July 8, 2008

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

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2972 HD1 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2972 HD1 SD2 CD1 A BILL FOR AN ACT RELATING TO EDUCATION.

Sincerely,

LINDA LINGLE
EXECUTIVE CHAMBERS
HONOLULU
July 8, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2972

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2972, entitled "A Bill for an Act Relating to Education."

The purpose of this bill is to create a school Facilities Alignment Commission within the Department of Education, require the Department of Education to develop and provide a school facilities plan to the Commission, and require the Board of Education to implement the recommendations of the Commission unless they are disapproved in their entirety by the Legislature.

This bill is objectionable because it unfairly targets a selection of schools in specific geographic areas of the State. No rationale was provided as to why these school complexes were singled out while others were not targeted for possible closure or consolidation. Further, this was done without the public being given an opportunity to comment on this amendment prior to final passage of this bill.

This bill is also objectionable because the Facilities Alignment Commission it creates would be exempt from chapter 91, Hawaii Revised Statutes, covering public access and disclosure of information.
For the foregoing reasons, I am returning House Bill No. 2972 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

SECTION 1. The legislature finds that with in-migration and the aging of our population, among other things, the demographics of the state are evolving. Over the past twenty-five years, the statewide population has increasingly shifted from the urban core to the suburbs, especially on Oahu, where the population center has steadily moved to the western side of the island. Meanwhile, Kihei, Maui, and West Hawaii are some of the areas in the state with the fastest-growing populations. These demographic shifts have overburdened public school facilities in growing areas and left some public school facilities in other areas underused. Thus, the legislature believes there is a need to revitalize school facilities statewide, including building or expanding schools in certain areas and consolidating or closing schools in other areas.

However, the legislature finds that despite broad-based public recognition of Hawaii's changing demographics, there is often little public support for changes that affect specific
constituencies. In particular, this is true of proposals to close or consolidate public schools to maximize resources.

The legislature recognizes the difficulties, political and otherwise, inherent in these decisions. But in the face of increasing educational needs, the legislature believes that just as the construction or expansion of some schools is important, the consolidation or closure of other schools is also necessary. It is important that any actions be taken through a very objective and transparent process that benefits the greatest number of public school students and their families.

The purpose of this Act is to revitalize school facilities statewide and to more effectively and efficiently use our taxpayers' investment in public education. Specifically, this Act provides for the timely closure or consolidation of underused public schools in Hawaii through an objective and transparent process that:

(1) Includes the establishment of a facilities alignment commission that shall:

(A) Establish criteria for the selection of public schools to be consolidated or closed; and
(B) Recommend, based upon these criteria, a list of 
schools for consolidation or closure, which is 
subject to review by the legislature;

and

(2) Directs the board of education to proceed with the 
process of consolidating or closing underused schools 
according to the recommendations of the facilities 
alignment commission, if the legislature does not 
disapprove of the recommendations in their entirety.

SECTION 2. Facilities alignment commission. (a) There is 
established the facilities alignment commission, to be attached 
to the department of education for administrative purposes. The 
commission shall be composed of nine members appointed by the 
governor; provided that:

(1) Three members shall be appointed from a list of 
nominees submitted by the president of the senate, of 
which two shall be persons with professional 
experience in education, including former or current 
teachers or administrators;

(2) Three members shall be appointed from a list of 
nominees submitted by the speaker of the house of 
representatives, of which two shall be persons with
professional experience in education, including former
or current teachers or administrators; and

(3) At least one member shall be a representative of the
department of education.

(b) A majority of the commission’s membership shall be
persons with professional experience in education, including
current or former teachers or administrators.

(c) With the sole exception of those who are education
professionals, members of the commission shall not be employees
of the State.

(d) The chairperson of the commission shall be selected by
the members of the commission.

(e) For all actions of the commission, five members shall
constitute a quorum to do business, of which a majority vote
shall suffice.

(f) The commission shall be exempt from chapter 91, Hawaii
Revised Statutes, but shall be subject to chapters 92 and 92F,
Hawaii Revised Statutes.

(g) The members of the commission shall serve without
compensation but shall be reimbursed for expenses necessary for
the performance of their duties, including travel expenses.
(h) The department of education shall provide administrative support to the commission. The commission shall have access to all records in the department of education pertinent to its duties and may request research and analysis assistance from the department of education. Pursuant to chapter 92F, Hawaii Revised Statutes, the commission shall withhold from public disclosure all confidential information received or maintained by the commission.

(i) The commission shall terminate upon adjournment sine die of the regular session of 2011.

SECTION 3. Procedures for making recommendations for school alignment; school facilities plan. (a) The department of education shall submit to the commission by June 30, 2009, a school facilities plan. The school facilities plan shall be based on the department's assessment of the projected student enrollment for the following:

1. (1) Elementary schools in the Castle, Farrington, Hilo, Kahuku, Kailua, Kaiser, Kalaheo, Pearl City, and Waiakea complexes; and
2. (2) Schools in the Honokaa, Kaimuki, Laupahoehoe, and Waialua complexes.
In conducting the assessment of the projected student enrollment, the department of education shall:

1. Consider the six-year program and financial plan prepared pursuant to section 37-69, Hawaii Revised Statutes, to the extent it is applicable;

2. Develop and consider a projection of the enrollment at the schools set forth in subsection (a) and the resulting need for facilities; and

3. Consider other reliable data relative to population growth and trends, and anticipated levels of funding necessary for the schools set forth in subsection (a).

The school facilities plan shall include:

1. A description of the assessment of projected student enrollment required under subsection (a);

2. A comprehensive inventory of all department of education facilities at the schools set forth in subsection (a); and

3. Recommendations for the consolidation or closure of underused schools based on the projections and assessment made pursuant to this section.
SECTION 4. School alignment selection criteria. (a) By December 31, 2009, the commission shall establish the criteria that will be used by the commission to select:

(1) Schools to be consolidated, other than charter schools; and
(2) Underused schools to be closed, other than charter schools.

(b) The criteria shall require the consideration of:

(1) The overuse or underuse of school facilities;
(2) The academic and extracurricular achievement or successes of the student body, and whether that success was due at least in part to the existing size of the school;
(3) The best interests of the students and preserving their potential for success;
(4) The impact of the consolidation or closure of a school on the community in which it is located;
(5) The costs or savings resulting from the continued operation, consolidation, or closure of a school, including the costs of deferred and future repair and maintenance; and
(6) Alternative uses of the facilities, land, and property assets of schools proposed to be consolidated or closed, with priority for other educational uses; provided that consideration be given to any action necessary to effectuate an alternative use, which shall include a rating to indicate the likelihood of timely completion of each action, and the method of projecting any revenue increase to the department of education and the State.

(c) Before finalizing the school alignment selection criteria, the commission shall hold public hearings to obtain public response to the commission's proposed criteria. For each public hearing, the commission shall provide appropriate notice, as defined in section 1-28.5, Hawaii Revised Statutes, both statewide and county-wide in each county of the state. The commission shall make available to the public draft copies of its proposed criteria not less than two weeks prior to the start of the public hearings.

SECTION 5. Preliminary recommendations. (a) By February 28, 2010, based on the school facilities plan developed pursuant to section 3 and the final school alignment selection
criteria adopted pursuant to section 4, the commission shall compile a preliminary list of recommended:

(1) Schools to be consolidated, other than charter schools; and

(2) Underused schools to be closed, other than charter schools.

(b) The list of recommendations shall include a summary of the selection process that resulted in the recommendation of each school on the list, including a justification for each recommendation.

SECTION 6. Public hearings and final recommendations by the commission. (a) By August 31, 2010, the commission shall hold public hearings to obtain public response to the commission's preliminary recommendations. For each public hearing, the commission shall provide appropriate notice as defined in section 1-28.5, Hawaii Revised Statutes, both statewide and county-wide in each county of the state. The commission shall make available to the public draft copies of the preliminary recommendations not less than two weeks prior to the start of the public hearings.

(b) Not less than twenty days prior to the convening of the regular session of 2011, the commission shall submit to the
legislature a report of its findings and conclusions, including
a final list of recommendations for:

   (1) Schools to be consolidated, other than charter
       schools; and
   (2) Underused schools to be closed, other than charter
       schools.

   (c) The final list of recommendations shall be subject to
       legislative disapproval only in its entirety, by concurrent
       resolution.

   (d) If the legislature does not disapprove the
       recommendations pursuant to subsection (c), then after the
       adjournment sine die of the regular session of 2011, the board
       of education, during the 2012-2013 school year, shall begin to
       expeditiously implement the recommendations of the commission to
       consolidate or close underused schools.

   SECTION 7. This Act shall take effect on July 1, 2008.