



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Thursday, February 21, 2013, 9:00 AM  
State Capitol Room 211

Testimony of  
Policy Office of the Governor, State of Hawaii

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

SB 237\_SD 1 - Relating to Public School Lands

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

Thank you for the opportunity to testify in support of Senate Bill 237, Senate Draft 1 (SB237\_SD1). The bill would enable a public-private partnership that allows the Department of Education to lease underutilized lands to generate income to be used to upgrade existing schools or construct new schools. The Governor supports the purpose of the bill.

As Governor Neil Abercrombie stated in his State of the State, an innovative approach, such as the one proposed in SB237\_SD1, is necessary to address our public schools' facilities needs. Our schools are on average 65 years old, and many facilities have been ignored due to limited budgets. With the Legislature's support, the Hawaii Department of Education (DOE) has made significant progress on reducing the repair and maintenance backlog in our schools. However, the DOE reported prioritized capital improvement needs of \$620,975,000 for the biennium, and identified the need for 11 new schools in growing communities. These needs outpace historical legislative appropriations.

The Twenty-First Century Schools initiative, enabled by SB237\_SD1, is a public-private partnership that would allow the Department of Education to lease underutilized lands for the purpose of generating income to be used to upgrade existing schools or construct new schools. SB237\_SD1 proposes that up to two projects, approved by the Board of Education, be conducted in order to demonstrate the proof of concept. The process engages the Lieutenant Governor as a facilitator of the project. The bill requires community engagement, contains no exemptions, and affirms the requirements of the

Board of Education for public meetings. Furthermore, the bill establishes a special fund to ensure that any revenue generated from the pilot projects be reserved for improvements in public school facilities.

Public-private partnerships to use school lands differently would provide opportunities for the State to use available lands to enable twenty-first century facilities for public education. Leasing the underutilized lands can generate income to supplement state appropriations to upgrade existing schools or construct new schools to twenty-first century standards and opportunities. By engaging in public-private partnerships, refocusing uses of these properties will support community-driven redevelopment and help communities to make better use of land while increasing educational and economic opportunities for the benefit of Hawaii's public school children.

Success will require a community-based policy and planning approach. Any use of public lands must be compatible with and provide benefits to the surrounding community. Teachers, administrators, students, parents, community residents and other stakeholders must play a meaningful role in the planning, design and partnership between the school and surrounding community.

The Governor looks forward to the continued dialog about this promising initiative.

**LATE**

Written Comments

NEIL ABERCROMBIE  
GOVERNOR



KATHRYN S. MATAYOSHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/21/2013

**Committee:** Senate Ways and Means

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 0237,SD1(sscr200) RELATING TO PUBLIC SCHOOL LANDS.

**Purpose of Bill:** Establishes a three-year pilot program to generate revenue for the use of public school land. Specifies that the lieutenant governor, in consultation with the department of education, board of education, and other appropriate agencies, shall be the facilitator of the pilot program. Authorizes the lease of certain public school lands for public purposes, including but not limited to the development of workforce housing rental units, under specified conditions. Establishes the school facilities special fund within chapter 302A, HRS. Repeals the schools facilities special fund in chapter 171C, HRS. Requires the lieutenant governor to submit a report to the legislature. Makes an appropriation for the pilot program, including a summary of the school and community engagement efforts. Pilot program repeals 6/30/2016.

**Department's Position:**

The Department of Education (DOE) supports this bill. The DOE appreciates the challenges in bringing our schools up to 21<sup>st</sup> Century standards and the costs involved in such an undertaking. Because this bill creates a three (3) year pilot program, it presents an opportunity to analyze options that may be available to create a new revenue source for new school construction.

Because the Lieutenant Governor shall serve as the facilitator of the pilot program, the Board of Education and the DOE will work closely with the Lieutenant Governor to determine the most appropriate options to identify DOE schools that would be deemed appropriate as signature projects for this pilot. The DOE supports the creation of a school facilities special fund administered by the DOE into which any proceeds from this pilot will be deposited. These funds are to be used for new construction, upgrade of twenty-first century school facilities and repair and maintenance of existing school facilities.

The DOE believes that the provisions of this bill will enable the DOE to take advantage of all options available to it as it strives to align our facilities with 21<sup>st</sup> Century learning concepts, which will in turn establish the blueprint for the entire DOE inventory.

Thank you for this opportunity to provide testimony on this bill.



STATE OF HAWAII  
BOARD OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Senate Committee on Ways and Means**  
Senator Michael Y. Ige, Chairperson  
Senator Michelle N. Kidani, Vice Chairperson

Thursday, February 21, 2013  
9:00 a.m.  
Hawai'i State Capitol, Room 211

**Testimony of Don G. Horner, Chairperson**

**Testimony in SUPPORT of the INTENT of SB 237 SD1, Relating to Public School Lands**

The Board of Education fully supports the intent of SB 237 SD1 which is optimizing public school lands to generate opportunities to improve school facilities, ultimately improving student achievement.

The Board of Education wants to ensure that it retains the necessary oversight in order to effectuate the purpose of this measure and appreciates that the pilot program remains under the control of the Department of Education.

Thank you for the opportunity to testify in support of this measure.



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

SB237 SD1: Relating to Public School Lands

Testimony of  
Jeanne Schultz Afuvai  
Executive Vice President

Thursday, February 21, 2013 at 9 a.m.  
State Capitol, Conference Room 211

Dear Chair Ige, Vice-Chair Kidani and members of the Committee:

The Hawaii Institute for Public Affairs **supports** Senate Bill 237 Senate Draft 1, which would establish a three-year pilot program within the Office of the Lieutenant Governor to allow for the limited lease of public school lands and facilities under the authority of the Department of Education to generate revenue for the school facilities special fund.

By way of background, in 2009, HIPA initiated the 21<sup>st</sup> Century Schools Initiative, a research and community-based effort to develop an innovative, systemic, and practicable approach to upgrade and construct 21<sup>st</sup> century schools on a statewide basis. Recognizing that public funds are severely limited, HIPA is currently engaged in a public-private partnership with the Department of Education and various stakeholders centered on the following outcomes:

- Developing a new revenue source for new school construction and modernization of 21<sup>st</sup> century schools;
- Initiating a statewide rebuilding and modernization of Hawai'i's aging public schools that foster 21<sup>st</sup> century teaching and learning;
- Engaging and empowering more than 181,000 students, nearly 14,000 teachers, all communities statewide, and thousands of key stakeholders to support and improve school facilities in Hawai'i;
- Creating approximately 200,000 construction, maintenance, and similar jobs with urban redevelopment and public-private partnerships using vacant and underused public school lands (estimate courtesy of Rebuilding America's Schools Coalition);
- Facilitating statewide urban renewal and provide sources for economic development and security in all communities, while promoting sustainable economic development;
- Ensuring a fair and equal distribution of new revenue sources through a system-wide long-range plan for rebuilding Hawai'i's public school facilities; and
- Lifting student achievement, including among disadvantaged populations in underserved communities.

Pilot projects for this initiative are essential. We strongly agree with the need to test and evaluate development, design and financial models, and to give communities the opportunity to provide input and understand the concept of 21<sup>st</sup> century learning and facilities. We also respectfully encourage this Committee to add enabling legislation that would also create a systemic approach to modernize the entire system. The pilot projects can occur simultaneously with a system-wide plan, which, for all intents and purposes, will take two to three years to be established and implemented in any event. Once the pilots projects are completed during that period and learning and best practices are evaluated, the State will be in a position to implement this program on a statewide basis.

Thank you for the opportunity to testify on this matter.



February 21, 2013  
9:00 a.m.  
Conference Room 211

TESTIMONY TO  
THE SENATE COMMITTEE ON WAYS AND MEANS

**RE: SB 237 SD1 – Relating to Public School Lands**

Dear Chair Ige, Vice-Chair Kidani and members of the Committee:

My name is Robert Witt and I am the 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.

**HAIS supports SB 237 SD1** which would establish a three-year pilot program within the Office of the Lieutenant Governor to allow for the limited lease of public school lands and facilities under the authority of the Department of Education as a means to generate revenue urgently needed for the school facilities special fund.

HAIS supports the ongoing efforts, since 2009, of the Hawaii Institute for Public Affairs (HIPA) with its 21<sup>st</sup> Century School Initiative, a research and community-based effort to develop an innovative, systemic, and practicable approach to upgrade and construct 21<sup>st</sup> Century Schools statewide.

We agree with HIPA that a pilot project for this initiative is essential, along with opportunities to provide communities to participate in building awareness for and support for the creation of new learning environments. This initiative supports newly emerging views on how teaching and learning will best occur in the years ahead. As such, given that SB 237 SD1 is aligned with these interests, our association will be pleased to participate in the dialogue concerning such new initiatives during this Legislative Session.

Thank you for the opportunity to testify on this matter.

**LATE**



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Honolulu, Hawaii 96813

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

February 21, 2013

Dear Chair Ige, Vice Chair Kidani and Committee Members:

This testimony is submitted in support of SB237 HD1 with suggested amendments.

The Hui for Excellence in Education (HE'E) is a diverse coalition of over 40 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.

The Coalition has been following the issue of our aging facilities and the need to find creative solutions to finance and rebuild our schools. The Coalition has hosted several speakers discussing 21<sup>st</sup> Century School design, mainland efforts to address school facilities, and local organizations working to find creative options. We are very pleased to see the legislature support the concept of using underutilized school lands to fund new school construction statewide through a Pilot Program.

We would ask that the Committee consider the following amendments in moving the bill along:

1. Specify that the pilot program include the development of design specifications for 21<sup>st</sup> Century Schools to be used as a template for future campuses
2. Specify that school and community engagement (specifically, parents/guardians or parent/ohana groups, teachers, principals, business and community members of impacted area) be a required component of the Pilot Project both in the design and development of new schools and in the proposed uses on the leased lands. The bill should include guidelines on community engagement in this process.



3. Specify that uses on the underutilized school lands be compatible with surrounding land use and zoning (some school property may need zone changes to be redeveloped and the proposed zoning should be compatible with the surrounding existing zoning designations)
4. Specify that early learning centers along with K-12 facilities could be included in the Pilot Program.
5. Request that the lieutenant governor's report include information on school and community engagement efforts in the pilot program.

We would be glad to work with the legislature, department, board of education, the lieutenant governor, and any other appropriate agencies 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. While the majority of the Coalition members supported this bill, Parents for Public Schools could not come to a consensus to support this position.

Sincerely,

Cheri Nakamura  
HE'E Coalition Director

HE'E Member List

Academy 21

After-School All-Stars Hawaii

Alliance for Place Based Learning

\*Castle Complex Community Council

Center for Civic Education

Coalition for Children with Special Needs

\*DOE Windward District

\*Faith Action for Community Equity

Fresh Leadership LLC

Girl Scouts Hawaii

\*Good Beginnings Alliance

Harold K.L. Castle Foundation

\*Hawaii Appleseed Center for Law and Economic Justice

Hawai'i Athletic League of Scholars

\*Hawai'i Charter School Network

\*Hawai'i Education Matters

\*Hawai'i Nutrition and Physical Activity Coalition

\*Hawaii State PTSA

Hawai'i State Student Council

Hawai'i State Teachers Association

Hawai'i P-20

Hawai'i 3Rs

Head Start Collaboration Office

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

Teach for America

The Learning Coalition

US PACOM

University of Hawai'i College of Education

YMCA of Honolulu

Voting Members (\*)



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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February 20, 2013

Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice Chair  
Senate Committee on Ways & Means

**Testimony in Support of SB 237, SD1, Relating to Public School Lands (Pilot program for lease of public school lands)**

**Thursday, February 21, 2013, 9:00 a.m., in CR 211**

The Land Use Research Foundation of Hawaii (“LURF”) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF’s mission 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.

**SB 237, SD1.** This bill,

- Establishes a three-year pilot program to generate revenue for the use of public school land through the lease of certain public school lands for public purposes, including but not limited to the development of workforce housing rental units, under specified conditions;
- Specifies that the lieutenant governor, in consultation with the department of education, board of education, and other appropriate agencies, shall be the facilitator of the pilot program;
- Authorizes the board of education to identify and select up to two existing school facilities for the pilot program;
- Clarifies that the board of education shall be subject to chapter 92, HRS, and shall foster school and community engagement during the site identification and selection process;
- Establishes the school facilities special fund within chapter 302A, HRS;
- Repeals the schools facilities special fund in chapter 171C, HRS;
- Requires the lieutenant governor to submit a report to the legislature;
- Makes an appropriation for the pilot program; and
- Repeals the pilot program on June 30, 2016.

**LURF's Position.** LURF supports **SB 237, SD1**, because it looks to and establishes innovative methods through which the State may use its assets to obtain funding to benefit Hawaii's public schools and public school children. This bill recognizes the unmet community development needs of the State, including undercapitalized public school facilities, and the need to establish within the DOE, BOE and Lieutenant Governor's Office, a public entity or mechanism which shall determine public school facilities redevelopment and community development programs, and cooperate with private enterprise and the various components of federal, state and county governments in bringing the plans to fruition. LURF's testimony also includes **comments and proposed amendments** for this Committee to consider.

**Background.**

- **Prior LURF support for similar legislation.** Over the years, LURF has consistently supported creative legislation, especially legislation targeted to further education in this State. Other prior education-related efforts by the 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 the 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; establishment of DOE Advisory Council.** 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 the 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 611 was the result of one of the working groups from the DOE Advisory Council, which was created to evaluate the merits of the 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.
  - **HB 2972 (2008) proposal to identify underused public schools and revitalize public school facilities; and establish a DOE Facilities Alignment Commission.** The purpose of this bill is to revitalize the DOE school facilities statewide and to more effectively and efficiently use our taxpayers' investment in public education. Specifically, this bill provided for the timely construction, expansion, consolidation, or closure of underused public schools in Hawaii through an objective and transparent process. 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 have also required the BOE to comply with these recommendations if the Legislature does not disapprove of them in their entirety.

- **SB 1385 (2011) proposal to establish a five-year pilot project to generate revenue for the use of public school land.** The bill proposed permitting the DOE, with the approval of the BOE, to lease certain public school lands for public purposes, including the development of affordable workforce housing rental units, under specified conditions.

In 2007, LURF also 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. As noted in LURF's 2007 testimony in support of the above measures (updated and confirmed by DOE News Release dated October 18, 2010), at that time, the DOE had approximately the same number of students enrolled in public schools (+/- 180,000) as it 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 underused and provides opportunities to reposition these DOE 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 teacher housing; or providing for new revenue sources based on long term leasing of the DOE property.

- **Other initiatives to consider.** The following are various other initiatives that the DOE, BOE, Lieutenant Governor, other stakeholders, and the Legislature may wish to consider pursuing 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 (“KS”), 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 KS 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 potentially allow for the repositioning of some of the “underused school sites” in the City’s Primary Urban Center to 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 SB 237, SD1, as an inventive means of utilizing excess and underused assets to generate funding for the benefit of public school children. However, in order to effectuate the purposes of SB 237, SD 1, and other similar initiatives, LURF respectfully suggests that this bill be further amended as follows:

- **Need for a government redevelopment partner with development expertise and experience, such as the Hawaii Community Development Authority (“HCDA”).** With all due respect, it appears that the DOE, BOE and Lieutenant Governor’s office do not have the development expertise or experience to efficiently maximize the benefits of this legislation. Thus, we would recommend that HCDA be included as a partner with DOE, and that it play a meaningful role in the planning, design and partnership between the schools, surrounding community and the pilot projects at the school sites. Because of its development experience, we would also recommend that HCDA play a significant role in the identification and selection process for the public school pilot project sites.
- **Consultation and cooperation with the Counties.** Many of the public school sites are owned by the Counties (in the past, public schools were the responsibility of the Counties) and the proposed pilot projects for the redevelopment of school sites may require cooperation and coordination with the Counties with respect to public utilities and services (sewer, water, roadways, police, fire, etc.). This committee should consider revisions to provide that when dealing with public school lands owned by the Counties, the DOE and HCDA shall agree to consult and cooperate with the Counties to resolve any and all issues which may arise between them including development-related issues.

Thank you for the opportunity to express support for this measure.

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**GCA of Hawaii**

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

**LATE**

Uploaded via Capitol Website

February 21, 2013

TO: HONORABLE DAVID IGE, CHAIR, HONORABLE MICHELLE KIDANI,  
VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WAYS  
AND MEANS

SUBJECT: **SUPPORT OF SB 237, SD1 RELATING TO PUBLIC SCHOOL LANDS.**  
Establishes a three-year pilot program to generate revenue for the use of public school land through the lease of certain public school lands for public purposes, including but not limited to the development of workforce housing rental units, under specified conditions. Specifies that the lieutenant governor, in consultation with the department of education, board of education, and other appropriate agencies, shall be the facilitator of the pilot program. Authorizes the board of education to identify and select up to two existing school facilities for the pilot program. Clarifies that the board of education shall be subject to chapter 92, HRS, and shall foster school and community engagement during the site identification and selection process. Establishes the school facilities special fund within chapter 302A, HRS. Repeals the schools facilities special fund in chapter 171C, HRS. Requires the lieutenant governor to submit a report to the legislature. Makes an appropriation for the pilot program. Pilot program repeals 6/30/2016. (SD1)

Decision-Making Only

DATE: Thursday, February 21, 2013  
TIME: 9:00 a.m.  
PLACE: Capitol Room 211

Dear Chair Ige, Vice Chair Kidani and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is in **support** of S.B. 237, SD1, Relating to Public School Lands, which proposes a three-year pilot program within the Office of the Lieutenant Governor to allow for the limited lease of public school lands and facilities under the authority of the Department of Education to allow for certain uses, including but not limited to, building and retrofitting twenty-first century schools.

This bill would allow an alternative funding mechanism for the Department of Education, for not only repair and maintenance, but for the improvement of overall school facilities. Twenty-first century schools utilize new and innovative tools that will assist and improve the learning environments for Hawaii's children as we enter into the twenty-first century. This bill takes an affirmative step toward the development of twenty-first century schools a reality for students attending public schools in Hawaii.

There are a number of characteristics that describe a twenty-first century school which support individual project and technology-based learning, including, among other characteristics, special school designs that incorporate flexible spaces; facilities that accommodate community uses during non-school hours and maximize benefits; and natural lighting and good air quality. These are all qualities that would improve the learning environment for Hawaii's children.

GCA is in support of this measure's concept and its commitment to improving public school facilities of Hawaii's children. Accordingly, GCA requests that this Committee pass this measure. Thank you for the opportunity to testify on this bill.