

**SB2570**



**EXECUTIVE CHAMBERS**

HONOLULU

**LINDA LINGLE**  
GOVERNOR

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

Before the  
**SENATE COMMITTEE ON EDUCATION & HOUSING**

Monday, February 8, 2010, 1:45 PM  
State Capitol, Room 225

**S.B. 2568, S.B. 2938, S.B. 2569, S.B. 2570, S.B. 2571**

Chair Sakamoto, Vice Chair Kidani, and members of the Committee:

Thank you for hearing bills today that propose to restructure Hawaii's public education system. The Administration recommends that the Committee adopt the approach and language contained in the Administration-sponsored bills, S.B. 2705 and 2706.

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.

The Administration cautions the Committee against passing out bills that have the appearance of education reform, but merely make changes to the way in which Board of Education members are selected. For example, S.B. 2569 and S.B. 2571 establish a commission to nominate candidates to the Board of Education. To do so would actually create another layer of bureaucracy to an already opaque governance system and move the State further away from creating a system of increased accountability.

Therefore, we strongly urge the committee to adopt the language in S.B. 2706 and 2707, in lieu of the provisions in the bills being heard today. A proposed organizational chart for the Department of Education is attached for the Committee's review. Thank you for the opportunity to provide testimony on these measures.

Date of Hearing: Monday, February 8, 2010

Committee: Senate Committee on Education and  
Housing

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: S.B. No. 2570, 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 allow the Governor to appoint the members of the Board of Education, 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.

Board's Position: Chairperson Sakamoto, Vice Chairperson Kidani, and members of the Senate Committee on Education and Housing, thank you for the opportunity to testify on S.B. No. 2570.

The Board of Education (Board) opposes S.B. No. 2570, 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 Governor-appointed board would centralize educational decision-making too largely in the Executive Branch. Under S.B. No. 2570, 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 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 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 in office and have the ability to elect individuals out of office.

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

Educational improvements are a continuous process that occurs over time. Educational improvements occur when our educational system, schools, and classrooms are supported with adequate resources, a strong curricula, effective teachers, and other direct

learning supports and resources to help children learn. These supports will have the strongest and most direct impact on student learning and achievement.

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

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

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

Thank you for the opportunity to testify on this measure.



**SB2570**  
**PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, TO CHANGE THE**  
**BOARD OF EDUCATION FROM AN ELECTED BOARD**  
**TO AN APPOINTED BOARD**  
Committee on Education and Housing

Date: February 8, 2010  
225

Time: 1:45 p.m.

Room:

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The Office of Hawaiian Affairs (OHA) stands in opposition to SB 2570 which proposes an amendment to Article X, Section 2, of the Hawai'i Constitution, to change the Board of Education from an elected board to an appointed board. The State Board of Education has its roots in the school laws of 1840 as does the entire educational system which as established by Kauikeaouli, Kamehameha III. It was he who stated, "Mine shall be a kingdom of literacy. The righteous man shall be the model of citizenry. The life of the land is perpetuated in righteousness". ". That kingdom of literacy and the school laws of 1840 would be shaped by the Massachusetts School Laws of 1642 and 1647 developed so that the "youth would be fit for ye (the) university". Each community, then, elected a local committee to govern the operation of the school (Wist, 1940). While times have indeed changed, the Board of Education continues to reflect this long-held American tradition of lay governing boards and citizen participation in the educational process. Furthermore, the election of the board of education reflects a deeply held American value of the separation of powers and this is especially true in regards to the separation of educational policymaking from partisan politics.

According to a policy statement by the national Association of State Boards of Education (January 2007):

"While others in the policymaking process tend to reflect specific concerns and more political perspectives, the state board is intended to serve as an unbiased broker of education decisionmaking, focusing on the big picture, articulating the long-term vision and needs of public education, and making policy based on the best interests of the public and the young people of America."

Therefore, OHA opposes any change to the Hawai'i Constitution regarding changes at this time to an elected board of education as

proposed in SB 2571. The Hawai'i Constitution, Article X, Section 2, currently serves the people of Hawai'i.

However, OHA does recognize the longstanding discussion on the locus of control and accountability issue with the state's large educational system. Native Hawaiians, who once enjoyed high literacy rates in kingdom schools, now find themselves at the bottom tier of statistics in academic achievement, school retention, and graduation and in the upper tier for higher percentages in absenteeism rates, special education enrollment, and teen pregnancy. There is a need for change in structure and governance.

Much work has already been done in researching Hawai'i's governance structure and its many problems. Several studies have been conducted and recommendations made by previous administrations. Governor Burns convened the Commission on Operation, Revenues, and Expenditures (CORE) which recommended decentralization. Governor Waihe'e used the Berman Report of 1988 which recommended a shift to community-centered school system and local school and community boards in his administration's attempt to decentralize the D.O.E. In 1992, the Task Force on Educational Governance headed by then Lt. Governor Ben Cayetano also recommended shifting locus of control and decision-making to schools. Therefore, OHA recommends that the state rethink the issue and contemplate amending the Hawai'i Constitution to institute elections for local school boards but appoint a statewide school board. This is common practice in other states.



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## TESTIMONY BEFORE THE SENATE COMMITTEE ON EDUCATION AND HOUSING

RE: SB 2568, SB 2938, SB 2569, SB 2570, SB 2571, SB 2242, SB 2958, SB 2959,  
SB 2961

February 8, 2010

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Sakamoto and Members of the Committee:

The Hawaii State Teachers Association believes in an elected school board.

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

We believe in an elected Board of Education because we believe that an elected board is more likely to represent the view of the voters rather than the interest of the governor who appoints them. Elected board members would be accountable to the community, rather than be accountable to an individual, the governor. The electorate would hear what the candidates stand for and so would know what they were electing. Voters are more engaged, to know who the candidates are and to ask them questions about their positions. Under a system where offices are appointed, voters are not given an opportunity to directly question the people who will be making decisions. This interaction generates interest and ownership of our school system.

An appointed board would disenfranchise the parents who are active in the development of the school system.

One of the arguments against of an elected board is that the voters do not know who the candidates are. We urge this committee to give serious consideration to House Bill 2424 which creates board districts. The board member would run from and be elected from a board district. This would create direct accountability to the voters.

We urge this committee to keep an elected board of education.

Thank you for opportunity to testify.

# **Hawaii Business Roundtable**

**Testimony to the Senate Committee on Education and Housing**

**Monday, February 8, 2010**

**1:45 p.m.**

**Conference Room 225**

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

Chair Sakamoto, Vice Chair Kidani 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 570 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.

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.

Gary K. Kai, Executive Director  
Hawaii Business Roundtable  
1003 Bishop Street, Suite 2630  
Honolulu, Hawaii 96813



Monday, February 8, 2010  
1:45 p.m.  
Conference Room 225

TESTIMONY TO  
THE SENATE COMMITTEE ON EDUCATION AND HOUSING

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

Chair Sakamoto, Vice Chair Kidani, and Members of the Committee:

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

The Association is in **strong support of Senate Bill 2570**, 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.



Monday, February 8, 2010  
1:45 p.m.  
Conference Room 325

TESTIMONY TO  
THE SENATE COMMITTEE ON EDUCATION AND HOUSING

RE: SB 2570 – Proposing an Amendment to Article X, Section 2, of the Hawai'i Constitution, to Change the Board of Education from an Elected Board to an Appointed Board

Dear Chair Sakamoto, Vice-Chair Kidani and Members of the Committee:

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

We are strongly supportive of the intent of SB 2570. In view of the current state of our education system and widespread public dissatisfaction, we believe the time is ripe for letting the community decide on how Board of Education members should be selected.

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

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

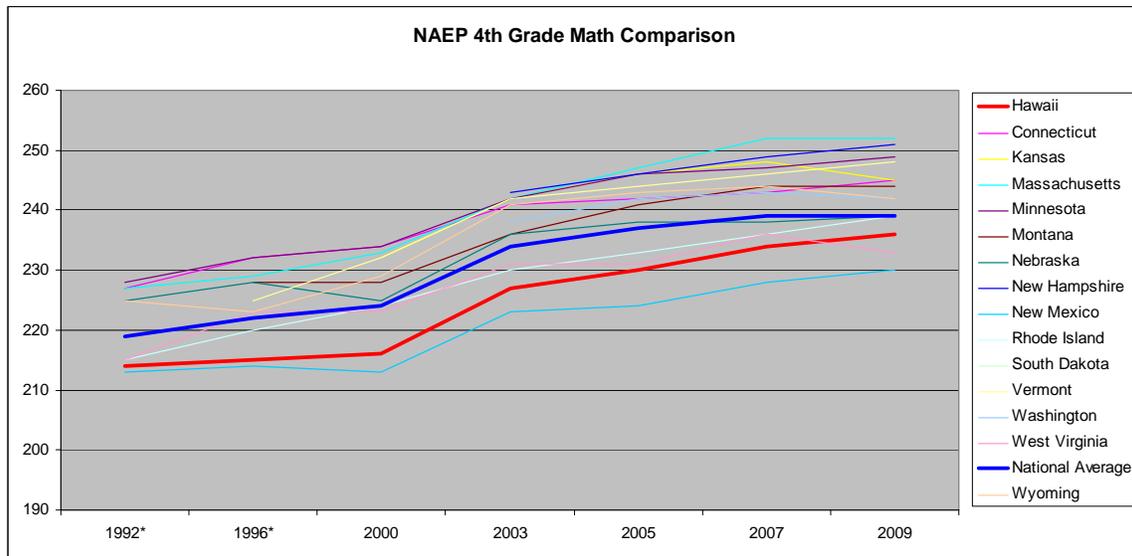
While there are many examples of excellent principals, teachers and students, there is one inescapable conclusion – the system as a whole is letting our children and the community down. Consider the following statistics:

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

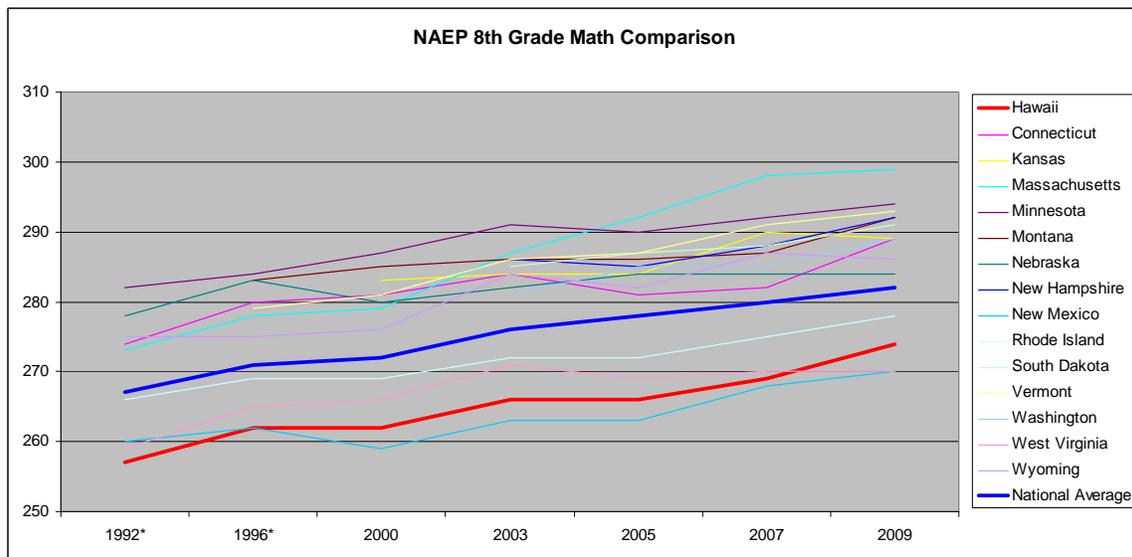
58% of our schools in 2008 did not meet Adequate Yearly Progress.

If we consider National Association of Educational Progress (NAEP) scores and compare Hawai'i to the U.S. average and “comparable” states (as defined by the Legislature, DOE and Hawai'i Education Policy Center in 2007), we are well behind in achievement:

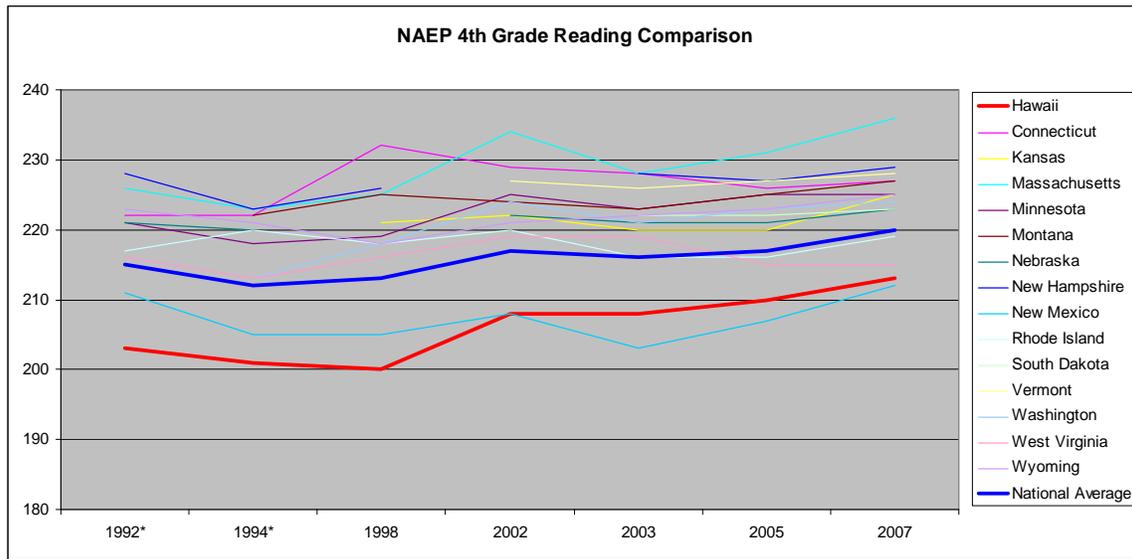
**2009 – 4<sup>th</sup> Grade Math Ranking = 38<sup>th</sup>**



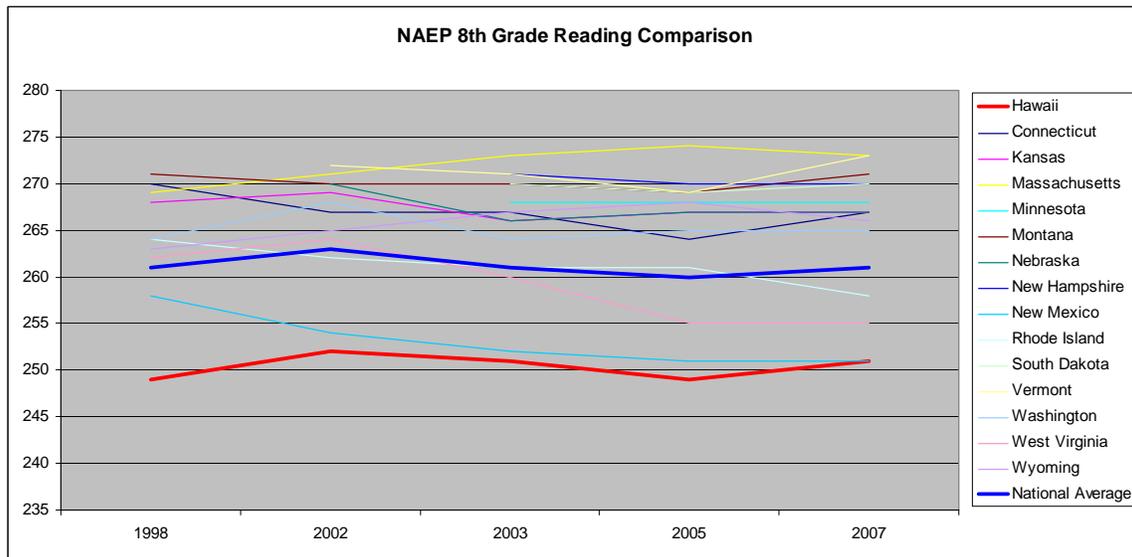
**2009 – 8<sup>th</sup> Grade Math Ranking = 43<sup>rd</sup>**



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



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



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

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

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

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

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

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

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

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

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

Thus, we strongly urge the Committee to pass SB 2570 to restore accountability and efficiency in public education and to support a more prosperous education system that places Hawai'i's children first.



**S E A C**  
**Special Education Advisory Council**

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February 8, 2010

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Mr. Steve Laracuente, *Vice  
Chair*

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Ms. Judy Tonda  
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Mr. Duane Yee  
Mr. Shawn Yoshimoto

Jan Tateishi, Staff  
Susan Rocco, Staff

Senator Norman Sakamoto, Chair  
Senate Committee on Education and Housing  
State Capitol  
Honolulu, HI 96813

RE: SB2570 - 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

Dear Chair Sakamoto and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State  
Advisory Panel under the Individuals with Disabilities Education Act  
(IDEA), **opposes** SB 2570 which 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.

SEAC's position is that having a Board of Education whose members  
are elected in a nonpartisan manner rather than appointed provides  
a needed check and balance to unilateral decisions by the Governor  
regarding public education. We also believe that the proposed BOE  
Candidate Nomination Commission is an unnecessary layer of political  
bureaucracy.

Thank you for the opportunity to provide testimony on this issue.  
Should you have any questions, I would be happy to answer them.

Sincerely,

Ivalee Sinclair, Chair