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Senate Committee on Ways and Means  
Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair

March 29, 2012

Dear Chair Ige, Vice Chair Kidani and Committee Members:

This testimony is submitted in support of HB2527 HD2.

The Hui for Excellence in Education (HE'E) is a diverse coalition of over 30 parent and community organizations dedicated to improving student achievement by increasing family and community engagement and partnerships in our schools. Our member list is attached.

On August 24, 2010, the U.S. Department of Education announced Hawaii as a winner of a \$75 million Race to the Top grant. The grant received broad support including many community organizations that are now part of the HE'E Coalition. On behalf of these partners, we feel it is important that our DOE, the HSTA, and others continue to work together to insure that the education reforms are completed and successful.

This bill allows the DOE the directive, means, and flexibility to establish a performance management system that cultivates and supports highly effective educators and implements Hawaii's Race to the Top commitments.

The bill has some important benefits to the community and families:

- It creates greater transparency about the performance management system so that the public understands the system put in place
- It establishes a framework for an evaluation system, but is not too prescriptive so that teachers and the department can select a model that works for both parties
- It aligns our current laws with the Race to the Top commitments

Our Coalition has great respect for our teachers and our DOE administration and we are confident that they can move forward and implement a fair and effective performance evaluation system.

We would like to request one amendment to the bill:

The Coalition would like to encourage the department to include parent/family feedback in the teacher evaluation process. Families are key partners in the success of students and appropriate efforts to include their input would be valuable in the evaluation process.

We would be glad to work with the legislature, department and unions to make this effort successful.

Thank you for the opportunity to testify and for your consideration.

Our support of this bill represents a 75% consensus or more of our membership.

Sincerely,

Cheri Nakamura  
HE'E Coalition Director



Academy 21  
After-School All-Stars Hawaii  
\*Castle Complex Community Council  
Center for Civic Education  
\*DOE Windward District  
\*Faith Action for Community Equity  
Fresh Leadership LLC  
Girl Scouts Hawaii  
\*Good Beginnings Alliance  
Harold K.L. Castle Foundation  
Hawai'i Athletic League of Scholars  
\*Hawai'i Charter School Network  
\*Hawai'i Education Matters  
\*Hawai'i Nutrition and Physical Activity Coalition  
Hawai'i State Student Council  
Hawai'i State Teachers Association  
Hawai'i P-20  
Hawai'i 3Rs  
It's All About Kids  
\*INPEACE  
Joint Venture Education Forum  
Kamehameha Schools  
\*Kanu Hawai'i  
Kupu A'e  
\*Leaders for the Next Generation  
McREL's Pacific Center for Changing the Odds  
\*Our Public School  
\*Pacific Resources for Education and Learning  
\*Parents and Children Together  
\*Parents for Public Schools Hawai'i  
Punahou School PUEO Program  
The Learning Coalition  
US PACOM  
University of Hawai'i College of Education  
Voting Members (\*)



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Thursday, March 29, 2012, 9:00 AM  
State Capitol Room 211

Testimony of  
NEIL ABERCROMBIE  
Governor, State of Hawaii

To the Senate Committee on Ways and Means  
Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair

HB 2527\_HD2 - Relating to Education

Chair Ige, Vice Chair Kidani, and members of the Committees:

Thank you for hearing HB2527\_HD2. I appreciate the Senate Ways and Means Committee leadership in addressing the important matter of educational accountability and improved learning for our children. I strongly support HB2527\_HD2. It is a priority bill in the administration package for the 2012 legislative session.

HB2527\_HD2 reflects the intent of SB2789\_SD2 which the Senate passed Third Reading on March 6, 2012. Like SB2789\_SD2, HB2527\_HD2 expands the Hawaii Revised Statute provisions for educational accountability established in the "Reinventing Education Act of 2004" (Act 51, Session Laws of Hawaii 2004). Based on Act 51, HRS 302A-1004 established a "comprehensive system of educational accountability to motivate and support the performance of students and the education system. This accountability system shall... (i)include an evaluation of effectiveness." HB2527\_HD2 updates the accountability framework to include teachers in the evaluation and specifies student learning and growth as criteria for evaluation of educators. Additionally, HB2527\_HD2 includes a provision that establishes three years of service as the minimum before a teacher is eligible for tenure.

HB2527\_HD2 takes a different approach to statutory revisions than SB2789\_HD2. HB2527\_HD2 revises statutes about teacher and educational officers evaluation (HRS 302A-638) by providing conforming language to clarify and reinforce student learning as a critical component of performance management, about incentives for exemplary and quality teachers and principals (HRS 302A-701, 703, 704), and about salary increases (HRS 302A-626). Thus, HB2527\_HD2 maintains the purpose of SB2789\_SD2 but accomplishes some housekeeping to conform statutes with the performance management system.

Currently, the law allows the State to establish a performance management system. Under HRS 89-9(d), the employer and exclusive representative of bargaining unit members cannot agree to “any proposal which would be inconsistent with the merit principle... or would interfere with the rights and obligations of a public employer to... determine qualifications, standards of work and the nature and content of examinations(, and to) hire, promote, transfer, assign and retain employees in positions

Though consultation with the Attorney General’s office, we confirmed the state’s authority to implement most aspects of the performance management system, with the exception of the effects of the evaluation on personnel (i.e., compensation). However, despite these clear guidelines in the law, the state’s position on the scope of management rights could be challenged. We cannot afford that delay.

Therefore, this legislation is important to clarify this authority. This bill would also establish the Legislature’s intent that the state Department of Education should have a performance management system in which educators would receive an annual evaluation rating of their effectiveness and that educators’ contribution to student learning and growth would be a significant factor in determining the rating. Proposed provisions would begin no later than July 1, 2013, which is the period beyond the current employment terms for educators.

Performance management, including an educator evaluation based on effectiveness, is a critical component of the state’s Race to the Top plan. In its December 21, 2011 letter placing the state’s Race to the Top grant on “high risk status,” the U.S. Department of Education identified “ongoing delays in finalizing master and supplemental contracts between HSTA and the State have impacted the state’s ability to make progress” as a major concern. The U.S Department of Education identified the Great Teachers Great Leaders and Zones of School Innovation projects as most affected by delays in achieving agreement between the state and the teachers’ union. Affirming and clarifying the legal authority of the state to move forward with pilot then statewide implementation of annual educator evaluations with a rating of effectiveness will go a long way to addressing the U.S. Department of Education’s concerns; in response to the early January tentative agreement with HSTA, Education Secretary Arne Duncan congratulated Hawaii for “a major breakthrough.”

However, Race to the Top is only a small contributor to our motivation for action and support for a performance management system that includes a robust evaluation system. Evaluation of educators’ effectiveness provides the basis to support development of personnel, reward effective educators, remediate marginal educators, dismiss ineffective/unsatisfactory educators, identify highly effective individuals for leadership roles, and ensure equitable distribution of effective educators. It is the right thing to do for children. It is also the national and federal direction for educational improvement. Recent federal grants, current congressional proposals to reauthorize *No Child Left Behind*, and federal criteria for state waivers for *No Child Left Behind* include requirements from the Race to the Top framework.

DOE's plan to development the performance-based evaluation is thoughtful, is based on research and best practice, and includes feedback from educators. Evaluations must be fair and objective. In the Race to the Top plan, the DOE and HSTA had agreed to work on the evaluation development and implementation collaboratively; the early January tentative agreement with HSTA had included the DOE's commitment to professional collaboration with teachers and HSTA in developing and implementing the performance-based evaluation tools and continued protection for teachers against unfair evaluations. Currently, DOE is engaged in a two-year pilot to develop performance evaluation tools, provide teachers and principals opportunities for feedback, train teachers and principals, and establish systems of support, and the pilot involves and values teachers and principals' feedback.

As I shared with you in my State of the State address:

We must continue our focus on our children and students' performance. We cannot wait any longer. We wanted to cross the Race to the Top finish line side-by-side with the HSTA. Make no mistake we will cross that finish line. Our students deserve no less.

Doing so requires that we use all management, administrative, legislative and legal tools we have at our disposal to implement an evaluation system that not only measures, but achieves student growth; turns around low-performing schools; and supports teachers in increasing their effectiveness. These tools include Board of Education action to enable the performance management system.

The Board of Education adopted a policy on Teacher and Principal Performance Evaluation (Board Policy 2055) and revised its policy on Recruitment, Employment, Retention and Termination (Board Policy 5100). These policies, adopted on February 21, 2012, are pending consult and confer with the unions. The BOE is expected to consider union responses and take final action on the policies in April, 2012; the BOE policies are on the April 3 BOE agenda.

HB2527\_HD2 remains critical to ensuring that the statute enables performance management grounded in student learning and professional practice. Additionally, HB2527\_HD2 establishes clear legislative policy direction for performance management and educator effectiveness and emphasizes the importance of student achievement, learning and growth.

We will continue to work with the BOE, Superintendent, unions, and educators to establish processes that respect the professionalism of our educators and that achieve better outcomes for our students. We appreciate and ask for your support of this bill. Your leadership in exercising the state's legislative tools to support improved teaching and learning is critical to improve outcomes for our children and for our state.

Thank you for your consideration.



Statement of  
Tabitha Grossman, Ph.D., Program Director, Education Division

before the

Senate Committee on Ways and Means

on

HB2527

on behalf of

The National Governors Association

March 29, 2012

Good Morning,

Thank you, Senator Ige, Senator Kidani, and members of the Senate Committee on Ways and Means, for allowing me to provide written testimony on HB2527. At the request of Governor Abercrombie's staff, I have reviewed the draft legislation and offer the following remarks.

My organization, the National Governors Association Center for Best Practices (NGA Center) works to provide governors and their staff with consultative services on best practices in state policy. I lead work in the NGA Center on human capital policy. In my work, I offer guidance to governors and their key policy staff on topics that pertain to teachers and principals. I am a noted expert on educator compensation and educator evaluation. I currently lead a project that provides intense technical assistance to four states working to create state policies that support the rigorous evaluation of teachers.

The proposed legislation establishes a comprehensive and aligned approach for evaluating educators. Using this as the foundation of Hawaii's educator evaluation system is not only considered a best practice in educator evaluation, but it also is consistent with what other states have adopted in the last 18 months. In addition, the research on educator evaluation consistently recommends that evaluation systems best serve teachers when they provide opportunities for educators to grow professionally through regular, high-quality feedback from evaluators and professional development that is tied to their evaluation results. Without the link between evaluation results and professional development, teachers will not be able to access the professional development that helps them improve their practice and thereby improves student achievement. This bill does just that and represents a concerted effort to ensure that Hawaii's evaluation system is supportive of educators and their professional development needs.

The bill codifies the need to make student achievement part of a teacher's overall evaluation rating, which is something seen in many states and is consistent with what now has been recognized as a best practice in educator evaluation. While the bill acknowledges the need to codify the weight given to student achievement in an educator's evaluation rating, it does take into account the need to measure other aspects of a teacher's professional practice. Research clearly points out that using only one measure (regardless of what measure that is) to determine an educator's effectiveness is both imprecise and inconclusive.

It is important to note that while the bill codifies that need to assign at least 50 percent of an educators' evaluation rating to student achievement results, it does not define what constitutes the other 50 percent of an educators' evaluation rating. Many states have not codified what constitutes the entire 100 percent of an educators' evaluation rating; however, they have used statute to grant the authority to make that determination to another governing body, in most cases, the state board of education. In other states, statutes have established an advisory committee that reviews research on the matter and makes recommendations to another governing body. Regardless of the approach you elect to use, I would suggest that you consider adding to this bill a requirement that the individuals assigned to evaluate educators are trained to do so. Many states have done this as an assurance to the individuals being evaluated and the public that person or persons evaluating educators have been adequately prepared to do so and have passed an examination administered to them that demonstrates they have mastered the training provided and are ready to conduct evaluations. This will be of particular importance for evaluators conducting classroom observations in particular. Emerging research sponsored by the Bill and Melinda Gates Foundation indicates that in spite of rigorous training on how to conduct classroom observations, imprecision is found and that inter-rater reliability is difficult to achieve. Given this research, as well as what we know from states that have been using classroom observations for



years, training to conduct classroom observations for the purpose of *rigorous* educator evaluation that ties the results of those evaluations to high-stakes, such as employment, licensure, tenure, and compensation is very important.

Thank you for opportunity to review this bill. I applaud your efforts to create an aligned system of evaluation that supports educators and their professional growth. I think this bill represents a positive step in that direction. If I can provide any additional assistance to you, please let me know. Thank you.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [tgeorge@castlefoundation.org](mailto:tgeorge@castlefoundation.org)  
**Subject:** Testimony for HB2527 on 3/29/2012 9:00:00 AM  
**Date:** Wednesday, March 28, 2012 4:59:45 PM

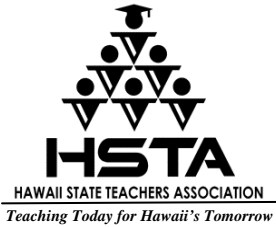
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Testimony for WAM 3/29/2012 9:00:00 AM HB2527

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Terrence R. George  
Organization: Harold K.L. Castle Foundation  
E-mail: [tgeorge@castlefoundation.org](mailto:tgeorge@castlefoundation.org)  
Submitted on: 3/28/2012

Comments:

This bill will clarify and reinforce the authority of the Hawaii DOE to implement an evaluation system for teachers and principals and improve outcomes for our students. A recent survey commissioned by the Harold K.L. Castle Foundation showed that Hawaii's teachers largely welcome a performance management system as long as it is fair, reliable, not based on a single high-stakes test, and linked to tailored professional development for both the evaluators and the teachers. A well-designed talent development system, which this law mandates and allows, can strengthen teaching and learning in every classroom, every day--a necessary condition for Hawaii to achieve its educational goals. Thank you for the opportunity to testify.



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**Wil Okabe**  
President

**Karolyn Mossman**  
Vice President

**Joan Kamila Lewis**  
Secretary-Treasurer

**Alvin Nagasako**  
Executive Director

## TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

RE: HB 2527 HD2 – RELATING TO EDUCATION.

March 29, 2012

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chairs Ige and Members of the Committees:

The Hawaii State Teachers Association continues to oppose HB 2527 HD2, relating to education, which directs the Department of Education to establish a performance management system and extends the probationary period for new teachers from two to three years.

HSTA still believes that the creation of a performance management system that effects the compensation and reemployment of teachers, or “merit pay,” should be subject to collective bargaining negotiations, not mandated by the state. Any evaluation system that excludes educators from the design and implementation process, as this bill does, is destined to not only ostracize incumbent and prospective teachers, but also discount the insights and experiences of those professionals most heavily involved with the day-to-day instruction of our students. We acknowledge the importance of accountability and the need for fairness in the process.

From a financial perspective, this bill may pose a significant funding liability to the state. The administrators tasked with performing a large portion of teacher evaluations are already overworked and unable to perform annual evaluations for probationary teachers every school year, using the



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current PEP-T process. They also find it difficult to meet the requirements of evaluating tenured teachers every five years as also provided under the PEP-T process. Demanding that administrators evaluate **all** teachers annually will likely require the department to hire additional administration or vice-principals **at every school** to handle the workload. Additionally, the evaluation model being piloted by the DOE requires input from all education stakeholders. Procedures for feedback will need to be created to ensure involvement, since no such mechanisms for evaluations currently exist. And then there is the cost of implementing evaluations themselves, which must involve education consultants, displaced professional time for educators performing evaluations, collaboration with teachers and HSTA, the establishment of new due process protocols, and reams of documentation. All of that costs money. In Washington, gradual phasing in of a new performance evaluation system and training for those administering evaluations carries an estimated price tag of \$13.4 million over four years. Other states have faced similar, or even bigger, financial challenges. Since our state budget is projected to run a deficit of over \$100 million annually beginning in 2014, is this mandate something the state can really afford at this time? Will it truly change outcomes for students?

The Hawaii State Board of Education recently passed a policy on performance evaluations meant to facilitate implementation of a “system”, if this bill moves forward. The BOE's policy contains several glaring errors, and we have raised our concerns. For example, their policy refers to probationary teachers as “at will” employees, who may be terminated at any time by the DOE, without recourse to HSTA’s—or any—grievance procedure. At will employment defines an employment relationship in which the employer can break the relationship without liability if there is no contractual arrangement governing employment or the employee does not belong to a collective bargaining unit. Probationary teachers are not “at will” employees, but union members subject to the HSTA-BOE master agreement as defined by statute. They become contracted employees when hired. The only way to mandate unilateral departmental authority over hiring and firing is to



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specifically exclude probationary teachers from the master agreement by canceling their collective bargaining rights. This policy, it must be concluded, is a clear violation of Article XIII of the State Constitution, which provides the right to collective bargaining for all public employees.

Additionally, HSTA research has shown performance evaluations **must** be based upon multiple facets of a student's performance and a well developed evaluation process must be designed with clear targets that are fair, coherent, and validated by research on teaching practice. We must address not only a student's test taking skills, but also their long-term academic performance and growth. While this bill prohibits the use of a single standardized test in relating student achievement to teacher effectiveness, it does not prevent the *sole* use of standardized assessments. The National Education Association has stated, "Evaluations must be meaningful; providing all teachers with clear and actionable feedback linked to tailored professional development." We are also concerned that this bill may hold teachers responsible for the continuing, lifelong education of their students. In its current form, this proposal penalizes teachers whose students' entrance into and achievement in postsecondary schooling does not immediately follow high school graduation. Section 3, subsection (a)(6)(D) states that performance indicators may include "Rates of students entering and persisting in postsecondary education and training." How do you interpret this indicator statement? Since our teachers cannot control economic conditions or decisions made within a family, they should not be held accountable for educational choices based on these factors, like higher education enrollment.

We must remind you that federal RTTT officials are visiting Hawaii, this week, to reassess the state's grant status, and have said that they will not be making any final judgement for several weeks, after they depart. That means this bill cannot be implemented prior to reassessment, leaving only the DOE's recently launched pilot evaluation program, currently being hosted in two "zones of



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innovation” (Nanakuli and Wai’anae on Oahu, as well as Ka’u, Keaau, and Pahoia on the Big Island), as evidence of “progress.” Because the pilot evaluation program is, by definition, an experimental program, its results cannot and should not be interpreted as representative of all schools. Like any pilot program, the costs and benefits of the experiment must be analyzed at regular intervals and cannot be fully determined prior to the program's completion. It is too soon to tell whether or not the model used in the program will lead to lasting gains in teacher effectiveness and student achievement. What happens if student achievement declines during the experiment? What happens if the DOE's longitudinal data tracking system suffers a technological glitch or fails? Would evaluations be performed based upon compromised data? A decision that effects the compensation and employment of the state's 13,000 teachers should not be based on speculation. Because the pilot program remains in its infancy, however, these scenarios, as troubling as they may be, are just as possible as more hopeful pictures drawn by the DOE.

Across the nation, data collection has been besieged by errors, costly to communities, and often misinterpreted by the media and public. If our schools are the centers of their communities, they must be provided with accurate information to boost student achievement. Please consider the damage and mistrust that could result from launching a new evaluation system without proper preparation, including harm to schools' relationships with the communities they serve. Will the DOE, BOE and legislators accept responsibility if the new evaluation guidelines fail, after being hastily implemented? Or will teachers who have had little input on these policies, be blamed for setbacks, as they so often have before? Teachers are not worried about being held accountable but this bill gives them little comfort about their inclusion in the design and implementation of a new evaluative model that will ultimately be used to judge their professional status.



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This bill circumvents the collective bargaining process and may set a precedent for allowing the state and the Governor to use the Legislature anytime it doesn't get its way during labor negotiations. Therefore, on behalf of our members, we must oppose this measure. We ask that you do the same.

Thank you for the opportunity to testify.

