

LATE TESTIMONY

Date: 02/11/2011

Committee: House Water, Land & Ocean Resources

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

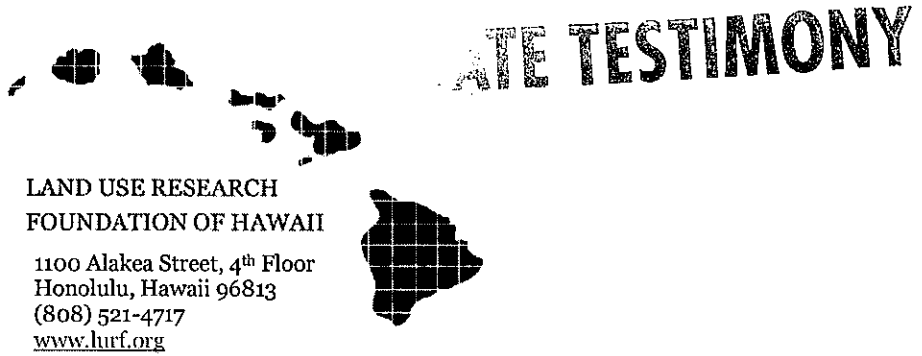
Title of Bill: HB 0952(hscr147) RELATING TO PUBLIC SCHOOL LANDS.

Purpose of Bill: Establishes the public school lands trust to provide for the maximum use of public school lands in order to generate income to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and beyond.

Department's Position: The Department of Education understands that the intent of this bill is to provide a mechanism for (a) DOE to identify and have developed or redeveloped portions or all of a DOE school campus and (b) directing the net income resulting from such development or redeveloped to innovative DOE projects or programs that would not otherwise be likely to be funded.

At present, there is no clear mechanism under which all or portions of DOE school campuses could be developed or redeveloped and remain under the control of DOE. HB 952 could provide such a mechanism. The current language of the bill does not clearly accomplish this, and our request is that your committee either amend it to reflect our understanding of its intent, or keep it alive in its present form for amendment by another committee.

Thank you for the opportunity to testify.



February 11, 2011

Representative Jerry Chang, Chair and Representative Sharon Har, Vice Chair
Committee on Water, Land and Ocean Resources

Testimony of the Land Use Research Foundation of Hawaii

Support of HB 952, Relating to Public School Lands. (Establishes the public schools land trust to provide maximum use of public school lands in order to generate income to improve public school facilities and infrastructure.)

Thursday, February 11, 2011 at 8:30 a.m. in CR 325

My name is Dave 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, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

HB 952. This bill establishes the public school lands trust to provide for the maximum use of public school lands in order to generate income required to improve public school facilities and infrastructure, and create a learning environment which will maximize student achievement and prepare students to meet the challenges of the twenty-first century and succeed in today's highly competitive economy.

Background. HB 952 recognizes that the considerable amount of underutilized public school lands on the State's 257 school campuses may be used as a resource (e.g., redeveloped) to enable the building of public school infrastructure to make classes fit for twenty-first century learning. The beneficiaries would be Hawaii's public school children, especially the native Hawaiian population, which currently comprises 28 percent of the students in the State's public school system.

LURF's Position. LURF supports this bill because it establishes an innovative method through which the State may use its assets to obtain funding to benefit Hawaii's public school children.

LURF has consistently supported creative legislation, especially legislation targeted to further education in this State. In 2007, LURF testified in support of legislation proposed to establish a two-year pilot project within a designated complex area which would authorize reallocation of resources within the schools in the complex area to achieve greater efficiency and cost-

effectiveness. Other prior education-related efforts by the State Department of Education (DOE), LURF and other stakeholders over the past years include:

- **SB 292 (2005) proposal to grant DOE Asset Management authority.** In 2005, pursuant to SB 972, the legislature considered the establishing the authority of the 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.
- **DOE Advisory Council: SB 611 (2007).** SB 611 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.
- **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.

As noted in LURF's 2007 testimony in support of the above measures, the DOE has approximately the same number of students today (+/-180,000) as they did 30 years ago, the difference being that the concentration of the student population has moved. This creates situations such as with the present bill, where existing assets are underutilized and provides opportunities to reposition these real estate assets for future needs. Possibilities include redevelopment of the site for a new school; allowing for mixed use with a redeveloped school and possibly teacher housing; or providing for new revenue sources based on long term leasing of the property.

The following are various other initiatives that the DOE, other stakeholders, and the Legislature may wish to pursue in the future:

- **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 and programs.** 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 KSBE or any other real estate corporation. 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 redeveloped to provide teacher housing and/or generate income for the DOE as a center for a mixed-use transit oriented development (“TOD”).

Conclusion. LURF supports HB 952 as an inventive means of using underutilized assets to generate funding for the benefit of public school children, and hopes that this Committee moves it forward.

Thank you for this opportunity to present testimony regarding this matter.