

# S.C.R. NO. 30

JAN 2 5 2017

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## SENATE CONCURRENT RESOLUTION

SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW  
AND APPROVAL OF ACTION TAKEN BY THE BOARD OF LAND AND  
NATURAL RESOURCES ON A LAND EXCHANGE.

1           WHEREAS, at its meeting of August 10, 2001, under agenda  
2 item D-8, the Board of Land and Natural Resources approved, in  
3 principle, the land exchange between the State of Hawaii and  
4 Parker Land Trust, formerly the Parker Ranch Land Trust, for  
5 state-owned land at Waimea, Hawaii, Tax Map Key: (3) 6-7-  
6 2:portion 15, and privately owned land at Waimea, Hawaii, Tax Map  
7 Key: (3) 6-7-2:portion 17; and

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9           WHEREAS, at its meeting of August 8, 2003, under agenda item  
10 D-5, the Board of Land and Natural Resources approved the  
11 aforementioned land exchange between the State of Hawaii and  
12 Parker Land Trust; and

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14           WHEREAS, the public purpose for the exchange, as approved,  
15 is for the addition of land to Waimea Elementary and Intermediate  
16 School; and

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18           WHEREAS, section 171-50, Hawaii Revised Statutes, previously  
19 provided that land exchanges of public land for private land are  
20 subject to disapproval by the Legislature by two-thirds vote of  
21 either the Senate or the House of Representatives or by a  
22 majority vote of both in any regular or special session; and

23  
24           WHEREAS, pursuant to section 171-50, Hawaii Revised  
25 Statutes, House Concurrent Resolution No. 10 and Senate  
26 Concurrent Resolution No. 5, were prepared and submitted to the  
27 Twenty-second Legislature of the State of Hawaii, Regular Session  
28 of 2004, for Review of Action Taken by the Board of Land and  
29 Natural Resources on a Land Exchange; and

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31           WHEREAS, Senate Concurrent Resolution No. 5 was adopted by  
32 the Twenty-second Legislature of the State of Hawaii, Regular  
33 Session of 2004; and

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WHEREAS, pursuant to Act 176, Session Laws of Hawaii 2009, section 171-50(c), Hawaii Revised Statutes, provides that a copy of the draft resolution shall also be submitted to the Office of Hawaiian Affairs at least three months prior to the convening of a regular or special session of the Legislature to allow the Office of Hawaiian Affairs to determine whether the state-owned land was classified as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands; and

WHEREAS, pursuant to Act 169, Session Laws of Hawaii 2011, section 171-50(c), Hawaii Revised Statutes, provides that the state department or agency shall submit for introduction to the Legislature a resolution for review of action on any exchange to be consummated by the Board of Land and Natural Resources wherein exchange deeds will be executed by the parties, together with the following information:

- (1) The specific location and size in square feet or in other precise measurement of the parcels of land to be exchanged;
- (2) The value of the lands to be conveyed by the State and the private party;
- (3) The name or names of the appraiser or appraisers;
- (4) The date of the appraisal valuation;
- (5) The purpose for which the lands are being exchanged;
- (6) A detailed summary of any development plans for the land to be exchanged; and
- (7) A statement of whether the land is, or is not, land that was classified as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands, and a detailed explanation of how the state department or agency made this determination; and

WHEREAS, in 2012, the County of Hawaii approved the subdivision of certain lands at Waimea, resulting in part of the

1 privately owned land previously identified as Tax Map Key: (3)6-  
2 7-2:portion 17, which was approved as part of this exchange, to  
3 be re-designated by County of Hawaii, and currently identified as  
4 Tax Map Key: (3)6-7-8:portion 93, having an area of approximately  
5 5.445 acres, which shall be exchanged for the state-owned lands  
6 currently referred to as Tax Map Key: (3) 6-7-2:portion of 15,  
7 having an area of 0.780 acres; and  
8

9 WHEREAS, pursuant to Act 146, Session Laws of Hawaii 2014,  
10 section 171-50(c), Hawaii Revised Statutes, was amended such that  
11 any exchange of public land for private land shall be subject to  
12 approval by a majority vote of both houses of the Legislature in  
13 any regular or special session following the date of the Board of  
14 Land and Natural Resources' approval, in principle, of the  
15 exchange; and  
16

17 WHEREAS, Parker Land Trust desires to pursue the land  
18 exchange previously approved by the Board of Land and Natural  
19 Resources and submitted to the Twenty-second Legislature of the  
20 State of Hawaii, Regular Session of 2004, for Review of Action  
21 Taken by the Board of Land and Natural Resources on a Land  
22 Exchange and subsequently adopted pursuant to Senate Concurrent  
23 Resolution No. 5, by the Twenty-second Legislature of the State  
24 of Hawaii, Regular Session of 2004; and  
25

26 WHEREAS, both the state and Parker Land Trust lands involved  
27 in the proposed exchange remain the same lands as previously  
28 contemplated by Parker Ranch and the State in 2001, subsequently  
29 approved by the Board of Land and Natural Resources in 2003, and  
30 subsequently approved by the Twenty-second Legislature of the  
31 State of Hawaii, Regular Session of 2004 by way of Senate  
32 Concurrent Resolution No. 5; and  
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34 WHEREAS, Senate Concurrent Resolution No. 5, Regular Session  
35 2004, no longer complies with section 171-50, Hawaii Revised  
36 Statutes, as amended by Act 146, Session Laws of Hawaii 2014; and  
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38 WHEREAS, in order to comply with the requirements of section  
39 171-50, Hawaii Revised Statutes, as amended, the Department of  
40 Land and Natural Resources, together with the Department of  
41 Education, is required to again introduce to the Legislature a  
42 resolution for review of action of the land exchange described  
43 herein, subject however, to approval by a majority vote of both  
44 houses of the Legislature; now, therefore,

1  
2 BE IT RESOLVED by the Senate of the Twenty-ninth Legislature  
3 of the State of Hawaii, Regular Session of 2017, the House of  
4 Representatives concurring, that the following land exchange,  
5 previously approved in principle by the Board of Land and Natural  
6 Resources at its meeting on August 10, 2001, under agenda item D-  
7 8, previously approved by the Board of Land and Natural Resources  
8 at its meeting on August 8, 2003, under agenda item D-5, and  
9 previously submitted to the Twenty-second Legislature of the  
10 State of Hawaii, Regular Session of 2004, for Review of Action  
11 Taken by the Board of Land and Natural Resources on a Land  
12 Exchange; and previously adopted by the Twenty-second Legislature  
13 of the State of Hawaii, Regular Session of 2004, by way of Senate  
14 Concurrent Resolution No. 5, is hereby reviewed and approved by  
15 the Legislature:

16  
17 LAND EXCHANGE BETWEEN STATE OF HAWAII AND PARKER LAND TRUST  
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- 19 (1) The state land identified as Tax Map Key: (3) 6-7-  
20 2:portion 15 and having a land area of approximately  
21 0.780 acres, being located at Waikoloa and Puukapu,  
22 Waimea, South Kohala, Island of Hawaii, Hawaii; and  
23

24 The private land identified as Tax Map Key: (3) 6-7-  
25 8:portion 93, being formerly referred to as Tax Map Key  
26 (3)6-7-2:portion 17, and having a land area of  
27 approximately 5.445 acres, being located at Waikoloa  
28 and Puukapu, Waimea, South Kohala, Island of Hawaii,  
29 Hawaii;  
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- 31 (2) The value of the state land was estimated at \$71,700,  
32 as of August 10, 2001; and  
33

34 The value of the private land was estimated at  
35 \$366,400, as of August 10, 2001;  
36

- 37 (3) The state land and the private land were appraised by  
38 George Hao & Associates;  
39

- 40 (4) The date of the appraisal report for the state land and  
41 the private land was January 10, 2003, with effective  
42 dates of value being August 10, 2001;  
43

- 44 (5) At its meeting of August 8, 2003, under agenda item D-  
45 5, the Board of Land and Natural Resources approved the

1 public purpose of the proposed exchange to be for the  
2 addition to Waimea Elementary and Intermediate School;

- 3  
4 (6) The approximate 0.780 acres of state land identified as  
5 part of this proposed exchange is vacant and currently  
6 set aside to the Department of Education under  
7 Executive Order 3454. Upon completion of the proposed  
8 exchange, the State's interest in the 0.780-acre site  
9 will be conveyed to Parker Land Trust. Subsequently,  
10 the conveyed lands will be developed pursuant to the  
11 Waimea Town Center Master Plan allowing for the  
12 realignment of Lindsey Road and improved access and  
13 utility service; and

14  
15 The approximate 5.445 acres of private land identified  
16 as part of the proposed exchange is currently vacant.  
17 Upon completion of this proposed exchange, the 5.445-  
18 acre site will be set aside to the Department of  
19 Education for addition to the Waimea Elementary and  
20 Intermediate School;

- 21  
22 (7) The approximate 0.780-acre state land is ceded land  
23 pursuant to Section 5(b) of the Hawaii Admission Act,  
24 hereinafter the "Admissions Act".

25  
26 Said land was a portion of land acquired by the State  
27 of Hawaii by Exchange Deed and Agreement to Exchange  
28 dated December 29, 1988, between the State of Hawaii  
29 and Richard Smart, Warren J. Gunderson, Richard S.  
30 Hendrick, and Gilliard P. Smart, Trustees of the  
31 Richard Smart Revocable Personal Trust ("Richard Smart  
32 Trust"), hereinafter the "1988 Exchange". Pursuant to  
33 the 1988 Exchange and Land Patent Grant No. S-15,696,  
34 the State of Hawaii Conveyed to the Richard Smart Trust  
35 six parcels of land comprising approximately 12.98  
36 acres situate at Lalamilo, Waimea, South Kohala,  
37 Hawaii, being described as follows:

- 38  
39 (A) Being a portion of the land of Lalamilo, an Ili of  
40 the Government (Crown) land of Waimea, identified  
41 as Parcel 1 and containing an area of 1.969 acres,  
42 more or less. Being further described and  
43 delineated on C.S.F. No. 20,701, dated  
44 February 24, 1988;

- 1  
2 (B) Being a portion of the land of Lalamilo, an Ili of  
3 the Government (Crown) land of Waimea, identified  
4 as Parcel 2 and containing an area of 8.411 acres,  
5 more or less. Being further described and  
6 delineated on C.S.F. No. 20,702, dated  
7 February 24, 1988;  
8  
9 (C) Being a portion of the Government (Crown) land of  
10 Waimea, identified as Parcel A, and containing an  
11 area of 0.207 acre, more or less. Being further  
12 described and delineated on C.S.F. No. 17,042,  
13 dated February 21, 1974;  
14  
15 (D) Being a portion of the Government (Crown) land of  
16 Waimea, identified as Parcel B, Government  
17 Remnant, and containing an area of 0.643 acre,  
18 more or less. Being further described and  
19 delineated respectively on C.S.F. No. 17,043,  
20 dated February 21, 1974, and C.S.F. No. 17,042 to  
21 C.S.F. No. 17044, and dated February 21, 1974;  
22  
23 (E) Being a portion of the Government (Crown) land of  
24 Waimea, identified as Parcel C, Government  
25 Remnant, containing an area of 0.256 acre, more or  
26 less. Being further described and delineated on  
27 C.S.F. No. 17,044, dated February 21, 1974; and  
28  
29 (F) Being a portion of Lalamilo, an Ili of the  
30 Government (Crown) land of Waimea, identified as  
31 Parcel 3, containing an area of 1.020 acres, more  
32 or less. Being further described and delineated  
33 on C.S.F. No. 20,844, dated September 30, 1988;  
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35 Whereas, the above cited six parcels, which were  
36 conveyed to the Richard Smart Trust as part of the 1988  
37 Exchange, were classified as ceded lands pursuant to  
38 Section 5(b) of the Admissions Act, the former Richard  
39 Smart Trust lands conveyed to the State in the 1988  
40 Exchange, including the 0.780 acres of state land being  
41 conveyed to Parker Land Trust in this proposed  
42 exchange, are now classified as ceded lands pursuant to  
43 Section 5(b) of the Admissions Act; and  
44

1 BE IT FURTHER RESOLVED upon consummation of the proposed  
2 exchange, the 5.445 acres of land to be conveyed to the State of  
3 Hawaii as part of this proposed exchange shall be classified as  
4 ceded lands pursuant to Section 5(b) of the Admissions Act; and  
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6 BE IT FURTHER RESOLVED that a copy of the draft resolution  
7 was transmitted to the Office of Hawaiian Affairs at least three  
8 months prior to the convening of a regular or special session of  
9 the Legislature to allow the Office to determine whether the  
10 state-owned land was classified as government or crown lands  
11 previous to August 15, 1895, or was acquired by the State in  
12 exchange for such lands; and  
13

14 BE IT FURTHER RESOLVED that a certified copy of this  
15 Concurrent Resolution be transmitted to the Chairperson of the  
16 Board of Land and Natural Resources.  
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18  
19 OFFERED BY:   
20 BY REQUEST  
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JUSTIFICATION SHEET

**S. C. R. NO. 30**

DEPARTMENT: Land and Natural Resources

TITLE: SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW AND APPROVAL OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON A LAND EXCHANGE.

PURPOSE: To submit to the Legislature for review and approval of action taken by the Board of Land and Natural Resources (Board) for a proposed land exchange between the State of Hawaii and the Parker Land Trust.

MEANS: Concurrent resolution pursuant to section 171-50, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Board at its meeting of August 8, 2003, under agenda item D-5, approved a land exchange between the State of Hawaii and Parker Ranch Land Trust, currently known as the Parker Land Trust, for state-owned land at Waimea, Hawaii, Tax Map Key: (3) 6-7-2:portion 15, and privately owned land at Waimea, Hawaii, Tax Map Key: (3) 6-7-2:portion 17. Parker Land Trust desires to consummate said proposed land exchange.

Pursuant to the requirements of section 171-50, HRS, which at the time, provided that land exchanges of public land for private land are subject to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by a majority vote of both in any regular or special session, concurrent resolutions were introduced as House Concurrent Resolution No. 10 and Senate Concurrent Resolution No. 5 to the Twenty-second Legislature of the State of Hawaii, Regular Session of 2004, for review of action taken by the Board on a land exchange. Senate Concurrent Resolution No. 5 was adopted by the Twenty-second Legislature of the State of Hawaii during the Regular Session of 2004.



Subsequent to the adoption of Senate Concurrent Resolution No. 5 in 2004 however, section 171-50(c), HRS, was amended on three separate occasions (Act 176, Session Laws of Hawaii (SLH) 2009, Act 169, SLH 2011, and Act 146, SLH 2014). As such, the Department of the Attorney General has determined that Senate Concurrent Resolution No. 5 from 2004, no longer fulfils the requirements of section 171-50, HRS.

Consequently, in order to satisfy the new requirements of section 171-50, HRS, and consummate said proposed land exchange, the Department has prepared a new resolution for review and approval of action taken by the Board for a proposed land exchange between the State of Hawaii and the Parker Land Trust. Prior to its introduction in the Regular Session of 2017 however, the Department, in compliance with section 171-50, HRS, transmitted a copy of the new resolution to the Office of Hawaiian Affairs (OHA) to allow OHA to determine whether the state-owned land was classified as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands.

Impact on the public: The 5.445-acre site being conveyed to the State is intended for set aside to Department of Education (DOE) for future expansion of existing facilities. In addition, the proposed land exchange will allow Parker Ranch Land Trust to realign the Lindsey Road extension as indicated in the Waimea Town Center Project originally approved by the County of Hawaii in 1992 by Ordinance 92-65.

Impact on the department and other agencies: The conveyance of the 0.780-acre state-owned land (currently set aside to DOE under Executive Order 3454) will not negatively impact existing DOE services or the existing

Waimea Elementary and Intermediate School  
campus.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 101.

OTHER AFFECTED  
AGENCIES: DOE.

EFFECTIVE DATE: Upon approval.