



L A T E

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132



BY E-MAIL

March 12,, 2008

The Honorable Norman Sakamoto, Chair and Members
Senate Committee on Education
Hawaii State Capitol, Room 225
Honolulu, HI 96813

Re: Testimony on House Bill No. 2972, HD1 Relating to Education

Dear Chair Sakamoto and Members:

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulations affecting common problems in Hawaii.

We appreciate the opportunity to provide our testimony **in support of HB 2972, HD1**, and to also provide some background and history relating to this bill.

Background. This bill recognizes the fact that over the past 25 years, the demographics of the State of Hawaii have evolved, as the statewide population has increasingly shifted from the urban core to the suburbs, especially on Oahu, where the State and County governments have planned the shift in the population to the Central Oahu area and the "Second City" of Kapolei in the west. The bill also acknowledges that some of the fastest-growing populations in the state are on the neighbor islands, particularly in Kihei, Maui and West Hawaii. It is also a fact that these demographic shifts have overburdened public school facilities in growing areas and have also resulted in unused and underutilized school facilities in other areas.

Purpose. The purpose of this bill is to revitalize the Department of Education ("DOE") school facilities statewide and to more effectively and efficiently use our taxpayers' investment in public education. Specifically, this bill provides for the timely construction, expansion, consolidation, or closure of underused public schools in Hawaii through an objective and transparent process.

HB 2972, HD1. This proposed bill would create a Facilities Alignment Commission, which would establish criteria for the selection of public schools to be constructed, expanded, consolidated, or closed; and recommend areas for new school construction, schools for expansion, consolidation, or closure. It would also require the Board of

Education to comply with these recommendations if the Legislature does not disapprove of them in their entirety. Generally, this bill creates a process that:

- Establishes the Facilities Alignment Commission which shall:
 - Establish Criteria for the selection of public schools to be constructed, expanded, consolidated, or closed; and
 - Recommend, based upon those criteria, a list of areas for new school construction, and of schools for expansion, consolidation, or closure, which is subject to the review of the legislature; and
- Directs the Board of Education to proceed with the process of constructing, expanding, 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.

Prior related efforts: SB 292 DOE Asset Management (2005), SB 611 DOE Asset management, DOE Advisory Council, DOE Advisory Council, and the “Common School Fund” Proposal. HB 2972 is related to the previous work done by the DOE, LURF and other stakeholders over the past few years.

- **SB 972 (2005).** In 2005, pursuant to SB 972, the legislature considered the establishing the authority of the Board of Education (“Board”) and DOE to own and administer all of the lands and facilities being used for the public schools of Hawaii.
- **SB 611 (2007) proposal to transfer lands and facilities to DOE.** In 2007, a similar version was presented as SB 611, which proposed to transfer all public lands and facilities in use for public schools to the DOE. That bill also empowered the Board and DOE to acquire, sell, lease, transfer, hypothecate, develop, and enter into agreements for the improvement of lands and facilities under its control for the support of the public schools.
- **SB 690 (2007) proposal for DOE cost-benefit analysis and additional school funding based on savings from school closures or consolidation.** This proposal would have required the DOE to do a cost-benefit analysis to determine the cost savings of school closures or consolidations, and would have required that 50% of the savings be retained by the affected schools for a period of not less than five years.
- **DOE Advisory Council.** SB 611 (2007) was the result of one of the working groups from the DOE Advisory Council, which was created to evaluate the merits of DOE’s various proposals being implemented, and to make recommendations on establishing measurable goals and objectives.
- **Capital Improvement Projects (“CIP”) Public Private Partnership Group.** One of the working groups from the DOE Advisory Council was the CIP Public Private Partnership group, which explored “non-traditional” alternatives for building new schools, or redeveloping existing schools. The term “non-traditional” was meant to describe the processes or methods not presently being used by the DOE.
- **Common School Fund Program.** The idea of giving the DOE the power and authority to own the land under the school facilities is based on the “Common School Fund” programs or “Land Grant Schools” on the mainland. Many of the school lands in the western United States were provided by Congress to each of the states via “land grants” at the time each state joined the United States. The land grants were originally made for a single explicitly stated purpose - - to support common schools and similar public institutions. These granted lands are

generally known as “Common School Fund Lands,” and are held by the states, together with any permanent funds and revenues generated from the lands, and all of those assets are generally viewed as a “trust.” Most of the western states manage the Common School Fund Lands, either for use as school sites, or to generate revenues for the schools. The corpus of the trust is determined by the value of the land, any permanent funds and any revenues generated by the lands. Hence, the trust land managers in those states approach their management responsibilities under the same array of rules and enforcement mechanisms that surround any legal trustee with fiduciary duties.

- **Management of DOE lands as “trust” lands for the benefit of DOE schools.** The prior Hawaii legislation listed above, was based on an idea similar to the “Common School Fund Lands program - - that the existing DOE school lands could be used to create a trust for the DOE public schools. Somewhat like Kamehameha Schools Bishop Estate (“KSBE”), the DOE lands could then be managed as a “trust,” and the DOE will have the ability to leverage underutilized land assets for redevelopment, joint venture, revenue production, and other opportunities similar to a real estate company or KSBE. Considering the need to attract and retain teachers, and the prospects of a fixed-guide-way system for Oahu, the bill would allow for the repositioning some of the “underutilized school sites” in the City’s Primary Urban Center could be used to provide teacher housing and/or be the center of a transit oriented development (“TOD”).

Repositioning DOE and its land assets for the future. As noted in LURF’s 2007 testimony, it is our understanding that the DOE has approximately the same number of students today (+/-180,000) as they did 30 years ago. The difference being the concentration of the student population has moved. This creates situations where existing assets are underutilized and provides opportunities to reposition these real estate assets for future needs. This could involve redevelopment of the site for a new school, allowing for mixed use with a redeveloped school and possibly teacher housing, or provide for new revenue sources based on long term leasing of the property.

Conclusion. The Facilities Alignment Commission proposed in HB 2972, HD1, is an important step in having the DOE and Board review, evaluate and make the best use of its assets and resources. If in the future the DOE, Board and Legislature decide that the DOE should hold and manage its land assets and resources as a “trust” - - this bill could be the first step in helping the DOE toward earning some much-needed revenue and become self-sustaining. We understand that the proposals discussed in this testimony are very different from how DOE operates today; however, the intent here is to reposition DOE to allow them to become more self-sufficient, more accountable and to be poised to take advantage of future opportunities to improve the quality of education for our children.

We support the proposed HB 2972, HD1 and hope that the committees move it forward to allow for more discussion on this matter.

Thank you for this opportunity to express our views.