or facilitating the creation of an interim school  
2 community council at any school that has had its council  
3 dissolved, the superintendent may appoint individuals who were  
4 previously members of the council.

5 (e) Unless otherwise specified, each school community  
6 council shall establish policies governing the council's  
7 composition, election, staggered terms of office for members,  
8 operation, and vacancies; provided that:

9 (1) The number of school personnel [+]on[+] any school  
10 community council shall be equal to the number of  
11 primary stakeholders on the school community council;

12 (2) At the elementary and middle school levels, each  
13 school community council shall be composed of the  
14 principal and at least one member representing each of  
15 the following groups:

16 (A) Parents elected by ballots distributed among and  
17 collected from the parents of the school's  
18 students;

19 (B) Teachers elected by ballots distributed among and  
20 collected from teachers of the school;

- 1 (C) Noncertificated school personnel elected by  
2 ballots distributed among and collected from  
3 noncertificated personnel of the school;
- 4 (D) Community representatives elected by ballots  
5 distributed among and collected from parents of  
6 the school's students; and
- 7 (E) Student representatives selected by the student  
8 council of the school; and
- 9 (3) At the high school level, each school community  
10 council shall be composed of the principal and at  
11 least one member representing each of the following  
12 groups:
- 13 (A) Parents elected by ballots distributed among and  
14 collected from parents of the school's students;
- 15 (B) Teachers elected by ballots distributed among and  
16 collected from teachers of the school;
- 17 (C) Noncertificated school personnel elected by  
18 ballots distributed among and collected from  
19 noncertificated personnel of the school;
- 20 (D) Community representatives elected by ballots  
21 distributed among and collected from the parents  
22 of the school's students; and

1           (E) Student representatives selected by the student  
2                           council of the school.

3           For the purposes of this subsection, "primary stakeholders"  
4 means students, parents, and community members.

5           (f) School community councils shall elect officers,  
6 including:

7           (1) A chairperson;

8           (2) A vice-chairperson;

9           (3) A secretary; and

10          (4) Other officers as needed to perform stated duties in  
11                           support of the work of the council.

12          (g) The principal shall have the authority to set aside  
13 any decision made by the school community council if the  
14 principal determines it to be in the best interests of the  
15 school; provided that the principal notifies the school  
16 community council. If the school community council opposes a  
17 decision of the principal, an appeal shall first be brought to  
18 the complex area superintendent for resolution and, if  
19 necessary, to the superintendent. ~~[and, finally, to the board of~~  
20 ~~education.]~~

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1 (h) Complex area superintendents shall assist the school  
2 community councils and principals within their respective  
3 complex areas in:

4 (1) Obtaining the support and services of the  
5 department; and

6 (2) Ensuring the progress and success of the school's  
7 academic and financial plan."

8 SECTION 15. Section 302A-1126, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 " **§302A-1126 Waiver of policy, rule, or procedures.** Any  
11 state agency that may be required to act under state law on a  
12 matter affecting an individual school or its school community,  
13 shall waive otherwise applicable policies, rules, or procedures  
14 when requested to do so by a school community council unless the  
15 agency, within thirty days, can justify a denial to the  
16 appropriate authority. The [~~board~~] department shall adopt  
17 procedures necessary to process waivers initiated by a school  
18 community council. Any general waiver of policy, rule, or  
19 procedures granted by the [~~board~~] superintendent to a specific  
20 school or schools may be extended by the [~~board~~] superintendent  
21 to apply to other schools under comparable circumstances. This  
22 section shall apply to collective bargaining agreements as

1 provided for in all relevant collective bargaining agreements  
2 negotiated pursuant to chapter 89."

3 SECTION 16. Section 302A-1134, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 " (b) Any child who, while attending school, is found to be  
6 in possession of a firearm, shall be excluded from attending  
7 school for not less than one year. The due process procedures  
8 of chapter 19 of the Department of Education, Hawaii  
9 Administrative Rules, shall apply to any child who, while  
10 attending school, is alleged to be in possession of a firearm.  
11 The superintendent, on a case-by-case basis, may modify the  
12 exclusion of a child found to be in possession of a firearm  
13 while attending school. If a child is excluded from attending  
14 school, the superintendent shall ensure that substitute  
15 educational activities or other appropriate assistance shall be  
16 provided. The superintendent shall submit to the United States  
17 Department of Education, the [~~state board of education,~~  
18 governor, and the legislature an annual report indicating the  
19 number of students excluded, the types of firearms found in  
20 their possession, and the schools from which they were  
21 excluded."

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1 SECTION 17. Section 302A-1303.5, Hawaii Revised Statutes,  
2 is amended to read as follows:

3 "**§302A-1303.5 Committee on weights.** (a) There is  
4 established within the department of education the committee on  
5 weights to develop a weighted student formula pursuant to  
6 section 302A-1303.6. The committee shall:

7 (1) Create a list of student characteristics that will be  
8 weighted;

9 (2) Create a system of weights based upon the student  
10 characteristics that may be applied to determine the  
11 relative cost of educating any student;

12 (3) Determine specific student weights, including their  
13 unit value;

14 (4) Determine which moneys shall be included in the amount  
15 of funds to be allocated through the weighted student  
16 formula;

17 (5) Recommend a weighted student formula to the [~~board of~~  
18 ~~education,~~] department;

19 (6) Perform any other function that may facilitate the  
20 implementation of the weighted student formula; and

21 (7) Meet not less than annually to review the weighted  
22 student formula and, if the committee deems it

1           necessary, recommend a new weighted student formula  
2           for adoption by the [~~board of education~~] department.

3           (b) The composition of the committee on weights shall be  
4           determined by the [~~board of education~~] governor based on  
5           recommendations from the superintendent of education and dean of  
6           the University of Hawaii at Manoa college of education and  
7           include principals, teachers, and other members with the  
8           appropriate professional skills, experiences, and qualifications  
9           needed to facilitate the work of the committee. The  
10          superintendent or the superintendent's designee shall chair the  
11          committee on weights.

12          (c) The committee on weights may form advisory  
13          subcommittees to obtain input from key stakeholders as  
14          determined necessary by the committee.

15          (d) The members of the committee on weights shall serve at  
16          the pleasure of the [~~board of education~~] governor and shall not  
17          be subject to section 26-34. Members of the committee on  
18          weights shall serve without compensation but shall be reimbursed  
19          for expenses, including travel expenses, necessary for the  
20          performance of their duties."

21          SECTION 18. Section 302A-1402, Hawaii Revised Statutes, is  
22          amended to read as follows:

1           " §302A-1402 **Custodian of federal funds.** The director of  
2 finance is designated as custodian of all funds received as the  
3 state apportionment under any federal appropriations for public  
4 educational purposes and the director shall disburse the funds,  
5 pursuant to the requirements, restrictions, and regulations of  
6 the federal acts under which the funds may be provided, on  
7 vouchers approved by the [~~board,~~] superintendent, or by any  
8 subordinate thereunto duly authorized by the [~~board~~]  
9 superintendent."

10           SECTION 19. Section 302A-1607, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           " §302A-1607 **Impact fee: construction cost component -**  
13 **determining the cost per unit.** (a) The construction cost  
14 component of the school impact fees shall be calculated using  
15 the following factors:

16           (1) For new school construction, the cost per student for  
17 each school type (elementary, middle or intermediate,  
18 and high school) is based on the ten-year average  
19 construction of a new school facility using the  
20 Honolulu assessment district in 2006 as the base.  
21           Costs for construction completed earlier than 2006



1 shall be escalated to 2006 using the engineering news-  
2 record construction cost index;

3 (2) For expansion of existing school facilities, the cost  
4 per student for each school type (elementary, middle  
5 or intermediate, and high school) is based on the ten-  
6 year average construction of whatever components are  
7 required to expand the school using the Honolulu  
8 assessment district in 2006 as the base;

9 (3) The cost per student in other assessment districts  
10 shall be the cost per student in the Honolulu  
11 assessment district multiplied by the appropriate cost  
12 factor in subsection (c). At least every three years,  
13 the department shall update the cost per student based  
14 on the construction of a new permanent school  
15 facility[, ~~and present the written analysis to the~~  
16 ~~board for review~~]; and

17 (4) Student generation rates, as defined in section  
18 302A-1602.

19 (b) The student generation rate for each school type  
20 (elementary, middle or intermediate, and high school) shall be  
21 multiplied by the cost per student for each school type

1 (elementary, middle or intermediate, and high school) to  
 2 determine the cost/unit in the development.

3 (c) The State shall be divided into the following twenty-  
 4 six geographically limited cost districts:

5	Cost District	School District	Cost Factor
6	Honolulu	Honolulu	1.00
7	Ewa	Leeward/Central	1.00
8	Wahiawa	Central	1.05
9	Waialua	Central	1.10
10	Koolaupoko	Windward	1.00
11	Koolauloa	Windward	1.00
12	Waianae	Leeward	1.10
13	Hilo	Hawaii	1.15
14	Puna	Hawaii	1.20
15	Kona	Hawaii	1.20
16	Hamakua	Hawaii	1.20
17	South Kohala	Hawaii	1.20
18	North Kohala	Hawaii	1.25
19	Pohakuloa	Hawaii	1.25
20	Kau	Hawaii	1.30
21	Wailuku	Maui	1.15
22	Makawao	Maui	1.25

1	Lahaina	Maui	1.30
2	Hana	Maui	1.35
3	Molokai	Molokai	1.30
4	Lanai	Lanai	1.35
5	Lihue	Kauai	1.15
6	Koloa	Kauai	1.20
7	Kawaihau	Kauai	1.20
8	Waimea	Kauai	1.25
9	Hanalei	Kauai	1.25

10 (d) At least every three years, and concurrent with any  
 11 update of the costs per student, the department shall update the  
 12 revenue credits [~~and present the written analysis to the board~~  
 13 ~~for review~~]. The calculation of revenue credits shall be  
 14 reviewed and calculated recognizing that the impact fee shall be  
 15 set at one hundred per cent of the fair market value of the land  
 16 and ten per cent of the total school construction cost.

17 (e) The construction cost component of the impact fees per  
 18 dwelling unit shall be ten per cent of the amounts calculated  
 19 according to the following formula:

20 Cost per dwelling unit from [subsection (b)] minus any  
 21 amount by which the revenue credit per dwelling unit from

1 subsection (d) exceeds ninety per cent of the per unit  
2 construction cost.

3 (f) The amount of the fee shall be increased from the date  
4 it was determined to the date it is paid using the engineering  
5 news-record construction cost index, or an equivalent index if  
6 that index is discontinued.

7 (g) Any new residential development shall be required to  
8 obtain a written agreement between the owner or developer of the  
9 property and the department, under which the owner or developer  
10 has agreed to a time specified for payment, for its school  
11 impact fee construction cost component prior to the issuance of  
12 the building permit."

13 SECTION 20. Section 302B-3, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§302B-3** ~~[Charter]~~ Public charter school review panel;  
16 **establishment; powers and duties.** (a) There is established the  
17 public charter school review panel, that shall be placed within  
18 the department for administrative purposes only. ~~[The panel~~  
19 ~~shall be accountable to the charter schools and the board.]~~  
20 Notwithstanding section 302B-9 and any other law to the  
21 contrary, the panel shall be subject to chapter 92.

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1 (b) The panel shall consist of [~~twelve~~] eleven members,  
2 and shall include:

3 (1) Two licensed teachers regularly engaged in teaching;  
4 provided that one teacher is employed at a start-up  
5 public charter school, and one teacher is employed at  
6 a public conversion charter school;

7 (2) Two educational officers; provided that one  
8 educational officer is employed at a start-up public  
9 charter school, and one educational officer is  
10 employed at a public conversion charter school;

11 (3) One member or former member of a public charter school  
12 local school board;

13 [~~(4)~~] ~~The chair of the board of education or the chair's~~  
14 ~~designee;~~

15 ~~(5)~~] (4) A representative of Hawaiian culture-focused  
16 public charter schools;

17 [~~(6)~~] (5) Two representatives of the University of Hawaii  
18 who are not affiliated with charter schools;

19 [~~(7)~~] (6) One member with a background in business or  
20 accounting who is not affiliated with public charter  
21 schools;

1           ~~[(8)]~~ (7) One member with a background in the building  
2           trades or real estate who is not affiliated with  
3           public charter schools; and  
4           ~~[(9)]~~ (8) A representative from the Hawaii Association of  
5           Independent Schools;  
6           provided that the initial appointments for representatives in  
7           paragraphs ~~[(7) to (9)]~~ (6) to (8) shall be made by September 1,  
8           2007. From June 1, 2007, until such time that the panel has  
9           ~~[twelve]~~ eleven members, five members of the panel shall  
10          constitute a quorum to conduct business and a concurrence of at  
11          least five members shall be necessary to make any action of the  
12          panel valid; provided that, upon filling the ~~[twelve]~~ eleven  
13          seats as required under this subsection, a majority of the panel  
14          shall constitute a quorum to conduct business, and the  
15          concurrence of a majority of all the members to which the panel  
16          is entitled shall be necessary to make any action of the panel  
17          valid.

18           (c) The ~~[board]~~ governor shall appoint the remaining  
19          members of the panel ~~[other than the chair of the board]~~.

20           (d) Appointed panel members shall serve not more than  
21          three consecutive three-year terms, with each term beginning on  
22          July 1; provided that the initial terms of the appointed members

1 that commence after June 30, 2006, shall be staggered as  
2 follows:

3 (1) Four members to serve three-year terms;

4 (2) Four members to serve two-year terms; and

5 (3) Three members to serve a one-year term.

6 (e) Notwithstanding the terms of members, the [~~board~~]  
7 governor may add panel members at any time and replace panel  
8 members at any time when their positions become vacant through  
9 resignation, through non-participation, upon request of a  
10 majority of panel members, or upon termination by the [~~board~~]  
11 governor for cause.

12 (f) Panel members shall receive no compensation. When  
13 panel duties require that a panel member take leave of the panel  
14 member's duties as a state employee, the appropriate state  
15 department shall allow the panel member to be placed on  
16 administrative leave with pay and shall provide substitutes,  
17 when necessary, to perform that panel member's duties. Panel  
18 members shall be reimbursed for necessary travel expenses  
19 incurred in the conduct of official panel business.

20 (g) The panel shall establish operating procedures that  
21 shall include conflict of interest provisions for any member

1 whose school of employment or local school board membership is  
2 before the panel.

3 (h) The chair of the panel shall be designated by the  
4 members of the panel for each school year beginning July 1 and  
5 whenever there is a vacancy. If the panel does not designate  
6 its chair for the next school year by July 1, the [board]  
7 governor shall designate the panel chair. When the panel chair  
8 is vacant, the [board] governor shall designate an interim chair  
9 to serve until the panel designates its chair.

10 (i) The powers and duties of the panel shall be to:

11 [~~1~~] ~~Appoint and evaluate the executive director and~~  
12 ~~approve staff and salary levels for the charter school~~  
13 ~~administrative office;~~

14 [~~2~~] (1) Review, approve, or deny charter applications  
15 for new public charter schools in accordance with  
16 section 302B-5 for the issuance of new charters;  
17 provided that applicants that are denied a charter may  
18 appeal to the [board] superintendent for a final  
19 decision pursuant to section 302B-3.5;

20 [~~3~~] (2) Review, approve, or deny significant amendments  
21 to detailed implementation plans to maximize the  
22 school's financial and academic success, long-term



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1 organizational viability, and accountability.

2 [~~Charter~~] Public charter schools that are denied a  
3 significant amendment to their detailed implementation  
4 plan may appeal to the [~~board~~] superintendent for a  
5 final decision pursuant to section 302B-3.5;

6 [~~+4~~] (3) Adopt reporting requirements for public charter  
7 schools;

8 [~~+5~~] (4) Review [~~annual~~] self-evaluation reports from  
9 public charter schools and take appropriate action;

10 [~~+6~~] (5) Evaluate any aspect of a public charter school  
11 that the panel may have concerns with and take  
12 appropriate action, which may include probation or  
13 revocation;

14 [~~+7~~] (6) Periodically adopt improvements in the panel's  
15 monitoring and oversight of public charter schools;

16 [~~+8~~] (7) Periodically adopt improvements [~~in the~~  
17 ~~office's~~] to support [~~of~~] public charter schools and  
18 management of the charter school system;

19 [~~+9~~] ~~Review, modify, and approve charter schools' all~~  
20 ~~means of finance budget, based upon criteria and an~~  
21 ~~approval process established by the panel, and~~

1       ~~(10) Survey all charter school facilities prior to, and in~~  
2       ~~preparation for, determining recommendations to allocate~~  
3       ~~non per pupil facilities funds to charter schools with~~  
4       ~~facilities needs. The survey shall include, at minimum,~~  
5       ~~for each charter school facility.~~

6               ~~(A) The current status of the facility;~~

7               ~~(B) Facilities costs, including all rents, leases,~~  
8               ~~purchases, and repair and maintenance for lands~~  
9               ~~and buildings;~~

10              ~~(C) A prioritized list of facilities needs;~~

11              ~~(D) Any capital improvement projects underway or~~  
12              ~~scheduled; and~~

13              ~~(E) Whether the facility is a conversion or start up~~  
14              ~~charter school, and current and projected~~  
15              ~~enrollment.]~~

16              (j) In the case that the panel decides not to issue a new  
17       charter, or to approve significant amendments to detailed  
18       implementation plans, the [board] superintendent may adopt rules  
19       for an appeals process pursuant to section 302B-3.5.

20              (k) The [~~office shall provide for the staff support and~~  
21       ~~expenses of the]~~ panel shall be administratively attached to the  
22       department of education."

1 SECTION 21. Section 302B-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§302B-8 Charter school administrative office.** (a) There  
4 is established a charter school administrative office[7] which  
5 shall be attached to the department [~~for administrative purposes~~  
6 ~~only. The office shall be~~] and administered by [~~an executive~~  
7 ~~director, who shall be appointed without regard to chapters 76~~  
8 ~~and 89 by the panel based upon the recommendations of an~~  
9 ~~organization of charter schools operating within the State or~~  
10 ~~from a list of nominees submitted by the charter schools. The~~  
11 ~~panel shall hire the executive director, who may be contracted~~  
12 ~~for a term of up to four years, shall offer the executive~~  
13 ~~director a written contract, and may terminate the executive~~  
14 ~~director's contract only for cause.] a deputy superintendent  
15 assigned by the superintendent to oversee public charter  
16 schools.~~

17 The [~~executive director, with the approval of the panel,]~~  
18 deputy superintendent of public charter schools may hire  
19 necessary staff without regard to chapters 76 and 89 to assist  
20 in the administration of the office and public charter schools.

21 (b) The [~~executive director, under the direction of the~~  
22 ~~panel and]~~ deputy superintendent of public charter schools, in

1 consultation with the authorizers and local school boards of  
2 charter schools, shall be responsible for the internal  
3 organization, operation, and management of the public charter  
4 school system, including:

5 (1) Preparing and executing the budget and the capital  
6 improvement projects request for the public charter  
7 schools; [~~including submission of the all means of~~  
8 ~~finance budget request that reflects all anticipated~~  
9 ~~expenditures to the panel, the board, the governor,~~  
10 ~~and the legislature; provided that, in preparing the~~  
11 ~~budget request with regard to facilities funding, the~~  
12 ~~executive director shall ensure that, as a budget item~~  
13 ~~separate from other operating costs, the request~~  
14 ~~provides.~~]

15 [~~(A) Funding for projected enrollment for the next~~  
16 ~~school year for each charter school;~~]

17 [~~(B) A calculation showing the per pupil funding~~  
18 ~~based on the department of budget and finance's~~  
19 ~~debt service appropriation for the department of~~  
20 ~~education divided by the department of~~  
21 ~~education's actual enrollment that school year,~~  
22 ~~and]~~

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1           ~~[(C) That no less than seventy per cent of the amount~~  
2                   ~~appropriated shall be allocated by the office to~~  
3                   ~~start up charter schools on a per pupil basis,~~  
4                   ~~provided that the funds remaining shall be~~  
5                   ~~allocated to charter schools with facilities~~  
6                   ~~needs as recommended by the office and approved~~  
7                   ~~by the panel;]~~

- 8           (2) Allocating annual appropriations to the public charter  
9           schools and distribution of federal funds to public  
10          charter schools;
- 11          (3) Complying with applicable state laws related to the  
12          administration of the public charter schools;
- 13          (4) Preparing contracts between the public charter schools  
14          and the department for centralized services to be  
15          provided by the department;
- 16          (5) Preparing contracts between the public charter schools  
17          and other state agencies for financial or personnel  
18          services to be provided by the agencies to the public  
19          charter schools;
- 20          (6) Providing independent analysis and recommendations on  
21          public charter school issues;

- 1           (7) Representing public charter schools and the public  
2           charter school system in communications with the  
3           [~~board,~~] superintendent, the governor, and the  
4           legislature;
- 5           (8) Providing advocacy, assistance, and support for the  
6           development, growth, progress, and success of public  
7           charter schools and the public charter school system;
- 8           (9) Providing guidance and assistance to charter  
9           applicants and public charter schools to enhance the  
10          completeness and accuracy of information for [~~panel~~]  
11          authorizer review;
- 12          (10) Assisting charter applicants and public charter  
13          schools in coordinating their interactions with the  
14          [~~panel~~] authorizer as needed;
- 15          (11) Assisting the [~~panel~~] authorizers to coordinate  
16          with public charter schools in [~~panel~~] investigations  
17          and evaluations of public charter schools;
- 18          (12) Serving as the conduit to disseminate communications  
19          from [~~the panel, the board, and~~] the department to all  
20          public charter schools;

1           (13) Determining public charter school system needs and  
2                   communicating those needs to authorizers [~~the panel~~  
3                   ~~the board,~~] and the department;

4           ~~[(14) Establishing a dispute resolution and mediation~~  
5                   ~~process,~~] and

6           ~~[(15)]~~ (14) Upon request by one or more public charter  
7                   schools, assisting in the negotiation of a collective  
8                   bargaining agreement with the exclusive representative  
9                   of its employees.

10           ~~[(c) The executive director shall be evaluated annually by~~  
11           ~~the panel. The annual evaluation shall be conducted~~  
12           ~~sufficiently in advance of the end of a term to provide the~~  
13           ~~executive director the opportunity to respond to concerns and~~  
14           ~~improve performance.~~

15           ~~(d) The salary of the executive director and staff shall~~  
16           ~~be set by the panel based upon the recommendations of charter~~  
17           ~~schools within the State; provided that the salaries and~~  
18           ~~operational expenses of the office shall be paid from the annual~~  
19           ~~charter school appropriation and shall not exceed two per cent~~  
20           ~~of the total general fund allocation at an amount to be~~  
21           ~~determined annually by the panel.~~

1       ~~(c) The office shall include in its annual budget request~~  
2 ~~additional funds to cover the estimated costs of:~~

3       ~~(1) Vacation and sick leave accrued by employees~~  
4           ~~transferring to a charter school from another state-~~  
5           ~~agency or department;~~

6       ~~(2) Substitute teachers needed when a teacher is out~~  
7           ~~on vacation or sick leave;~~

8       ~~(3) Adjustments to enrollments; and~~

9       ~~(4) Arbitration in the grievance process.~~

10       ~~(f)]~~ (c) The ~~[office shall]~~ deputy superintendent may  
11 withhold funds for charter school enrollments that are  
12 inconsistent with approved detailed implementation plans.

13       ~~(g)]~~ (d) The ~~[office shall]~~ deputy superintendent may  
14 withhold funds to repay overpayments or over-allocations  
15 received by charter schools when not repaid in a timely manner  
16 in accordance with rules adopted by the ~~[board-]~~ superintendent.

17       ~~(h)]~~ (e) The ~~[office]~~ deputy superintendent may carry  
18 over funds from previous year allocations. Funds distributed to  
19 charter schools shall be considered expended."

20       SECTION 22. Section 312-1, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§312-1   Duties of the [board] department of education.

2   The [board] department of education shall care for, manage, and  
3   control all property set apart, donated, loaned to, or in any  
4   manner acquired for the use of libraries; receive, care for,  
5   expend, and account for any money which may be received for the  
6   purpose of erecting buildings for libraries or for any other  
7   purposes of the libraries; collect, purchase, receive gifts of,  
8   and otherwise acquire all books and other publications proper  
9   for libraries, and arrange, classify, and catalogue the same;  
10  provide for their safekeeping; expend moneys appropriated by the  
11  legislature and otherwise acquired for the development, use,  
12  support, and maintenance of libraries; provide ways and means  
13  for placing libraries within reach of all residents throughout  
14  the State and particularly of all public and private school  
15  children; provide and maintain branch libraries, offices, or  
16  places for the distribution of books and periodicals throughout  
17  the State; make such contracts as may be necessary to carry into  
18  effect the general duties herein imposed; appoint such officers  
19  and employees as it deems necessary; and make rules for the  
20  management and use of libraries, and for the control of the  
21  property under its management."

1 SECTION 23. Section 312-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§312-2 Powers of [~~board,~~] department; special fund.** The  
4 [~~board~~] department of education may:

- 5 (1) Except as provided in section 312-3.9, make  
6 arrangements or contracts as are approved by the  
7 governor, with any county, city, association, society,  
8 person, or persons, for the purpose of benefiting the  
9 libraries and increasing their facilities and use;
- 10 (2) Subject to section 26-12, enter into such arrangement  
11 or contract as is approved by the governor, with the  
12 Friends of the Library of Hawaii, for the purpose of  
13 obtaining the use of the books and property and income  
14 of the Friends of the Library of Hawaii;
- 15 (3) Cooperate by exchange and otherwise with libraries now  
16 existing or hereafter to be formed;
- 17 (4) Receive, use, manage, or invest moneys or other  
18 property, real, personal, or mixed which may be given,  
19 bequeathed, devised, or in any manner received from  
20 sources other than the legislature or any federal  
21 appropriation for any or all purposes of the  
22 libraries;

1 (5) Deposit with the director of finance in a special fund  
2 all moneys donated [~~to the board~~] for library  
3 services;

4 (6) Unless otherwise provided for by the terms and  
5 conditions of the donation, convert, at such time as  
6 the [~~board~~] department may at its sole discretion  
7 determine, any or all donations of property, real,  
8 personal, or mixed, into money to be deposited into  
9 the special fund; and

10 (7) Expend the moneys in the special fund in accordance  
11 with the terms and conditions of each donation for the  
12 purposes of the libraries.

13 The [~~board~~] department shall be the trustee of the special  
14 fund and all moneys therein shall be deemed to have been  
15 appropriated to the use and for the purposes of the [~~board~~]  
16 department in providing library services. Nothing in this  
17 section shall be construed to limit the powers and duties of the  
18 [~~board~~] department hereinbefore expressed, or to empower the  
19 [~~board~~] department to obligate the State financially in any sum  
20 which shall not have been appropriated by the legislature for  
21 the use of the [~~board~~] department."

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1 SECTION 24. Section 312-2.1, Hawaii Revised Statutes, is  
2 amended to read:

3 "**§312-2.1 Appointment of state librarian; duties; salary.**

4 (a) The state librarian shall be appointed by the [~~board~~  
5 superintendent of education~~[, without regard to chapter 76,]~~  
6 pursuant to section 302A- , shall be under the direction of the  
7 [~~board,~~ superintendent, shall be responsible for the operation,  
8 planning, programming, and budgeting of all community/school and  
9 public libraries within the State, and may be removed by [~~a~~  
10 ~~majority vote of its members.~~] the superintendent. The state  
11 librarian may be appointed:

12 (1) Without regard to the state residency provisions of  
13 section 78-1(b); and

14 (2) For a term of up to four years.

15 (b) The salary of the state librarian shall be set by the  
16 [~~board of education~~] superintendent at a rate no greater than  
17 \$120,000 a year."

18 SECTION 25. Section 312-21, Hawaii Revised Statutes, is  
19 amended by amending subsection (c) to read:

20 "(c) The state librarian, with the approval of the [~~board~~  
21 ~~of education,~~] superintendent, shall determine the types and  
22 kinds of enhanced services to be included under the fee for

1 enhanced services program; provided that a schedule of fees for  
2 these enhanced services shall be adopted in accordance with  
3 chapter 91. Libraries shall not be obligated to offer all of  
4 the services specified in the fee for enhanced services program,  
5 and each public library shall determine which services it will  
6 provide."

7 PART II.

8 SECTION 26. Section 11-157, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§11-157 In case of tie.** In case of the failure of an  
11 election by reason of the equality of vote between two or more  
12 candidates, the tie shall be decided by the chief election  
13 officer or county clerk in the case of county elections in  
14 accordance with the following procedure:

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

20 (A) For each precinct in the affected district, an  
21 election rate point shall be calculated by  
22 dividing the total voter turnout in that precinct

1 by the total voter turnout in the district. For  
2 the purpose of this subparagraph, the absentee  
3 votes cast for the affected district shall be  
4 treated as a precinct. The election rate point  
5 shall be calculated by dividing the total  
6 absentee votes cast for the affected district by  
7 the total voter turnout in that district. All  
8 election rate points shall be expressed as  
9 decimal fractions rounded to the nearest hundred  
10 thousandth.

11 (B) The candidate with the highest number of votes in  
12 a precinct shall be allocated the election rate  
13 point calculated under subparagraph (A) for that  
14 precinct. In the event that two or more persons  
15 are tied in receiving the highest number of votes  
16 for that precinct, the election rate point shall  
17 be equally apportioned among those candidates  
18 involved in that precinct tie.

19 (C) After the election rate points calculated under  
20 subparagraph (A) for all the precincts have been  
21 allocated as provided under subparagraph (B), the  
22 election rate points allocated to each candidate

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1 shall be tallied and the candidate with the  
2 highest election rate point total shall be  
3 declared the winner.

4 (D) If there is a tie between two or more candidates  
5 in the election rate point total, the candidate  
6 who is allocated the highest election rate points  
7 from the precinct with the largest voter turnout  
8 shall be declared the winner.

9 (2) In the case of an election involving a federal office  
10 or an elective office where the voters in the entire  
11 State or in an entire county are allowed to cast a  
12 vote, the winner shall be declared as follows:

13 (A) For each representative district in the State or  
14 county, as the case may be, an election rate  
15 point shall be calculated by dividing the total  
16 voter turnout in that representative district by  
17 the total voter turnout in the state, county, or  
18 federal office district, as the case may be;  
19 provided that for purposes of this subparagraph:

20 (i) The absentee votes cast for a statewide,  
21 countywide, or federal office shall be  
22 treated as a separate representative

1 district and the election rate point shall  
2 be calculated by dividing the total absentee  
3 votes cast for the statewide, countywide, or  
4 federal office by the total voter turnout in  
5 the state, county, or federal office  
6 district, as the case may be.

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

18 All election rate points shall be expressed  
19 as decimal fractions rounded to the nearest  
20 hundred thousandth.

21 (B) The candidate with the highest number of votes in  
22 a representative district shall be allocated the



1 election rate point calculated under subparagraph  
2 (A) for that district. In the event that two or  
3 more persons are tied in receiving the highest  
4 number of votes for that district, the election  
5 rate point shall be equally apportioned among  
6 those candidates involved in that district tie.

7 (C) After the election rate points calculated under  
8 subparagraph (A) for all the precincts have been  
9 allocated as prescribed under subparagraph (B),  
10 the election rate points allocated to each  
11 candidate shall be tallied and the candidate with  
12 the election rate point total shall be declared  
13 the winner.

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

19 SECTION 27. Section 11-195, Hawaii Revised Statutes, is  
20 amended by amending subsection (d) to read as follows:

21 "(d) For purposes of this subpart, whenever a report is  
22 required to be filed with the commission, "filed" means

1 electronically filed on the commission's electronic filing  
2 system by the date and time specified for the filing of the  
3 report by the:

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

6 (A) Office of governor;

7 (B) Office of lieutenant governor;

8 (C) Office of mayor;

9 (D) Office of prosecuting attorney;

10 (E) County council;

11 (F) Senate;

12 (G) House of representatives; or

13 (H) Office of Hawaiian affairs; or

14 [~~(I) Board of education; or~~]

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

17 SECTION 28. Section 11-209, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) From January 1 of the year of any primary, special,  
20 or general election, the total expenditures for each election  
21 for candidates who voluntarily agree to limit their campaign  
22 expenditures, inclusive of all expenditures made or authorized

1 by the candidate alone and all campaign treasurers and  
2 committees in the candidate's behalf, shall not exceed the  
3 following amounts expressed respectively multiplied by the  
4 number of voters in the last preceding general election  
5 registered to vote in each respective voting district:

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

13 SECTION 29. Section 11-218, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

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

18 SECTION 30. Section 12-5, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Nomination papers for candidates for members of  
21 Congress, governor, and lieutenant governor[~~, and the board of~~  
22 ~~education~~] shall be signed by not less than twenty-five

1 registered voters of the State or of the Congressional district  
2 [~~or school board district~~] from which the candidates are running  
3 in the case of candidates for the United States House of  
4 Representatives [~~or for the board of education~~]."

5 SECTION 31. Section 26-35.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§26-35.5 Members of boards and commissions; immunity from**  
8 **or indemnification for civil liability; defense of members.**

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

1 SECTION 32. Section 26-52, Hawaii Revised Statutes, is  
2 amended to read:

3 "**§26-52 Department heads and executive officers.** The  
4 salaries of the following state officers shall be as follows:

5 ~~[(1) The salary of the superintendent of education shall  
6 be set by the board of education at a rate no greater  
7 than \$150,000 a year;~~

8 ~~+(2)]~~ (1) The salary of the president of the University of  
9 Hawaii shall be set by the board of regents;

10 ~~+(3)]~~ (2) Effective July 1, 2004, the salaries of all  
11 department heads or executive officers of the  
12 departments of accounting and general services,  
13 agriculture, attorney general, budget and finance,  
14 business, economic development, and tourism, commerce  
15 and consumer affairs, education, Hawaiian home lands,  
16 health, human resources development, human services,  
17 labor and industrial relations, land and natural  
18 resources, public safety, taxation, and transportation  
19 shall be as last recommended by the executive salary  
20 commission. Effective July 1, 2007, and every six  
21 years thereafter, the salaries shall be as last

1 recommended by the commission on salaries pursuant to  
2 section 26-56, unless rejected by the legislature; and  
3 ~~[(4)]~~ (3) The salary of the adjutant general shall be  
4 \$85,302 a year. Effective July 1, 2007, and every six  
5 years thereafter, the salary of the adjutant general  
6 shall be as last recommended by the commission on  
7 salaries pursuant to section 26-56, unless rejected by  
8 the legislature, except that if the state salary is in  
9 conflict with the pay and allowance fixed by the  
10 tables of the regular army or air force of the United  
11 States, the latter shall prevail."

12 SECTION 33. Section 26-53, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§26-53 Deputies or assistants to department heads.**

15 Effective July 1, 2004, the salaries of deputies or assistants  
16 to the head of any department of the State, ~~[other than the~~  
17 ~~department of education,]~~ shall be within the range or ranges for  
18 the specific positions as last recommended by the executive  
19 salary commission. Effective July 1, 2007, and every six years  
20 thereafter, the salaries shall be as last recommended by the  
21 commission on salaries and specified by the appointing official,

1 if appropriate, pursuant to section 26-56, unless rejected by  
2 the legislature."

3 SECTION 34. Section 26-56, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The commission shall review and recommend an  
6 appropriate salary for the governor, lieutenant governor,  
7 members of the legislature, justices and judges of all state  
8 courts, administrative director of the State or an equivalent  
9 position, and department heads or executive officers and the  
10 deputies or assistants to the department heads of the  
11 departments of:

- 12 (1) Accounting and general services;
- 13 (2) Agriculture;
- 14 (3) The attorney general;
- 15 (4) Budget and finance;
- 16 (5) Business, economic development, and tourism;
- 17 (6) Commerce and consumer affairs;
- 18 (7) Defense;
- 19 (8) Education;
- 20 [~~+8~~] (9) Hawaiian home lands;
- 21 [~~+9~~] (10) Health;
- 22 [~~+10~~] (11) Human resources development;

- 1        [~~(11)~~] (12) Human services;  
2        [~~(12)~~] (13) Labor and industrial relations;  
3        [~~(13)~~] (14) Land and natural resources;  
4        [~~(14)~~] (15) Public safety;  
5        [~~(15)~~] (16) Taxation; and  
6        [~~(16)~~] (17) Transportation.

7        The commission shall not review the salary of any position  
8 in the [~~department of education or the~~] University of Hawaii.

9        The commission may recommend different salaries for  
10 department heads and executive officers and different salary  
11 ranges for deputies or assistants to department heads; provided  
12 that the commission shall recommend the same salary range for  
13 deputies or assistants to department heads within the same  
14 department; provided further that the appointing official shall  
15 specify the salary for a particular position within the  
16 applicable range.

17        The commission shall not recommend salaries lower than  
18 salary amounts recommended by prior commissions replaced by this  
19 section."

20        SECTION 35. Section 76-16, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) The civil service to which this chapter applies shall  
2 comprise all positions in the State now existing or hereafter  
3 established and embrace all personal services performed for the  
4 State, except the following:

- 5           (1) Commissioned and enlisted personnel of the Hawaii  
6           national guard as such, and positions in the Hawaii  
7           national guard that are required by state or federal  
8           laws or regulations or orders of the national guard to  
9           be filled from those commissioned or enlisted  
10          personnel;
- 11          (2) Positions filled by persons employed by contract where  
12          the director of human resources development has  
13          certified that the service is special or unique or is  
14          essential to the public interest and that, because of  
15          circumstances surrounding its fulfillment, personnel  
16          to perform the service cannot be obtained through  
17          normal civil service recruitment procedures. Any such  
18          contract may be for any period not exceeding one year;
- 19          (3) Positions that must be filled without delay to comply  
20          with a court order or decree if the director  
21          determines that recruitment through normal recruitment  
22          civil service procedures would result in delay or

- 1 noncompliance, such as the Felix-Cayetano consent  
2 decree;
- 3 (4) Positions filled by the legislature or by either house  
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of  
6 the lieutenant governor, and household employees at  
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,  
10 commission, or other state agency whose appointments  
11 are made by the governor or are required by law to be  
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries  
14 public, land court examiners, court commissioners, and  
15 attorneys appointed by a state court for a special  
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court  
18 who shall have the powers and duties of a court  
19 officer and bailiff under section 606-14; one  
20 secretary or clerk for each justice of the supreme  
21 court, each judge of the intermediate appellate court,  
22 and each judge of the circuit court; one secretary for

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1 the judicial council; one deputy administrative  
2 director of the courts; three law clerks for the chief  
3 justice of the supreme court, two law clerks for each  
4 associate justice of the supreme court and each judge  
5 of the intermediate appellate court, one law clerk for  
6 each judge of the circuit court, two additional law  
7 clerks for the civil administrative judge of the  
8 circuit court of the first circuit, two additional law  
9 clerks for the criminal administrative judge of the  
10 circuit court of the first circuit, one additional law  
11 clerk for the senior judge of the family court of the  
12 first circuit, two additional law clerks for the civil  
13 motions judge of the circuit court of the first  
14 circuit, two additional law clerks for the criminal  
15 motions judge of the circuit court of the first  
16 circuit, and two law clerks for the administrative  
17 judge of the district court of the first circuit; and  
18 one private secretary for the administrative director  
19 of the courts, the deputy administrative director of  
20 the courts, each department head, each deputy or first  
21 assistant, and each additional deputy, or assistant  
22 deputy, or assistant defined in paragraph (16);

- 1           (10) First deputy and deputy attorneys general, the  
2           administrative services manager of the department of  
3           the attorney general, one secretary for the  
4           administrative services manager, an administrator and  
5           any support staff for the criminal and juvenile  
6           justice resources coordination functions, and law  
7           clerks;
- 8           (11) (A) Teachers, principals, vice-principals, complex  
9           area superintendents, deputy and assistant  
10          superintendents, other certificated personnel,  
11          not more than twenty noncertificated  
12          administrative, professional, and technical  
13          personnel not engaged in instructional work;
- 14          (B) Effective July 1, 2003, teaching assistants,  
15          educational assistants, bilingual/bicultural  
16          school-home assistants, school psychologists,  
17          psychological examiners, speech pathologists,  
18          athletic health care trainers, alternative school  
19          work study assistants, alternative school  
20          educational/supportive services specialists,  
21          alternative school project coordinators, and

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1                   communications aides in the department of  
2                   education;

3                   (C) The special assistant to the state librarian and  
4                   one secretary for the special assistant to the  
5                   state librarian; and

6                   (D) Members of the faculty of the University of  
7                   Hawaii, including research workers, extension  
8                   agents, personnel engaged in instructional work,  
9                   and administrative, professional, and technical  
10                  personnel of the university;

11               (12) Employees engaged in special, research, or  
12               demonstration projects approved by the governor;

13               (13) Positions filled by inmates, kokuas, patients of state  
14               institutions, persons with severe physical or mental  
15               handicaps participating in the work experience  
16               training programs, and students and positions filled  
17               through federally funded programs that provide  
18               temporary public service employment such as the  
19               federal Comprehensive Employment and Training Act of  
20               1973;

21               (14) A custodian or guide at Iolani Palace, the Royal  
22               Mausoleum, and Hulihee Palace;

- 1           (15) Positions filled by persons employed on a fee,  
2           contract, or piecework basis, who may lawfully perform  
3           their duties concurrently with their private business  
4           or profession or other private employment and whose  
5           duties require only a portion of their time, if it is  
6           impracticable to ascertain or anticipate the portion  
7           of time to be devoted to the service of the State;
- 8           (16) Positions of first deputies or first assistants of  
9           each department head appointed under or in the manner  
10          provided in section 6, Article V, of the State  
11          Constitution; three additional deputies or assistants  
12          either in charge of the highways, harbors, and  
13          airports divisions or other functions within the  
14          department of transportation as may be assigned by the  
15          director of transportation, with the approval of the  
16          governor; four additional deputies in the department  
17          of health, each in charge of one of the following:  
18          behavioral health, environmental health, hospitals,  
19          and health resources administration, including other  
20          functions within the department as may be assigned by  
21          the director of health, with the approval of the  
22          governor; an administrative assistant to the state

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1           librarian; and an administrative assistant to the  
2           superintendent of education;

3           (17) Positions specifically exempted from this part by any  
4           other law; provided that all of the positions defined  
5           by paragraph (9) shall be included in the position  
6           classification plan;

7           (18) Positions in the state foster grandparent program and  
8           positions for temporary employment of senior citizens  
9           in occupations in which there is a severe personnel  
10          shortage or in special projects;

11          (19) Household employees at the official residence of the  
12          president of the University of Hawaii;

13          (20) Employees in the department of education engaged in  
14          the supervision of students during meal periods in the  
15          distribution, collection, and counting of meal  
16          tickets, and in the cleaning of classrooms after  
17          school hours on a less than half-time basis;

18          (21) Employees hired under the tenant hire program of the  
19          Hawaii public housing authority; provided that not  
20          more than twenty-six per cent of the authority's work  
21          force in any housing project maintained or operated by

1 the authority shall be hired under the tenant hire  
2 program;

3 (22) Positions of the federally funded expanded food and  
4 nutrition program of the University of Hawaii that  
5 require the hiring of nutrition program assistants who  
6 live in the areas they serve;

7 (23) Positions filled by severely handicapped persons who  
8 are certified by the state vocational rehabilitation  
9 office that they are able to perform safely the duties  
10 of the positions;

11 ~~[(24) One public high school student to be selected by the  
12 Hawaii state student council as a nonvoting member on  
13 the board of education as authorized by the State  
14 Constitution;~~

15 ~~+(25)]~~ (24) Sheriff, first deputy sheriff, and second deputy  
16 sheriff;

17 ~~[(26)]~~ (25) A gender and other fairness coordinator hired  
18 by the judiciary; and

19 ~~[(27)]~~ (26) Positions in the Hawaii national guard youth  
20 and adult education programs.

21 The director shall determine the applicability of this  
22 section to specific positions.



1           Nothing in this section shall be deemed to affect the civil  
2 service status of any incumbent as it existed on July 1, 1955."

3           SECTION 36. Section 84-17, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5           "(d) The financial disclosure statements of the following  
6 persons shall be public records and available for inspection and  
7 duplication:

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

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1           (5) The superintendent, the deputy superintendent, the  
2           state librarian, and the deputy state librarian of the  
3           department of education;

4           (6) The administrative director and the deputy director of  
5           the courts; and

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

8           SECTION 37. Section 84-41, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "~~§~~**84-41**~~§~~ **Applicability of part.** This part applies to  
11           legislators, ~~[elected members of the board of education,~~  
12           trustees of the office of Hawaiian affairs, the governor, the  
13           lieutenant governor, and executive department heads and  
14           deputies. This part does not apply to any other officer or  
15           employee of the State."

16           SECTION 38. Section 88-21, Hawaii Revised Statutes, is  
17           amended by amending the definition of "elective officer" or  
18           "elective official" to read as follows:

19           "Elective officer" or "elective official": any person  
20           elected to a public office or appointed to fill a vacancy of an  
21           elective office, except as a delegate to a constitutional  
22           convention ~~[or member of the board of education]~~, in accordance

1 with an election duly held in the State or counties under  
2 chapter 11; provided that the person receives compensation, pay,  
3 or salary for such office."

4 SECTION 39. Section 89C-1.5, Hawaii Revised Statutes, is  
5 amended by amending the definition of "appropriate authority" to  
6 read as follows:

7 " "Appropriate authority" means the governor, the respective  
8 mayors, the chief justice of the supreme court, [~~the board of~~  
9 ~~education,~~] the board of regents, the Hawaii health  
10 [+]~~systems~~[+] corporation board, the auditor, the ombudsman, and  
11 the director of the legislative reference bureau. These  
12 individuals or boards may make adjustments for their respective  
13 excluded employees."

14 SECTION 40. Section 202-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§202-2 Duties of council.** The workforce development  
17 council shall:

18 (1) Prepare and update periodically a comprehensive state  
19 plan for workforce development with strategic goals  
20 and measurable outcomes. The comprehensive state plan  
21 shall include:

- 1 (A) Strategic goals of workforce development programs,  
2 including the identification of the desired number  
3 of highly skilled workers in the workforce, the  
4 number of placements of individuals into higher-  
5 skilled jobs, the identification of high-demand  
6 areas for job growth, the need for skilled workers  
7 in the next five and ten years, and the time frame  
8 for training and development;
- 9 (B) Methods to educate the private sector about state,  
10 federal, and private financial assistance  
11 available for workforce development;
- 12 (C) Methods to facilitate access to workforce  
13 development resources, including the reduction of  
14 regulatory burdens for employers and employees;
- 15 (D) The creation and improvement of educational  
16 opportunities for individuals to learn and develop  
17 new skills, including mentoring, project-based  
18 learning, and internships;
- 19 (E) Methods to facilitate the department of  
20 education's development of curriculum in the  
21 public schools to prepare students for employment  
22 in the private sector;

- 1 (F) Recommendations to change and improve existing  
2 state programs, including the elimination of  
3 ineffective programs and the creation of new  
4 programs to improve workforce development;
- 5 (G) The identification of resources required,  
6 obstacles to overcome, and best practice models to  
7 implement the comprehensive state strategic plan;  
8 and
- 9 (H) A detailed budget for the comprehensive state plan  
10 with a justification for each expenditure;
- 11 (2) Review and assess the coordination between the State's  
12 workforce development programs, including programs of  
13 the federal government operating in the State, and  
14 placements in higher-skilled jobs to expand economic  
15 development and diversification; and consider:
- 16 (A) The State's employment and training requirements  
17 and resources;
- 18 (B) Practices of employers and unions that impede or  
19 facilitate the mobility of workers; and
- 20 (C) The special problems of untrained and  
21 inexperienced youth, immigrants, persons with  
22 disabilities, welfare clients, single parents,

- 1           disadvantaged minorities, and other groups facing  
2           barriers in the labor force;
- 3       (3)   Serve as an information clearinghouse for all  
4           workforce development programs in the State, including  
5           workforce training and education programs;
- 6       (4)   Analyze and interpret workforce information,  
7           particularly changes which are likely to occur during  
8           the next ten years; the specific industries,  
9           occupations, and geographic areas which are most  
10          likely to be involved; and the social and economic  
11          effects of these developments on the State's economy,  
12          labor force, communities, families, social structure,  
13          and human values;
- 14      (5)   Define those areas of unmet workforce and economic  
15          development needs and describe how private and public  
16          agencies can coordinate their efforts and collaborate  
17          with each other to address those needs;
- 18      (6)   Recommend to the governor and the legislature, state  
19          policies and funding priorities based on local  
20          community input that it believes should be adopted by  
21          the state government in meeting its workforce  
22          development responsibilities to:

- 1 (A) Establish a workforce development system in the  
2 State in which resources are pooled and programs  
3 are coordinated and streamlined;
- 4 (B) Establish reporting requirements for job  
5 placement results by category of occupations in  
6 high-demand and high-growth areas;
- 7 (C) Encourage a program of useful research into the  
8 State's workforce requirements, development, and  
9 utilization; and
- 10 (D) Support recommended workforce policies that  
11 promote economic development, diversification,  
12 and well-being of the people in this State;
- 13 provided that the duties and responsibilities of the  
14 workforce development council shall not impinge on the  
15 constitutional and statutory authority of the board of  
16 regents [~~and the board of education, and the statutory~~  
17 ~~authority of the state board for career and technical~~  
18 ~~education~~];
- 19 (7) Create public awareness and understanding of the  
20 State's workforce development plans, policies,  
21 programs, and activities, and promoting them as  
22 economic investments;

- 1           (8) Submit annual reports of its activities and  
2            recommendations to the governor and the legislature,  
3            and post the annual reports electronically on the  
4            Internet no later than twenty days before the  
5            convening of each regular session. Annual reports  
6            shall include:
- 7            (A) The status of the comprehensive state plan for  
8            workforce development; and
- 9            (B) Information regarding the workforce development  
10           programs offered throughout the State, the number  
11           of individuals placed in high-demand or high-  
12           growth employment through workforce development  
13           programs by departments, the type or category of  
14           employment garnered, and allocations of state,  
15           federal, and other funding to achieve placements  
16           into higher-skilled jobs;
- 17           (9) Evaluate the state workforce development plan in terms  
18           of how its purposes, goals, and objectives have been  
19           carried out throughout the State;
- 20           (10) Provide technical assistance to local workforce  
21           development boards and other similar organizations;



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- 1           (11) Carry out required functions and duties related to  
2           workforce development of any advisory body required or  
3           made optional by federal legislation, including the  
4           Job Training Partnership Act of 1982, as amended, and  
5           the Wagner-Peyser Act of 1933, as amended;
- 6           (12) In accordance with the federal Workforce Investment  
7           Act of 1998, Public Law 105-220, assist the governor  
8           in the following functions:
- 9           (A) The development of the State's plan for the use  
10           of federal workforce investment funds, which is  
11           required under Public Law 105-220;
- 12           (B) The development and continuous improvement of the  
13           statewide and local workforce investment systems  
14           described in subtitle B of Public Law 105-220,  
15           and the one-stop delivery systems described in  
16           section 134(c) of Public Law 105-220, including:
- 17           (i) The development of linkages referred to in  
18           Public Law 105-220, to assure coordination  
19           and non-duplication among the programs and  
20           activities in section 121(b) of Public Law  
21           105-220; and

- 1 (ii) The review of plans prepared by local  
2 workforce investment boards for the use of  
3 federal workforce investment funds which is  
4 required under Public Law 105-220;
- 5 (C) Commenting at least once annually on the measures  
6 taken pursuant to section 122(c)(16) of the Carl  
7 D. Perkins Vocational and Technical Education  
8 Amendments of 1998, Public Law 105-332;
- 9 (D) The designation of local areas as required in  
10 section 116 of Public Law 105-220;
- 11 (E) The development of allocation formulas for the  
12 distribution of funds for adult employment and  
13 training activities and youth activities to local  
14 areas as permitted under sections 128(b)(3)(B)(i)  
15 and 133(b)(3)(B)(i) of Public Law 105-220;
- 16 (F) The development and continuous improvement of  
17 comprehensive state performance measures,  
18 including state-adjusted levels of performance,  
19 to assess the effectiveness of the workforce  
20 investment activities in the State as required  
21 under section 136(b)(1) of Public Law 105-220;

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1 (G) The preparation of the annual report to the  
2 United States Secretary of Labor described in  
3 section 136(d)(1) of Public Law 105-220;

4 (H) The development of the statewide employment  
5 statistics system described in section 15(e) of  
6 the Wagner-Peyser Act; and

7 (I) The development of an application for an  
8 incentive grant under section 503 of Public Law  
9 105-220; and

10 (13) Act as the designated state entity to conduct  
11 activities relating to occupational and employment  
12 information for vocational and technical education  
13 programs in compliance with section 118 of the Carl D.  
14 Perkins Vocational and Technical Education Amendments  
15 of 1998, Public Law 105-332."

16 SECTION 41. Section 302A-101, Hawaii Revised Statutes, is  
17 amended:

18 (1) By amending the definition of "public schools" to read  
19 as follows:

20 "Public schools" means all academic and noncollege type  
21 schools established and maintained by the department [~~and~~],

1 including public charter schools [~~chartered by the board of~~  
2 ~~education~~], in accordance with law."

3 (2) By repealing the definition of "board" as follows:

4 [~~"Board" means the board of education.~~]

5 SECTION 42. Section 302A-301, Hawaii Revised Statutes, is  
6 amended by amending subsection (c) to read as follows:

7 " (c) The [~~board~~] superintendent shall establish and  
8 appoint the members of a grant award panel, which shall consist  
9 of at least one representative from each of the following  
10 groups:

- 11 (1) Parents;
- 12 (2) Students;
- 13 (3) Teachers;
- 14 (4) School administrators;
- 15 (5) School support staff;
- 16 (6) Businesspersons; and
- 17 (7) The military; whose participation shall be  
18 requested.

19 The panel shall include a representative from each school  
20 district among its members.

21 The panel shall review proposals and make recommendations  
22 to the superintendent on grant awards. Panel members shall

1 serve for a term of two years without compensation, but shall be  
2 entitled to reimbursement for necessary expenses while attending  
3 meetings and while in the discharge of their duties. A portion  
4 of the moneys in the incentive and innovation grant trust fund,  
5 not to exceed one per cent, shall be used to offset the expenses  
6 incurred by the review panel."

7 SECTION 43. Section 302A-447, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§302A-447 State student council.** (a) There is  
10 established within the department for administrative purposes  
11 the state student council, which shall consist of representation  
12 from each departmental school district.

13 [~~(b) The council shall determine whether it shall directly~~  
14 ~~select the student member of the board or whether it shall run~~  
15 ~~an election to select that individual.~~

16 ~~(e)]~~ (b) The council shall establish policies and  
17 procedures governing its operations, including the selection and  
18 number of council members, without regard to the public notice,  
19 public hearing, and gubernatorial approval requirements of  
20 chapter 91, but subject to the open meeting requirements of  
21 chapter 92.

1        [~~d~~] (c) The state student council shall cooperate with  
2 the student conference committee established under section 317-2  
3 in planning the annual secondary school students conference  
4 established under chapter 317."

5        SECTION 44. Section 302A-1106.5, Hawaii Revised Statutes,  
6 is amended to read as follows:

7        " **§302A-1106.5** [~~Board of education; community meetings.~~]  
8 **Meetings.** The [~~board~~] department shall hold not less than [~~two~~  
9 ~~community meetings~~] one meeting annually in each [~~departmental~~  
10 ~~school district~~] county to [~~discuss and~~] receive input from the  
11 community on public education and public library issues. [~~The~~  
12 ~~board chairperson shall designate board members to attend the~~  
13 ~~community meetings. These community meetings shall not be held~~  
14 ~~for the purpose of formulating educational policy. The~~  
15 ~~community meetings shall be exempt from sections 92-2.5, 92-7,~~  
16 ~~92-9, and 92-41, provided that the board shall give written~~  
17 ~~public notice of each community meeting.~~] The meeting notice  
18 shall indicate the date, time, and place of the meeting, and  
19 shall be filed in the office of the lieutenant governor and in  
20 the [~~board's~~] superintendent's office for public inspection six  
21 calendar days before the meeting. The notice shall also be  
22 posted at the site of the meeting."

1 SECTION 45. Section 302A-1110, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " **§302A-1110 Educational districts not applicable.** The  
4 educational districts established by section 4-1 shall not be  
5 applicable to, nor alter, [~~the school board or departmental~~  
6 ~~school districts, established by section 13-1, or~~] the school  
7 districts established for administrative purposes by the  
8 department."

9 SECTION 46. Section 302A-1122, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 " **§302A-1122 Gifts.** The [~~board~~] department may receive and  
12 manage moneys or other property, real, personal, or mixed, that  
13 may be given, bequeathed, devised, or in any manner received  
14 from sources other than the legislature or any federal  
15 appropriation for the purposes of the department. All such  
16 moneys received by [~~, or on behalf of,~~] the department shall be  
17 paid into the state treasury, and all such moneys are  
18 appropriated for the use of the department. The [~~board~~]  
19 department shall cause to be kept suitable books of accounts  
20 wherein shall be recorded each gift, the essential facts of its  
21 management, and the expenditure of the income."

1 SECTION 47. Section 304A-303, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§304A-303 Career and technical education coordinating**  
4 **advisory council.** (a) There is established a career and  
5 technical education coordinating advisory council which shall  
6 serve in an advisory capacity to the board of regents. The  
7 council shall consist of eleven members, nine appointed and two  
8 ex officio voting members. Of the nine appointed members:

- 9 (1) Three shall be appointed from the board of regents by  
10 the chairperson of that body;
- 11 (2) Three shall be appointed [~~from the board of education~~  
12 ~~by the chairperson of that body,~~] by the governor; and
- 13 (3) Three shall be appointed from the workforce  
14 development council by that council.

15 Of the three members appointed from the workforce  
16 development council, one member shall represent management, one  
17 member shall represent labor, and the third shall represent the  
18 public. Of the two ex officio members, one shall be the  
19 president of the university and the other shall be the  
20 superintendent of education.

21 (b) Of the three members first appointed by each  
22 appointing authority, [~~other than the chairperson of the board~~



1 ~~of education,~~ one shall be appointed for two years, one shall  
2 be appointed for three years, and one shall be appointed for  
3 four years. [~~In the case of the members appointed from the~~  
4 ~~board of education, the terms of such members shall be for their~~  
5 ~~remaining terms as members of the board of education.~~] Upon the  
6 expiration of the terms of the first members, their successors  
7 shall serve for a term of four years. Vacancies shall be filled  
8 by the appropriate appointing authority for the unexpired term.

9 (c) The council shall elect a chairperson and such other  
10 officers as it deems necessary. Section 92-15 shall apply. The  
11 members of the council shall serve without compensation but  
12 shall be entitled to their travel expenses within the State when  
13 attending meetings of the council or when actually engaged in  
14 business relating to the work of the council."

15 SECTION 48. Chapter 13, Hawaii Revised Statutes, is  
16 repealed.

17 SECTION 49. 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 13-1-1.]~~

8           SECTION 50. Section 302A-620, Hawaii Revised Statutes, is  
9           repealed.

10           ~~["**§302A-620 Classification/compensation appeals board;**~~  
11           ~~**adjustments to classification/compensation plan.** (a) There~~  
12           ~~shall be established a classification/compensation appeals board~~  
13           ~~within the department for administrative purposes. The appeals~~  
14           ~~board shall be composed of three members. One member shall be~~  
15           ~~appointed by the board of education and one member appointed by~~  
16           ~~the exclusive bargaining unit representing educational~~  
17           ~~officers. The third member shall be appointed by the governor~~  
18           ~~and shall serve as chairperson. No member shall be an employee~~  
19           ~~of the department, a member of the board of education, or an~~  
20           ~~employee of the organization representing educational officers.~~  
21           ~~The appeals board shall sit as an appellate body on matters of~~

1 ~~classification/compensation. All decisions of the appeals board~~  
2 ~~shall be by majority vote and be binding on both parties.~~

3 ~~(b) The appeals board shall meet biennially every even-~~  
4 ~~numbered year to receive pricing appeals from affected persons~~  
5 ~~and parties relating to the classification/compensation plan.~~

6 ~~All petitions for appeal shall be filed with the appeals board~~  
7 ~~within twenty days from the date set by the appeals board for~~  
8 ~~receipt of these appeals.~~

9 ~~The appeals board shall meet on a quarterly basis as needed~~  
10 ~~to receive classification appeals. All petitions for~~  
11 ~~educational officer classification appeals shall be filed with~~  
12 ~~the appeals board within twenty working days from the date of~~  
13 ~~receipt of notification of the classification action or twenty~~  
14 ~~working days from the date of receipt of the superintendent's~~  
15 ~~written decision on the employee's internal administrative~~  
16 ~~review appeal.~~

17 ~~(c) The appeals board shall function independently of the~~  
18 ~~board of education and the department, but may procure office~~  
19 ~~facilities and clerical assistance from them. Neither the~~  
20 ~~appeals board nor any of its members or staff shall consult with~~  
21 ~~any member of the board of education or department except on~~

1 ~~notice and opportunity for the appealing employee or the~~  
2 ~~employee's representative to participate.~~

3 ~~The appeals board shall adopt policies and standards~~  
4 ~~relative to classification/compensation. The appeals board may~~  
5 ~~adopt rules pursuant to chapter 91 for the conduct of appeal~~  
6 ~~hearings.~~

7 ~~(d) The appeals board shall make whatever adjustments that~~  
8 ~~are necessary to the affected classes where the appeals have~~  
9 ~~been filed in the classification/compensation plan.~~

10 ~~The appeals board shall hear pricing appeals and complete~~  
11 ~~the final adjustment to the classification/compensation plan by~~  
12 ~~the first Wednesday of December of all even numbered years.~~  
13 ~~Following the final pricing adjustment to the~~  
14 ~~classification/compensation plan, the superintendent shall~~  
15 ~~submit to the legislature, through the office of the governor, a~~  
16 ~~report setting forth the classification/compensation plan and~~  
17 ~~the cost thereof for its information and approval. The approved~~  
18 ~~classification/compensation plan shall be effective as of July 1~~  
19 ~~of each odd numbered year.~~

20 ~~The appeals board shall hear classification appeals on a~~  
21 ~~quarterly basis upon receipt of the appeals. The effective date~~  
22 ~~of the appeals for twelve month educational officers shall be~~

1 ~~the first pay period immediately following the receipt of the~~  
2 ~~current position description by the classification/compensation~~  
3 ~~section of the department. The effective date for ten month~~  
4 ~~officers shall be the beginning of the appropriate semester~~  
5 ~~(September or January).~~

6 ~~(c) Notwithstanding any other laws to the contrary, each~~  
7 ~~member of the appeals board shall receive \$50 per day for each~~  
8 ~~day on which work is done by them in connection with authorized~~  
9 ~~activities of the appeals board. The cost thereof shall be met~~  
10 ~~by legislative appropriations for the appeals board." ]~~

11 SECTION 51. Section 302A-623, Hawaii Revised Statutes, is  
12 repealed.

13 [ ~~§302A-623 Salary ranges, educational officers. Salary~~  
14 ~~ranges for educational officer positions of the department shall~~  
15 ~~be determined by the board based on the position~~  
16 ~~classification/compensation plan approved by the board. Salary~~  
17 ~~ranges for educational officer positions shall be subject to the~~  
18 ~~requirements of sections 302A-625 and 302A-626.] "~~

19 SECTION 52. Section 302A-1105, Hawaii Revised Statutes, is  
20 repealed.

21 [ ~~§302A-1105 Compensation; expenses. Board of education~~  
22 ~~members shall be allowed:~~

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

9       SECTION 53. Section 302A-1106, Hawaii Revised Statutes, is  
10 repealed.

11       ~~[ "**§302A-1106 Organization, quorum, meetings.** (a) The~~  
12 ~~board shall elect from its own membership a chairperson and a~~  
13 ~~vice chairperson. A majority of all members to which the board~~  
14 ~~is entitled shall constitute a quorum to do business and the~~  
15 ~~concurrence of a majority of all members to which the board is~~  
16 ~~entitled shall be necessary to make any action of the board~~  
17 ~~valid; provided that due notice shall have been given to all~~  
18 ~~members of the board or a bona fide attempt shall have been made~~  
19 ~~to give due notice to all members of the board to whom it was~~  
20 ~~reasonably practicable to give due notice. Meetings shall be~~  
21 ~~called and held, at the call of the chairperson or by a quorum,~~

1 ~~as often as may be necessary for the transaction of the~~  
2 ~~department's business.~~

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

9 SECTION 54. Act 85, Session Laws of Hawaii 2009, is  
10 amended by amending subsection (a) of section 2 to read as  
11 follows:

12 "(a) Notwithstanding any law to the contrary and  
13 notwithstanding the recommendations of the commission on  
14 salaries for salary increases, beginning July 1, 2009, and until  
15 June 30, 2011, the annual salaries of the governor, the  
16 lieutenant governor, the justices and judges of all state  
17 courts, the administrative director of the State or an  
18 equivalent position, and the department heads or executive  
19 officers and the deputies or assistants to the department heads  
20 or executive officers of the departments of:

- 21 (1) Accounting and general services;  
22 (2) Agriculture;



1           (3) The attorney general;  
2           (4) Budget and finance;  
3           (5) Business, economic development, and tourism;  
4           (6) Commerce and consumer affairs;  
5           (7) Defense;  
6           (8) Education;  
7           ~~(8)~~ (9) Hawaiian home lands;  
8           ~~(9)~~ (10) Health;  
9           ~~(10)~~ (11) Human resources development;  
10          ~~(11)~~ (12) Human services;  
11          ~~(12)~~ (13) Labor and industrial relations;  
12          ~~(13)~~ (14) Land and natural resources;  
13          ~~(14)~~ (15) Public safety;  
14          ~~(15)~~ (16) Taxation; and  
15          ~~(16)~~ (17) Transportation,  
16 shall be reduced by five per cent from what the salary is as of  
17 June 30, 2009, and shall remain at that salary rate until  
18 June 30, 2011; provided that on July 1, 2011, the salaries of  
19 these positions shall be restored to the level they would have  
20 been on July 1, 2009, without the salary decrease under this  
21 Act; provided further that the recommendations of the commission  
22 on salaries for salary increases for these positions effective

1 July 1, 2012, shall become effective on that date in accordance  
2 with the recommendations."

3 PART III.

4 SECTION 55. Upon the effective date of this Act the  
5 governor may appoint an interim superintendent of education to  
6 serve pending the governor's appointment of a superintendent of  
7 education pursuant to section 10 of this Act.

8 All rules, policies, procedures, guidelines, and other  
9 material adopted or developed by the board of education prior to  
10 the effective date of this Act, shall remain in full force and  
11 effect until amended or repealed by the superintendent of  
12 education pursuant to chapter 91, Hawaii Revised Statutes.

13 All appropriations, records, equipment, machines, files,  
14 supplies, contracts, books, papers, documents, maps, and other  
15 personal property heretofore made, used, acquired, or held by  
16 the board of education relating to the functions transferred to  
17 the governor and the superintendent of education shall be  
18 transferred with the functions to which they relate.

19 All deeds, leases, contracts, loans, agreements, permits,  
20 or other documents executed or entered into by or on behalf of  
21 the board of education prior to the effective date of this Act,

1 shall remain in full force and effect until amended or  
2 renegotiated by the superintendent of education.

3 SECTION 56. No officer or employee of the State shall  
4 suffer any loss of salary, seniority, prior service credit,  
5 vacation, sick leave, or other employee benefit or privilege as  
6 a consequence of this Act.

7 In the event that an office or position held by an officer  
8 or employee having tenure is abolished, the officer or employee  
9 shall not thereby be separated from public employment, but shall  
10 remain in the employment of the State with the same pay and  
11 classification and shall be transferred to some other office or  
12 position for which the officer or employee is eligible under the  
13 personnel laws of the State as determined by the director of  
14 human resources development.

15 SECTION 57. The revisor of statutes shall replace the term  
16 "board of education" or like term, as appropriate, whenever it  
17 may appear in the Hawaii Revised Statutes, with the term  
18 "department of education," or like term, as the context  
19 requires.

20 SECTION 58. All acts passed by the legislature during this  
21 regular session of 2010, whether enacted before or after the  
22 effective date of this Act, shall be amended to conform to this



**Report Title:**

Education; Governance

**Description:**

Restructures the governance system of the State's public education system in order to create greater accountability; and repeals the powers and duties of the Board of Education. Authorizes the Governor to appoint the Superintendent of Education subject to confirmation by the Senate.

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE GOVERNOR

TITLE: A BILL FOR AN ACT RELATING TO EDUCATION GOVERNANCE.

PURPOSE: Amend statutory provisions to repeal the publicly elected Board of Education; restructure the Department of Education within the State Administration as an agency; and create greater accountability and efficiency in the delivery of quality education in Hawaii's public schools.

MEANS: Add a new section to chapter 302A, Hawaii Revised Statutes (HRS); amend sections 11-157, 11-195(d), 11-209(a), 11-218(d), 12-5(a), 26-12, 26-35.5, 26-52, 26-53, 26-56(b), 76-11, 76-16(b), 84-17(d), 84-41, 88-21, 89-2, 89-6(d), 89C-1.5, 202-2, 302A-101, 302A-301(c), 302A-447, 302A-619, 302A-621, 302A-801, 302A-803(a), 302A-1101, 302A-1106.5, 302A-1110, 302A-1111, 302A-1112, 302A-1120, 302A-1122, 302A-1124, 302A-1126, 302A-1134, 302A-1303.5, 302A-1402, 302A-1607, 302B-3, 302b-8, 304A-303, 312-1, 312-2, 312-2.1, 312-21(c), HRS; repeals chapter 13 and sections 17-6, 302A-620, 302A-623, 302A-1105, 302A-1106, HRS; and amends section 2(a) of Act 85, Session Laws of Hawaii 2009.

JUSTIFICATION: The current governance structure of public education in Hawaii has proven over the years that it is incapable of effectively managing the resources or producing the results necessary to meet the educational needs of Hawaii's children.

Accordingly, this bill amends state law in order to create an educational system with clear lines of accountability. This bill includes the following provisions:

- (1) Repeals the powers and duties of the publicly elected Board of Education;
- (2) Establishes the Department of Education within the state administration to serve as a cabinet-level department; and
- (3) Authorizes the governor to appoint the superintendent of education, subject to confirmation by the State Senate.

These amendments will allow parents, teachers, students, and the public at large 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. This will improve the State's ability to effectively and expeditiously manage educational resources and execute policies and procedures.

Impact on the public: Increased government accountability that allows students, teachers, families, and the community to hold the senior elected official of the State responsible for the performance of our public education system.

Impact on the department and other agencies: Clear lines of authority in the governance structure of public education will create greater stability and allow for a more expedient execution of policies and procedures that govern the Department of Education.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM  
DESIGNATION:

None.

OTHER AFFECTED  
AGENCIES:

Office of the Governor, Department of Education, Board of Education, Hawaii

Teachers Standards Board, State Salary  
Commission.

EFFECTIVE DATE:

Takes effect upon the ratification of a  
constitutional amendment to make the  
Department of Education into a cabinet-level  
department.



Date of Hearing: Wednesday, March 10, 2010

Committee: House Committee on Education

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: S.B. No. 2570, S.D. 1, Proposing an Amendment to Article X, Section 2, of the Hawaii Constitution, to Change the Board of Education From an Elected Board to an Appointed Board

Purpose of Bill: Proposes an amendment to Article X, Section 2, of the Hawaii State Constitution to change the method of selection of the voting members of the Board of Education from an elected board, to a board whose voting members are appointed by the governor, with the advice and consent of the senate, from pools of qualified candidates presented to the governor by the Board of Education Candidate Nomination Commission, as provided by law.

Board's Position: Chairperson Takumi, Vice Chairperson Berg, and members of the House Committee on Education, thank you for the opportunity to testify on S.B. No. 2570, S.D. 1.

The Board of Education (Board) opposes S.B. No. 2570, S.D. 1, which proposes a constitutional amendment to allow the governor to appoint the members of the Board, with the advice and consent of the senate, from pools of qualified candidates presented to the governor by the Board of Education Candidate Nomination Commission.

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 board appointed by the governor would centralize educational decision-making too largely in the Executive Branch. Under S.B. No. 2570, S.D. 1 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 candidacy 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 in opposition to this measure.



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Vice President

**Joan Kamila Lewis**  
Secretary-Treasurer

**Jim Williams**  
Interim Executive Director

## TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION

RE: SB 2570, SD1 – PROPOSING AMENDMENTS TO ARTICLE X, SECTION 2,  
OF THE HAWAII CONSTITUTION, TO CHANGE THE BOARD OF  
EDUCATION FROM AN ELECTED BOARD TO AN APPOINTED BOARD.

March 10, 2010

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association opposes SB 2570, SD1. Instead we support representative democracy as manifested through an elected board.

We believe an elected Board of Education because is more likely to represent the views of the voters rather than the interest of the governor who appoints them.

Elected board members are accountable to the community, rather than an individual, the governor who has a political as well as a policy agenda. In the case of an elected board, the electorate has an opportunity to hear the candidates' positions and judge how each one stands on education-related issues. This arrangement gives voters the ability to support education policies by voting for members according to the policy platform set forth by candidates in their campaigns. Voters are more engaged when they know the candidates and their policy positions and can question them about those positions.

Under a system in which offices are appointed, voters are not given an opportunity to directly question the people who will be making decisions that affect them. It is voter-board member interaction generates interest in and ownership of our school system. An appointed board would disenfranchise the parents and other community members who are active in the development of the school system.

Some say there should be an appointed school board because voters do not know the candidates, which results in poor voter turnout. The solution, however, is not to do away with an elected board but to find ways to more effectively engage voters and increase citizen participation in the election process. If the voter turnout in our election for legislature and governor decreases, do we do away with an elected legislature and elected governor, or do we find ways to get our citizenry engaged in the democratic process?

We believe the best solution would be to elect board members based on voter districts, the same way House and Senate members are elected. In an arrangement in which communities elect their own board members, there will be closer ties between the voters and those who manage their education system. Board members will know the communities and its schools and the voters will know them.

Currently, board members run from a "district" but are actually elected by the entire county. This is the worst possible arrangement because voters do not know the candidates for the board. And board members have no community connection to those whom they represent. In a public opinion survey taken in 2008, 63 percent of those polled favored an elected school board. They also said that they prefer to elect board members who live closer to them.

We urge this committee to hold SB 2570, SD1,

Thank you for the opportunity to testify.





**Testimony to the House Committee on Education**

**Wednesday, March 10, 2010**

**2:30 p.m.**

**Conference Room 309**

**RE: Relating to Education - Senate Bill 2570, SD1**

Chair Takumi, Vice Chair Berg 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 SB 2570, SD1 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.

**berg1-Matthew**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 08, 2010 12:06 PM  
**To:** EDNtestimony  
**Cc:** sandoherty8@yahoo.com  
**Subject:** Testimony for SB2570 on 3/10/2010 2:30:00 PM

Testimony for EDN 3/10/2010 2:30:00 PM SB2570

Conference room: 309  
Testifier position: support  
Testifier will be present: No  
Submitted by: sandra doherty  
Organization: Individual  
Address: 75-5949 Pumehana Way Kailua Kona, HI 96740  
Phone: 808 326-1927  
E-mail: [sandoherty8@yahoo.com](mailto:sandoherty8@yahoo.com)  
Submitted on: 3/8/2010

**Comments:**

SB 2570 Please support this bill empowering the Governor to appoint the Hawaii State Board of Education. It makes sense and will help with accountability...  
Thank you.



Wednesday, March 10, 2010

2:30 p.m.

Conference Room 309

TESTIMONY TO  
THE HOUSE COMMITTEE ON EDUCATION

RE: SB 2570 (SD1) – Relating To The Board Of Education

Dear Chair Takumi, Vice-Chair Berg and Members of the Committee:

Hawai'i's Children First is strongly supportive of the intent of SB 2570 and SB 2571, but it supports amending the language to conform to the language and structure provided in HB 2376 (HD 3) and HB 2377 (HD 3).

In light of a strong current of public sentiment calling for reform, we respectfully request that the community be given the opportunity to vote on a system that appoints the Board of Education. The Department of Education (DOE) has outlined an ambitious reform agenda in connection with the federal "Race to the Top" program. The reforms include:

- Revisiting union contracts to revise performance evaluation, tenure, and other complex and sensitive subjects;
- Developing a comprehensive student support system;
- Instituting a data system that aligns with Common Core Standards and tracks student growth and achievement;
- Implementing measures to close the achievement gap and turnaround troubled schools, such as through zones of school innovation; and
- Ensuring equitable school funding, including for charter schools.

The DOE also has plans to revamp its outdated human resource system and the associated processes affecting its tens of thousands of employees.

The above-mentioned reforms will take much knowledge and expertise, a firm commitment and a number of years to implement. Given the size and scope of the proposed reforms, our public education system needs improved governance to help lead and oversee that change.

A system of appointing board members will help to contribute to the reform effort. With a system that appoints board members, we can expect:

- Greater accountability – the governor becomes accountable for the state of public schools;
- Increased attention by the Executive Branch on education and a clear incentive for the governor to take more ownership in the system due to the governor's role in selecting Board of Education members;
- 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 special interests; and
- Improved structural alignment that will be more conducive to reform.

A governance system with an appointed state board is well-tested. 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. On balance, states with appointed boards have performed better in terms of achievement.

Some seek to prevent HB 2376 & HB 2377 from advancing. They argue for the status quo at a time when the community is calling for improvements to public education.

These opponents of change argue that electing board members makes the board members more accountable to the electorate. A Star-Bulletin/KITV 4

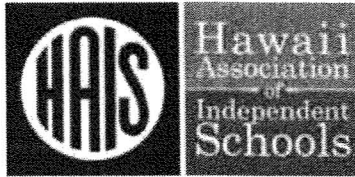
News poll in 2002 indicated that 69% of those polled did not have enough information about candidates to make a good choice. In the last 2008 at-large election, the “blank votes” were significant. It is common knowledge that many people vote based on name recognition or simply because a candidate may have a similar background, instead of voting based on the candidates’ views and qualifications.

They argue that a system of electing candidates is better for the community. Not every government service should be led by persons elected for office. When it comes to education, the focus should be on selecting the most qualified Board of Education members, not the most popular. Positions for judges, executive cabinet members, advisory commissions and the Board of Regents for the University of Hawai‘i are examples of appointed positions.

They argue that appointing board members would make public education more political. No governance system is more political than an elected system – where the candidates are only those willing to run and the winners are the most popular. With the election of Board of Education members traditionally being accompanied by weak voter participation, the composition of the Board of Education is especially susceptible to entrenched interests.

We have high hopes that the future of public education in Hawai‘i will place the needs of children first. Implementing an appointed board of education is an important step on the road to re-focusing our priorities and instituting many other important reforms. Thus, we strongly urge the Committee to pass SB 2570 and SB 2571, but in amended form to conform to the language and structure provided in HB 2376 (HD 3) and 2377 (HD 3).

Thank you for your commitment to public education and your time and consideration on this important issue.



Wednesday, March 10, 2010  
2:30 p.m.  
Conference Room 309

TESTIMONY TO  
THE HOUSE COMMITTEE EDUCATION

RE: SB 2570, SD1 – Proposes amendment to the Hawaii Constitution  
relating to the Board of Education

Chair Takumi, Vice Chair Berg 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 **support of Senate Bill 2570 SD1**, which proposes amendments to Article X, Section 2 of the Hawaii Constitution to change the Board of Education from an elected board to an appointed board.

HAIS is encouraged by this proposal by which the members of the Board of Education would be appointed by the governor, with the advice and consent of the Senate, from pools of qualified candidates presented to the governor by the board of education candidate nomination commission, 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 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.

## berg1-Matthew

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**From:** Shiyana Thenabadu [shiyanat@gmail.com]  
**Sent:** Tuesday, March 09, 2010 1:20 PM  
**To:** EDNtestimony  
**Subject:** written testimony in support of SB 2470 SD2 and SB 2570 & 2571 - March 10, 2010, 2pm

Dear Members of the House Education Committee:

I am a parent of a student attending public school in Hawaii. I am writing to support Bills SB 2470 SD2: Requires all public schools to have 200 days of instructional time per year, and SB 2570 & 2571: Changes the BOE from an elected board to one appointed by the Governor.

I believe that SB 2470 SD2 is sorely needed and should have been passed a long time ago. If this Bill had been in place, we would not have had the ridiculous school furloughs that are now in effect. We need to ensure that our children will get a minimum amount of instruction time in school and that schools will not be shut down in the future during tough financial times. We all know that the DOE/BOE leaders and HaSTA could have put forward a solution where instruction time was not cut, but they chose to sacrifice the very people who did not have a vote, a voice or a union - the children. Our public schools are doing so poorly in standardized tests and we are at the very bottom now in the Race for the Top funds. This situation can be turned around with mandated minimum instruction/classroom time (and new leadership at the BOE, DOE and an overhaul of the DOE bureaucracy). Please, please pass SB 2470 SD2 as the first step toward improving our public schools. It is the right thing to do for our schools and our children. The time to act is NOW. Please do not put this off any longer.

SB 2570 and 2571 will ensure that the buck stops with the Governor when it comes to public education. Presently, there are too many cooks that are spoiling the soup in our public schools. Although the idea of a democratically elected BOE is good in theory, the fact is that the few people who do vote in Hawaii, tend to vote on name recognition and not by studying where the candidates stand on the issues. The result has been a lame duck BOE where members are voted in year after year, show up for meetings to collect their fees, rubber stamp everything the DOE Sup requests and leave. Clearly, the BOE system is not working. Look at the school furlough situation - BOE approved it. Look at how Hawaii public schools perform on the standardized tests - no major improvement in decades. Its time for a change.

Thank you for listening.

Aloha.  
Shiyana Thenabadu

Kailua, HI 96734  
phone: 808-255-4805