
A BILL FOR AN ACT

RELATING TO PUBLIC SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The legislature finds that Act 97, Session Laws
3 of Hawaii 1965, transferred the responsibility for functions
4 that were deemed to be of statewide concern from the counties to
5 the State. Among these functions were the planning,
6 construction, improvement, and maintenance of public school
7 facilities and grounds, and the transportation of school
8 children. Prior to the passage of Act 97, Session Laws of
9 Hawaii 1965, the counties issued bonds to plan, construct,
10 improve, and maintain public school facilities and grounds.
11 Since these functions are now wholly the responsibility of the
12 State, it only makes sense to begin transferring all remaining
13 county lands and improvements under the department of education
14 to the State.

15 Act 154, Session Laws of Hawaii 2003, conveyed fee simple
16 title of all county of Hawaii lands being used by the department
17 of education to the State. The county of Hawaii was the only



1 county to have legislation passed to convey the fee simple
2 interest in its properties to the State.

3 The State of Hawaii's department of education has invested
4 significant public funds on the maintenance and capital
5 improvement projects for new school facilities. The expenditure
6 of these public funds was done without regard to the underlying
7 fee ownership of the property. If the school is on county land,
8 this investment in vertical improvements is transferred to the
9 county when a school is closed, which is what happened when
10 Wailupe elementary school closed.

11 The legislature further finds that Act 155, Session Laws of
12 Hawaii 2013, provided the department of education with the
13 authority to develop its assets to create twenty-first century
14 schools. Act 155 also allowed the department of education to
15 explore different mechanisms to redevelop its assets, including
16 revenue generation in support of investments in twenty-first
17 century schools.

18 The legislature additionally finds that the department of
19 education is responsible for approximately 2,120
20 acres/92,353,688 square feet of land under its school facilities
21 within the city and county of Honolulu. Of this total land



1 area, the city and county of Honolulu owns approximately one-
2 half of the land under the existing school facilities,
3 approximately one thousand four acres/43,753,360 square feet.

4 The legislature finds that the split ownership of the
5 underlying fee simple lands under existing schools creates
6 problems for redevelopment, especially when private investment
7 is involved. In order to allow the department of education
8 flexibility to redevelop or reposition its assets, especially
9 along the rail transit corridor, the State should consolidate
10 ownership of the lands under existing public schools.

11 The legislature further finds that, from an asset
12 management standpoint, the department of education should also
13 be given the authority and responsibility to own the real
14 property on which their educational facilities are located.
15 This will allow the department to maximize the value of its real
16 estate assets as it seeks to redevelop and reposition public
17 educational facilities in the future.

18 The purpose of this Act is to:

- 19 (1) Transfer parcels of property containing schools
20 operated by the department of education that are



1 currently owned by the city and county of Honolulu to
2 the State;

3 (2) Give the department of education the power to acquire
4 and hold title to real, personal, or mixed property
5 for use for public educational purposes; and

6 (3) Require legislative approval prior to the sale or gift
7 of lands to which the department of education holds
8 title.

9 PART II

10 SECTION 2. (a) Notwithstanding any other law to the
11 contrary, the fee simple interest to the following parcels of
12 land with the existing improvements thereon (hereinafter "the
13 properties") (but not including submerged land, accreted land,
14 or any land makai of the shoreline), shall be conveyed by the
15 city and county of Honolulu to the department of education as
16 grantee, as is, where is:

- 17 (1) TMK 1-4-4-3-16 (Aikahi elementary);
- 18 (2) TMK 1-4-5-16-1 (Ben Parker elementary);
- 19 (3) TMK 1-4-2-2-37 (portion) (Enchanted Lake elementary);
- 20 (4) TMK 1-4-6-31-20 (Heeia elementary);
- 21 (5) TMK 1-4-7-12-24 (portion) (Kahaluu elementary);



- 1 (6) TMK 1-4-3-56-9 (portion) (Kailua elementary);
- 2 (7) TMK 1-4-3-56-9 (portion) (Kailua intermediate);
- 3 (8) TMK 1-4-3-76-15 (Kainalu elementary);
- 4 (9) TMK 1-4-5-103-11 (Kaneohe elementary);
- 5 (10) TMK 1-4-5-78-14 (portion) (Kapunahala elementary);
- 6 (11) TMK 1-4-2-92-1 (portion) (Keolu elementary);
- 7 (12) TMK 1-4-6-4-2 (King intermediate);
- 8 (13) TMK 1-5-5-15-23 (Laie elementary);
- 9 (14) TMK 1-4-2-55-12 (Lanikai elementary);
- 10 (15) TMK 1-4-2-43-2 (portion) (Maunawili elementary);
- 11 (16) TMK 1-4-5-30-38 (portion) (Puohala elementary);
- 12 (17) TMKs 1-4-8-9-9, 1-4-8-9-11 (Waiahole elementary);
- 13 (18) TMK 1-9-4-59-73 (August Ahrens elementary);
- 14 (19) TMK 1-9-1-115-13 (Ewa Beach elementary);
- 15 (20) TMK 1-9-7-36-124 (Highlands intermediate);
- 16 (21) TMK 1-9-1-1-2 (portion) (Ilima intermediate);
- 17 (22) TMK 1-9-1-1-3 (Iroquois Point elementary);
- 18 (23) TMK 1-9-7-17-2 (portion) (Lehua elementary);
- 19 (24) TMK 1-8-7-4-42 (portion) (Maili elementary);
- 20 (25) TMK 1-8-4-25-10 (Makaha elementary);
- 21 (26) TMK 1-9-7-93-16 (portion) (Palisades elementary);



- 1 (27) TMK 1-9-7-24-2 (Pearl City elementary);
- 2 (28) TMK 1-9-7-36-122 (Pearl City Highlands elementary);
- 3 (29) TMK 1-9-1-1-2 (portion) (Pohakea elementary);
- 4 (30) TMK 1-8-5-1-67 (Waianae elementary);
- 5 (31) TMKs 1-9-4-10-98, 1-9-4-29-1 (Waipahu elementary);
- 6 (32) TMK 1-9-4-1-29 (portion) (Waipahu intermediate);
- 7 (33) TMK 1-1-1-10-33 (portion) (Aliamanu elementary);
- 8 (34) TMK 1-1-1-10-33 (portion) (Aliamanu intermediate);
- 9 (35) TMKs 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott elementary);
- 10 (36) TMKs 1-6-6-13-11, 1-6-6-13-13, 1-6-6-14-15 (Haleiwa
11 elementary);
- 12 (37) TMK 1-7-1-2-17 (Helemano elementary);
- 13 (38) TMK 1-7-5-27-2 (portion) (Iliahi elementary);
- 14 (39) TMK 1-7-3-19-13 (Kaala elementary);
- 15 (40) TMK 1-9-5-21-2 (portion) (Kipapa elementary);
- 16 (41) TMK 1-1-1-34-42 (Moanalua elementary);
- 17 (42) TMK 1-1-1-9-5 (portion) (Moanalua intermediate);
- 18 (43) TMK 1-1-1-2-6 (Nimitz elementary);
- 19 (44) TMK 1-1-1-10-27 (Pearl Harbor elementary);
- 20 (45) TMKs 1-7-1-2-8, 1-7-5-5-7, 1-7-5-5-3 (Wahiawa
21 elementary);



- 1 (46) TMK 1-6-7-1-10 (portion) (Waiialua elementary);
- 2 (47) TMK 1-9-8-8-7 (portion) (Waimalu elementary);
- 3 (48) TMK 1-3-6-11-9 (portion) (Aina Haina elementary);
- 4 (49) TMKs 1-3-4-4-6, 1-3-4-4-7 (Anuenue elementary);
- 5 (50) TMKs 1-2-1-5-1 (portion), 1-2-1-9-2, 1-2-1-9-3
- 6 (Central intermediate);
- 7 (51) TMKs 1-1-3-24-5 (portion) (Dole intermediate);
- 8 (52) TMKs 1-1-3-1-23, 1-1-3-1-17 (portion) (Fern
- 9 elementary);
- 10 (53) TMK 1-3-9-38-1 (portion) (Hahaione elementary);
- 11 (54) TMKs 1-2-8-29-10, 1-2-8-29-11 (Hokulani elementary);
- 12 (55) TMK 1-2-4-12-2 (Kaahumanu elementary);
- 13 (56) TMKs 1-1-3-24-1, 1-1-3-24-2 (Kaewai elementary);
- 14 (57) TMK 1-3-5-11-27 (Kahala elementary);
- 15 (58) TMK 1-3-2-59-2 (Kaimuki intermediate);
- 16 (59) TMKs 1-1-5-24-40, 1-1-5-25-2 (portion) (Kalakaua
- 17 intermediate);
- 18 (60) TMK 1-1-4-7-2 (portion) (Kalihi elementary);
- 19 (61) TMK 1-1-5-25-2 (portion) (Kalihi-Kai elementary);
- 20 (62) TMKs 1-1-3-35-1 (portion), 1-3-36-79 (Kalihi-Uka
- 21 elementary);



- 1 (63) TMK 1-3-9-5-61 (Kamiloiki elementary);
- 2 (64) TMK 1-1-6-26-22 (Kapalama elementary);
- 3 (65) TMK 1-1-7-23-42 (Kauluwela elementary);
- 4 (66) TMK 1-2-2-9-11 (Kawananakoa intermediate);
- 5 (67) TMK 1-3-9-22-37 (Koko Head elementary);
- 6 (68) TMKs 1-2-7-17-30, 1-2-7-27-10 (portion) (Kuhio
7 elementary);
- 8 (69) TMK 1-3-2-21-35 (Liholiho elementary);
- 9 (70) TMKs 1-1-6-8-16, 1-1-6-8-22, 1-1-6-8-24, 1-1-6-8-38,
10 1-1-6-8-58 (Likelike elementary);
- 11 (71) TMK 1-1-3-39-5 (Linapuni elementary);
- 12 (72) TMKs 1-2-3-30-55, 1-2-3-30-56 (Lunalilo elementary);
- 13 (73) TMK 1-2-9-36-3 (portion) (Manoa elementary);
- 14 (74) TMK 1-3-7-3-10 (portion) (Niu Valley intermediate);
- 15 (75) TMK 1-2-9-23-29 (Noelani elementary);
- 16 (76) TMK 1-2-2-43-11 (Nuuanu elementary);
- 17 (77) TMK 1-3-4-2-1 (Palolo elementary);
- 18 (78) TMK 1-2-2-16-20 (portion) (Pauoa elementary);
- 19 (79) TMK 1-1-2-8-1 (Puuhale elementary);
- 20 (80) TMK 1-3-2-45-3 (Waiialae elementary);
- 21 (81) TMK 1-3-1-25-1 (portion) (Waikiki elementary);



1 (82) TMK 1-2-3-26-1 (Washington intermediate); and

2 (83) TMK 1-3-5-17-12 (portion) (Wilson elementary).

3 (b) The city and county of Honolulu shall prepare,
4 execute, and record, in the land court or bureau of conveyances,
5 as appropriate, a quitclaim deed to convey each above-listed
6 parcel with all existing improvements, subject to the property
7 boundaries determined pursuant to subsection (d), to the
8 department of education, as grantee. As these are conveyances
9 in which the city and county of Honolulu and the State and its
10 agencies are the only parties, the tax imposed by section 247-1,
11 Hawaii Revised Statutes, shall not apply. Effective on the date
12 of transfer pursuant to subsection (e), every reference to the
13 present titleholder or the head of the department or agency in
14 each instrument, if the titleholder is a department or an
15 agency, shall be construed as a reference to the department of
16 education.

17 (c) The department of education shall accept the
18 properties in their existing condition. All claims and
19 liabilities against the city and county of Honolulu, if any,
20 which the department of education has, may have had, or may have
21 in the future, regarding any injury, loss, cost, damage, or



1 liability, including reasonable attorney's fees, concerning the
2 physical, environmental, soil, economic, and legal conditions of
3 the conveyed properties, are released, waived, and extinguished.

4 (d) Because the tax map numbers for parcels (2), (3), (5),
5 (6), (7), (10), (11), (15), (16), (23), (24), (26), (27), (32),
6 (38), (39), (40), (41), (42), (46), (47), (48), (50), (53),
7 (54), (56), (58), (59), (61), (62), (63), (65), (67), (73),
8 (74), and (83) under subsection (a) include an abutting city and
9 county of Honolulu public park, the department of education and
10 the city and county of Honolulu shall agree on the proposed
11 property boundary separating the school and park portions of the
12 properties. The department of education shall subdivide the
13 foregoing parcels in accordance with the agreed upon property
14 boundaries.

15 (e) Transfer of parcels shall be effective December 31,
16 2019.

17 PART III

18 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§302A- Property acquisition, use, and disposition. (a)

2 The department may acquire or contract to acquire by grant or
3 purchase any real, personal, or mixed property or any interest
4 therein for its immediate or future use for public educational
5 purposes, including lease revenues; and own, hold, improve, and
6 rehabilitate any real, personal, or mixed property acquired, and
7 sell, assign, exchange, transfer, convey, lease, or otherwise
8 dispose of, or encumber the same.

9 (b) The department may by itself, or in partnership with
10 qualified persons, acquire, construct, reconstruct,
11 rehabilitate, improve, alter, or repair any infrastructure or
12 accessory facilities in connection with any project; and own,
13 hold, sell, assign, transfer, convey, exchange, lease, or
14 otherwise dispose of, or encumber any project.

15 (c) The department may lease or rent all or a portion of
16 any real property acquired for public educational purposes and
17 establish and revise the rents or charges therefor. The
18 department may sell, exchange, transfer, assign, or pledge any
19 property, real or personal, or any interest therein to any
20 government entity.



1 (d) The department may insure or provide for the insurance
2 of its property or operations against risks as it deems
3 advisable.

4 (e) For purposes of this section:

5 "Land" or "property" includes vacant land or land with site
6 improvements, whether partially or entirely finished in
7 accordance with governmental subdivision standards, or with
8 complete dwellings.

9 "Public educational purposes" includes any use of the
10 property, including revenue generation, that would benefit the
11 department's mission to provide public education to students in
12 the State.

13 "Real property" includes lands, land under water,
14 structures, and any and all easements, franchises, and
15 incorporeal hereditaments and every estate and right therein,
16 legal and equitable, including terms for years and liens by way
17 of judgment, mortgage, or otherwise."

18 SECTION 4. Section 171-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§171-2 Definition of public lands.** "Public lands" means
21 all lands or interest therein in the State classed as government



1 or crown lands previous to August 15, 1895, or acquired or
2 reserved by the government upon or subsequent to that date by
3 purchase, exchange, escheat, or the exercise of the right of
4 eminent domain, or in any other manner; including lands accreted
5 after May 20, 2003, and not otherwise awarded, submerged lands,
6 and lands beneath tidal waters that are suitable for
7 reclamation, together with reclaimed lands that have been given
8 the status of public lands under this chapter, except:

- 9 (1) Lands designated in section 203 of the Hawaiian Homes
10 Commission Act, 1920, as amended;
- 11 (2) Lands set aside pursuant to law for the use of the
12 United States;
- 13 (3) Lands being used for roads and streets;
- 14 (4) Lands to which the United States relinquished the
15 absolute fee and ownership under section 91 of the
16 Hawaiian Organic Act prior to the admission of Hawaii
17 as a state of the United States unless subsequently
18 placed under the control of the board of land and
19 natural resources and given the status of public lands
20 in accordance with the state constitution, the



- 1 Hawaiian Homes Commission Act, 1920, as amended, or
2 other laws;
- 3 (5) Lands to which the University of Hawaii holds title;
- 4 (6) Lands to which the Hawaii housing finance and
5 development corporation in its corporate capacity
6 holds title;
- 7 (7) Lands to which the Hawaii community development
8 authority in its corporate capacity holds title;
- 9 (8) Lands to which the department of agriculture holds
10 title by way of foreclosure, voluntary surrender, or
11 otherwise, to recover moneys loaned or to recover
12 debts otherwise owed the department under chapter 167;
- 13 (9) Lands that are set aside by the governor to the Aloha
14 Tower development corporation; lands leased to the
15 Aloha Tower development corporation by any department
16 or agency of the State; or lands to which the Aloha
17 Tower development corporation holds title in its
18 corporate capacity;
- 19 (10) Lands that are set aside by the governor to the
20 agribusiness development corporation; lands leased to
21 the agribusiness development corporation by any



1 department or agency of the State; or lands to which
2 the agribusiness development corporation in its
3 corporate capacity holds title; [~~and~~]

4 (11) Lands to which the Hawaii technology development
5 corporation in its corporate capacity holds title; and

6 (12) Lands to which the department of education holds
7 title;

8 provided that, except as otherwise limited under federal law and
9 except for state land used as an airport as defined in section
10 262-1, public lands shall include the air rights over any
11 portion of state land upon which a county mass transit project
12 is developed after July 11, 2005."

13 SECTION 5. Section 171-64.7, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) This section applies to all lands or interest therein
16 owned or under the control of state departments and agencies
17 classed as government or crown lands previous to August 15,
18 1895, or acquired or reserved by the government upon or
19 subsequent to that date by purchase, exchange, escheat, or the
20 exercise of the right of eminent domain, or any other manner,
21 including accreted lands not otherwise awarded, submerged lands,



1 and lands beneath tidal waters that are suitable for
2 reclamation, together with reclaimed lands that have been given
3 the status of public lands under this chapter, including:

4 (1) Land set aside pursuant to law for the use of the
5 United States;

6 (2) Land to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Organic Act prior to the admission of Hawaii as a
9 state of the United States;

10 (3) Land to which the University of Hawaii holds title;

11 (4) Land to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;

14 (5) Land to which the department of agriculture holds
15 title by way of foreclosure, voluntary surrender, or
16 otherwise, to recover moneys loaned or to recover
17 debts otherwise owed the department under chapter 167;

18 (6) Land that is set aside by the governor to the Aloha
19 Tower development corporation; or land to which the
20 Aloha Tower development corporation holds title in its
21 corporate capacity;



1 (7) Land that is set aside by the governor to the
2 agribusiness development corporation; or land to which
3 the agribusiness development corporation in its
4 corporate capacity holds title; [~~and~~]

5 (8) Land to which the Hawaii technology development
6 corporation in its corporate capacity holds title[~~-~~];
7 and

8 (9) Land to which the department of education holds
9 title."

10 PART IV

11 SECTION 6. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2018-2019 as a
14 grant-in-aid to the city and county of Honolulu to prepare,
15 execute, and record the quitclaim deeds required by this Act.

16 The sum appropriated shall be expended by the city and
17 county of Honolulu for the purposes of this Act.

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect on January 1, 2050.



Report Title:

Public Schools; Property; Title; Transfer; Appropriation

Description:

Requires the City and County of Honolulu to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated. Gives the Department of Education power to acquire and hold title to real, personal, or mixed property for use for public educational purposes. Requires legislative approval prior to the sale or gift of lands to which the Department of Education holds title. Effective 1/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2237, S.D. 2, RELATING TO PUBLIC SCHOOLS.

BEFORE THE:

HOUSE COMMITTEES ON EDUCATION AND ON WATER AND LAND

DATE: Wednesday, March 21, 2018 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
David D. Day, Deputy Attorney General, or
Julie H. China, Deputy Attorney General

Chairs Woodson and Yamane and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to require to the City and County of Honolulu to convey land upon which 83 public schools sit, with existing improvements, to the Department of Education (DOE). The bill further provides the DOE with the power to acquire real, personal, or mixed property, and sell, assign, exchange, transfer, convey, lease, dispose of, or encumber the same, among other things. The bill further makes land to which the DOE holds title subject to Hawaii Revised Statutes section 171-64.7, which generally requires legislative approval for the sale or gift of state lands.

The Department of the Attorney General believes that it lacks sufficient information regarding the 83 properties at issue to perform a full analysis of the legal implications of the bill. For instance, how the City and County of Honolulu came to own each individual parcel or the potential existence of pollutants on site could have broad legal consequences.

Therefore, we respectfully suggest that a concurrent resolution be adopted to request that an appropriate agency conduct a study into land owned by the City and County of Honolulu that is currently used for public schools. To the extent the agency would require money to conduct the study, a bill with an appropriation would be required.

We also note that it is currently unclear whether the bill seeks to bypass the review or approval of the quitclaim deeds by the Department of the Attorney General. The bill as written currently provides that the City and County of Honolulu shall prepare, execute, and record quitclaim deeds without any reference to action to be taken by any state entity, including the Department of the Attorney General, in this process.

According to section 107-10, Hawaii Revised Statutes (HRS), “No real property or any right, title, or interest therein shall be acquired by agreement, purchase, gift, devise, eminent domain, or otherwise, for any purpose, by the State or any department . . . without the prior approval of the attorney general as to form, exceptions, and reservations.” The duties of the Department of the Attorney General include “approv[ing] as to legality and form all documents relating to the acquisition of any land or interest in lands by the State[.]” Section 26-7, HRS.

We also respectfully recommend that the bill be amended to provide that all quitclaim deeds are subject to review and approval by the Department of the Attorney General prior to execution and recordation.

Finally, on page 9, lines 11–16, the bill states: “Effective on the date of transfer pursuant to subsection (e), every reference to the present titleholder or the head of the department or agency in each instrument, if the titleholder is a department or agency, shall be construed as a reference to the department of education.” The term “each instrument” is vague. If “each instrument” refers to the quitclaim deeds to be executed conveying property to the DOE, the titleholder is already the DOE in such deeds, and we recommend that the sentence be deleted. If “each instrument” refers to something else, then we recommend clarifying what “each instrument” concerns.

Thank you for the opportunity to provide comments.



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

Date: 03/21/2018
Time: 02:00 PM
Location: 309
Committee: House Education
House Water & Land

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 2237, SD2 RELATING TO PUBLIC SCHOOLS.

Purpose of Bill: Requires the City and County of Honolulu to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated. Gives the Department of Education power to acquire and hold title to real, personal, or mixed property for use for public educational purposes. Requires legislative approval prior to the sale or gift of lands to which the Department of Education holds title. Effective 1/1/2050. (SD2)

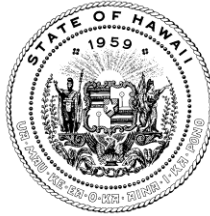
Department's Position:

The Hawaii State Department of Education (HIDOE) supports SB 2237, SD2. The HIDOE was provided the authority to develop its assets to create twenty-first century schools through Act 155, Sessions Law of Hawaii 2013. In our efforts to move projects forward for development, we regularly face the issue of land ownership.

Thank you for this opportunity to present HIDOE testimony on SB 2237, SD2.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committees on
EDUCATION
and
WATER & LAND

Wednesday, March 21, 2018
2:00 PM

State Capitol, Conference Room 309

In consideration of
SENATE BILL 2237, SENATE DRAFT 2
RELATING TO PUBLIC SCHOOLS

Senate Bill 2237, Senate Draft 2 proposes to require the City and County of Honolulu (City) to transfer to the Department of Education (DOE) all property upon which a public elementary or intermediate school is situated. The measure also proposes to grant the DOE the power to acquire and hold title to real, personal or mixed property for use for public educational purposes. The measure would also require legislative approval prior to the sale or gift of lands to which the DOE holds title. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department notes that Governor's executive orders to the DOE are limited to school purposes. Should the DOE wish to use school parcels for revenue generation through commercial development rather than for school purposes, the DOE would need to seek an amendment of the executive orders, which would be subject to the approval of the Board of Land and Natural Resources (Board) and Governor.

The Department further notes that four of the sites listed in the measure are jointly owned by both the City and the State: (38) Iliahi Elementary School, (46) Waiialua Elementary School, (52) Fern Elementary School and (81) Waikiki Elementary School. For three of the sites, except Fern Elementary School, the State used public funds to assist in the acquisition of these properties from private owners. Therefore as the measure only requires the City to transfer its fee interest to the DOE, in the case of these four sites, the State will retain its interest in the properties through the Board. If the DOE seeks to sell or gift fee title in these properties, approval from the

Board would also be required with respect to its share of the fee interest in addition to legislative approval pursuant to Section 171-64.7, Hawaii Revised Statutes.

Thank you for the opportunity to comment on this measure.



SB2237 SD2
RELATING TO PUBLIC SCHOOLS
House Committee on Education
House Committee on Water & Land

March 21, 2018

2:00 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2237 SD2, which would require the City and County of Honolulu to transfer to the Department of Education (DOE) eighty-three (83) parcels of land underlying schools operated by the DOE; give the DOE power to sell, exchange, or transfer property to any government entity; exempt lands held by the DOE from the land disposition and management requirements under HRS Chapter 171; and require legislative approval prior to the sale or gift of lands to which the DOE holds title pursuant to HRS §171-64.7.

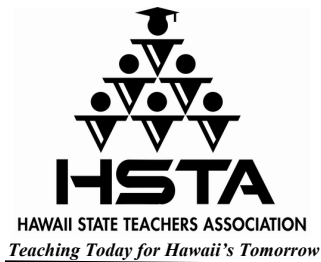
OHA appreciates that the DOE may benefit from the exploration of revenue generating opportunities, particularly given its critical mission to educate Hawai'i's keiki. However, as recognized by this measure, Act 155 (Reg. Sess. 2013), now codified in Haw. Rev. Stat. (HRS) §302A-1151.1, has already enacted a pilot program to give the DOE, in consultation with the Board of Education (BOE), significant flexibility in exploring potential revenue generating opportunities through the leasing of public school properties. Notably, neither Act 155 nor its extension via Act 206 (Reg. Sess. 2017) granted the DOE the authority to sell or otherwise alienate public lands, and both limited the pilot program to no more than five public school land sites. Act 155 also restricted leases to no more than 55 years in most instances.

OHA understands that the Act 155 pilot program has been progressing since its enactment, as reflected in several BOE meetings. Most recently, at the BOE's March 13, 2018, Finance and Infrastructure Committee (Committee) meeting, the Committee recommended, and the BOE later approved, seven (7) sites for further review for lease under the pilot program. Furthermore, the DOE's March 13, 2018, submittal to the Committee and BOE included a statement that sites selected for the pilot program would be encumbered for up to 55 years.

Accordingly, OHA respectfully submits that SB2237 SD2 may be premature, particularly as the DOE and the Legislature have not yet had the opportunity to examine the forthcoming results of the Act 155 pilot program, which may better inform what authorities, exemptions, and safeguards, if any, should be applied to the DOE and any lands under its control.

OHA does appreciate this measure's assurance that the DOE's lands will remain subject to the legislative approval process for the sale or gift of any public lands, as described in HRS § 171-64.7. This section, along with HRS § 171-50, is critical to maintaining the "ceded" lands corpus; the enactment of these sections was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai'i lawsuit, brought in response to the State's actions to sell and otherwise alienate ceded lands. An exemption from these statutory requirements would therefore undermine the long-held understanding between OHA, Native Hawaiians, and the State, regarding the State's moral and legal obligation to maintain the "ceded" lands corpus pending the resolution of Native Hawaiians' claims to these lands. OHA notes that Chapter 171 also contains numerous other requirements for leases of public lands, including public auction requirements, limits on lease length and parcel use, and lessee qualifications, all of which are meant to benefit and protect the interests of Native Hawaiians and the public. An exemption from these requirements may invite potential violations of the public trust and public land trust, by foreclosing opportunities to maximize the financial and intangible benefits derived from the trust corpus, and fostering a sense of entitlement in long-term lessees that can and has in the past led to the alienation of public lands. Accordingly, OHA again suggests that this measure may be more appropriately considered after a close assessment of the results of the Act 155 pilot program, to ensure that any exemptions to Chapter 171 are carefully tailored to meet the DOE's needs while also protecting the interests of Native Hawaiians, the general public, and the state.

Mahalo for the opportunity to testify on this measure.



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TESTIMONY BEFORE THE HOUSE COMMITTEES ON
EDUCATION and WATER AND LAND

RE: SB 2237, SD 2 - RELATING TO PUBLIC SCHOOLS

WEDNESDAY, MARCH 21, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson, Chair Yamane, and Members of the Committees:

The Hawaii State Teachers Association **supports SB 2237, SD 2**, relating to public schools.

Our state's public school buildings are approximately 65-years-old on average. Facilities are damaged, restrooms and water foundations are in disrepair, classroom windows are broken, and campuses are plagued by rat and insect infestations. Our students, especially those with special needs, are subjected to dilapidated infrastructure. Though our state's repair and maintenance backlog has declined, the total cost of lingering projects runs into the hundreds of millions of dollars. Maintenance and capacity problems are particularly painful for developing communities, like the 'Ewa Plain, which will welcome 28,000 more buildings by the year 2021, and Kaka'ako, in which 39,000 new multi-family units are projected to be built within an approximately half-mile radius of rail transit stations, per the Honolulu Community Development Authority.

Last year, lawmakers passed Act 206, which required the City and County of Honolulu to transfer to the Hawai'i State Department of Land and Natural Resources all property upon which public high schools located on O'ahu are situated, while concurrently extending the state's 21st Century schools pilot program by an additional five years. Act 206 did not fully transfer all land on which public schools in Honolulu sit to DLNR, however, precluding the Hawai'i State Department of Education from exercising full control of its O'ahu campuses, for which the state nonetheless carries operational and maintenance responsibility.

For the 21st Century schools initiative imagined by Act 155 of 2013 to succeed, the DOE must have complete control of public school lands and facilities. Split ownership of these lands hampers redevelopment and impedes the department's ability to maximize the value of its real estate assets. Public-private partnerships intended to generate revenue for the repair, maintenance, and construction of school facilities is only possible if and when the department controls all real property on which schools sit, so that the department can explore innovative ways of managing school space that provide a benefit to both the school and the surrounding community, including through the possible initiation of projects on public school lands that are funded with private capital, like workforce housing.

A quality education is priceless. To provide our children with quality school facilities, the Hawaii State Teachers Association asks your committee to **support** this bill.



**Testimony to the House Committees on Education and Water & Land
Wednesday, March 21, 2018 at 2:00 P.M.
Conference Room 309, State Capitol**

RE: SENATE BILL NO. 2237 SD 2, RELATING TO PUBLIC SCHOOLS

Chairs Woodson and Yamane, Vice Chairs Kong and Todd, and members of the committee:

The Chamber is in support of S.B.2237 SD 2, which requires the City and County of Honolulu to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated. Gives the Department of Education power to acquire and hold title to real, personal, or mixed property for use for public educational purposes. Requires legislative approval prior to the sale or gift of lands to which the Department of Education holds title. to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We would prefer the House use the language in HB 2679 which proposes to transfer certain public-school lands from City and County of Honolulu and the Department of Land and Natural Resources, as applicable, to the department of education.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The legislature passed Act 155, 2013 SLH. The purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, the Act was to establish a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools and create more school-centered communities.



We understand the Department of Education (DOE) has been implementing Act 155 through the development of a process which would allow them to redevelop underutilized school properties. A major barrier to these redevelopment efforts is the fact that the DOE does not own any of the lands it occupies. As the bill states of the roughly 2,120 acres of land under its school facilities on Oahu, the City and County of Honolulu owns approximately one-half of the land under the existing school facilities, roughly 1,004 acres. In addition, the Department of Land and Natural Resources (DLNR) owns the other half, roughly 1,116 acres.

Investors and lenders raise concerns about the uncertainty, delays and risks associated with getting approvals from two different landowners. The DOE has no control over the approval process by either the City or the State DLNR.

H.B. 2679 will allow DOE to proceed with the implementation of Act 155, and possibly create opportunities for revenue generation, new or renovated schools, and mixed-use developments, including housing and quite possibly teacher housing.

We believe that consolidating the ownership of land with the Department of Education is a necessary step that would truly test the concepts envisioned when Act 155 was first passed.

We support the intent of S.B. 2237 SD 2, but recommend the Committees consider adding language from H.B. 2679 to consolidate the landownership of the County and State lands under the Department of Education.

Thank you for the opportunity testify.



**Testimony to the House Committees on Education; and Water & Land
Wednesday, March 21, 2018
2:00 pm
State Capitol, Room 309**

RE: SB 2237 SD2 – Relating to Public Schools

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Chairs Woodson & Yamane, Vice-Chairs Kong & Todd, & members of the Committees:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII **supports the intent** of S.B.2237, SD 2, which requires the City and County of Honolulu to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated. This bill also gives the Department of Education power to acquire and hold title to real, personal, or mixed property for use for public educational purposes, and requires legislative approval prior to the sale or gift of lands to which the Department of Education holds title, to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated.

We would prefer the House use the language in H.B. 2679 which proposes to transfer certain public school lands from City and County of Honolulu **and** the Department of Land and Natural Resources, as applicable, to the department of education.

The legislature passed Act 155, 2013 SLH. The purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, the Act was to establish a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools and create more school-centered communities.

We understand the Department of Education (DOE) has been implementing Act 155 through the development of a process which would allow them to redevelop underutilized school properties. A major barrier to these redevelopment efforts is the fact that the DOE does not own any of the lands it occupies. As the bill states of the roughly 2,120 acres of land under its school facilities on Oahu, the City and County of Honolulu owns approximately one-half of the land under the existing school facilities, roughly 1,004 acres. In addition, the Department of Land and Natural Resources (DLNR) owns the other half, roughly 1,116 acres.

Investors and lenders raise concerns about the uncertainty, delays and risks associated with getting approvals from two different landowners. The DOE has no control over the approval process by either the City or the State DLNR.



H.B. 2679 will allow DOE to proceed with the implementation of Act 155, and possibly create opportunities for revenue generation, new or renovated schools, and mixed use developments, including housing and quite possibly teacher housing.

We believe that consolidating the ownership of land with the Department of Education is a necessary step that would truly test the concepts envisioned when Act 155 was first passed.

We support the intent of S.B. 2237 SD 2, but recommend the Committees consider adding language from H.B. 2679 to consolidate the landownership of the County and State lands under the Department of Education. We appreciate the opportunity to express our views on this matter.

SB-2237-SD-2

Submitted on: 3/20/2018 2:00:34 PM

Testimony for EDN on 3/21/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:



'ĀINA HAINA COMMUNITY ASSOCIATION

c/o 'Āina Haina Library, 5246 Kalaniana'ole Highway, Honolulu, HI 96821
ainahainaassoc@gmail.com; www.ainahaina.org

Jeanne Ohta, President • Melia Lane-Kanahele, Vice-President • Art Mori, Treasurer • Kathy Takemoto, Secretary • Directors At Large: Jeff Carlson, Wayson Chow, Patricia Moore, Marie Riley

March 21, 2018

To: Representative Justin Woodson, Chair
Representative Sam Kong, Vice Chair and
Members of the Committee on Education

To: Representative Ryan Yamane, Chair
Representative Chris Todd, Vice Chair and
Members of the Committee on Water and Land

From: Jeanne Y. Ohta, President

RE: SB 2237 SD2 Relating to Public Schools
Hearing: Wednesday, March 21, 2018, 2:00 p.m., Room 309

POSITION: OPPOSED

The Board of Directors of the 'Āina Haina Community Association (AHCA) write in opposition to SB 2237 SD2 Relating to Public Schools, which transfers the land of certain public schools from the City and County of Honolulu to the State of Hawaii.

AHCA specifically opposes the new definition of “educational purpose” to include any use of the property, including revenue generation, that would benefit the department of education's mission to provide public education to students in Hawaii.

Many of the schools are located in residential neighborhoods. When they were built, they were built with the understanding that schools would be a reasonable use for land in residential neighborhoods, thus, the school properties received conditional use permits. The acceptable use is for education of the children of the neighborhood.

HB 2679 HD1 now proposes a definition of “educational use” that is overly broad, ambiguous, and would allow “revenue generation” by businesses that are not appropriate in residential neighborhoods. AHCA is opposed to commercial use of property in residential neighborhoods, especially because they lead to overcrowding and an increase in traffic and parking on streets designed for residential uses. We are also concerned about the capacity of our aging infrastructure as these schools are located in older neighborhoods.

It is our understanding that when the land under 'Āina Haina Elementary School was dedicated to the City, it was with a covenant that restricted its use for education. We do not believe that the State can now change the use of the land to commercial use for revenue generation.

Many school campuses have residential homes on property adjacent to the schools. This proposal would negatively impact those homes and change the nature of neighborhoods.

We ask that the committee defer this measure. Thank you for the opportunity to provide testimony in opposition.

SB-2237-SD-2

Submitted on: 3/15/2018 10:57:59 AM

Testimony for EDN on 3/21/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

LATE TESTIMONY

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

1000 Uluohia Street, Suite 309, Kapolei, Hawaii 96707 •
PHONE: (808) 768-3003 • FAX: (808) 768-3053
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KIRK CALDWELL
MAYOR



MICHELE K. NEKOTA
DIRECTOR

JEANNE C. ISHIKAWA
DEPUTY DIRECTOR

March 20, 2018

THE HOUSE
COMMITTEES ON EDUCATION AND WAYS AND LAND
March 21, 2018 Conference Room 309

The Honorable Justin H. Woodson, Chair
The Honorable Sam Satoru Kong, Vice Chair
and Members of the Committee on Education

The Honorable Ryan I. Yamane, Chair
The Honorable Chris Todd, Vice Chair
and Members of the Committee on Water and Land

TESTIMONY ON
SENATE BILL 2237, SD2: RELATING TO PUBLIC SCHOOLS

Dear Chair Woodson, Vice Chair Kong, Chair Yamane, Vice Chair Todd, and Members of the Committees:

Thank you for the opportunity to testify on SB 2237, SD2, "Relating to Public Schools," requiring the City and County of Honolulu ("City") to transfer 83 identified parcels of land upon which a public school is situated, of which 36 are abutting public park land, to the Department of Education ("DOE").

The Department of Parks and Recreation ("DPR") thanks the Chair and his committee for including the suggested language requirement that the DOE and the city and county of Honolulu "*shall agree on the proposed property boundary separating the school and park portions of the properties. The department of education shall subdivide the foregoing parcels in accordance with the agreed upon property boundaries.*"

We appreciate the subdivision language, but DPR continues to oppose the intent of SB 2237, SD2, for the same reasons that is cited within SB 2237, SD2. Like the State of Hawaii, the City and County has "*invested significant public funds on the maintenance and capital improvement projects*" on our park properties. An example of this is Item 58: TMK 1-3-2-59-2 (Kaimuki intermediate). The attached TMK indicates the State would claim the entire TMK, which includes the Kilauea Gymnasium, a popular city facility, which is abutting Kilauea District Park. An example of this is Item 58: TMK 1-3-2-59-2 (Kaimuki intermediate). The attached TMK indicates the State would claim the entire TMK, which includes the Kilauea Gymnasium, a popular city facility, which is abutting Kilauea District Park. DPR cannot support actions which will result in the loss of park facilities and play fields, an insurmountable recreational impact to the children, teens, adults, families, and organizations of these communities. To further understand the anticipated recreational impact, please see the attached listing of city properties identified in SB2237, SD2.

Mahalo for the opportunity to submit testimony on SB 2237, SD2.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele K. Nekota".

(for) Michele K. Nekota
Director

Attachments

- (1) TMK 1-4-4-3-16 (Aikahi Elementary);
- (2) TMK 1-4-5-16-1 (Ben Parker Elementary); None
- (3) TMK 1-4-2-2-37 (portion) (Enchanted Lake Elementary); Rec Ctr, BB/VB, SB, Play App
- (4) TMK 1-4-6-31-20 (Heeia Elementary);
- (5) TMK 1-4-7-12-24 (portion) (Kahaluu Elementary); Rec Ctr, BB/VB, 3-SB, Play App
- (6) TMK 1-4-3-56-9 (portion) (Kailua Elementary); Gym, Rec Ctr, Pool, 8T/2BB/2VB Courts, 2BB/3SB Fields
- (7) TMK 1-4-3-56-9 (portion) (Kailua Intermediate); Gym, Rec Ctr, Pool, 8T/2BB/2VB Courts, 2BB/3SB Fields
- (8) TMK 1-4-3-76-15 (Kainalu Elementary);
- (9) TMK 1-4-5-103-11 (Kaneohe Elementary);
- (10) TMK 1-4-5-78-14 (portion) (Kapunahala Elementary); CS/Pav, 2BB/1VB Courts, 2SB Fields, Play App
- (11) TMK 1-4-2-92-1 (portion) (Keolu Elementary); CS/Pav, 2VB Courts, SB Field, Skate Park, Play App
- (12) TMK 1-4-6-4-2 (King Intermediate);
- (13) TMK 1-5-5-15-23 (Laie Elementary);
- (14) TMK 1-4-2-55-12 (Lanikai Elementary);
- (15) TMK 1-4-2-43-2 (portion) (Maunawili Elementary); CS, 2BB/1VB Courts, Play App
- (16) TMK 1-4-5-30-38 (portion) (Puohala Elementary); CS, BB/VB Combo Courts, SB Field, Play App
- (17) TMKs 1-4-8-9-9, 1-4-8-9-11 (Waiahole Elementary);
- (18) TMK 1-9-4-59-73 (August Ahrens Elementary);

- (19) TMK 1-9-1-115-13 (Ewa Beach Elementary);
- (20) TMK 1-9-7-36-124 (Highlands Intermediate);
- (21) TMK 1-9-1-1-2 (portion) (Ilima Intermediate);
- (22) TMK 1-9-1-1-3 (Iroquois Point Elementary);
- (23) TMK 1-9-7-17-2 (portion) (Lehua Elementary); Rec Ctr/Pav, 2BB/2VB/8T Courts, SB Field, Play App
- (24) TMK 1-8-7-4-42 (portion) (Maili Elementary); Rec Ctr, 2BB/2VB Courts, SB Field, Play App
- (25) TMK 1-8-4-25-10 (Makaha Elementary);
- (26) TMK 1-9-7-93-16 (portion) (Palisades Elementary); Rec Ctr/Pav, 2BB/1VB Courts, 2SB Fields, Play App
- (27) TMK 1-9-7-24-2 (Pearl City Elementary); Parking Lot
- (28) TMK 1-9-7-36-122 (Pearl City Highlands Elementary);
- (29) TMK 1-9-1-1-2 (portion) (Pohakea Elementary);
- (30) TMK 1-8-5-1-67 (Waianae Elementary);
- (31) TMKs 1-9-4-10-98, 1-9-4-29-1 (Waipahu Elementary);
- (32) TMK 1-9-4-1-29 (portion) (Waipahu Intermediate); BB/VB Courts, Play App
- (33) TMK 1-1-1-10-33 (portion) (Aliamanu Elementary);
- (34) TMK 1-1-1-10-33 (portion) (Aliamanu Intermediate);
- (35) TMKs 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott Elementary);
- (36) TMKs 1-6-6-13-11, 1-6-6-13-13, 1-6-6-14-15 (Haleiwa Elementary);
- (37) TMK 1-7-1-2-17 (Helemano Elementary);
- (38) TMK 1-7-5-27-2 (portion) (Iliahi Elementary); CS, BB Court, SB, Play App

(39) TMK 1-7-3-19-13 (Kaala Elementary); CS/Pav, BB/VB/2T Courts, SB, Play App

(40) TMK 1-9-5-21-2 (portion) (Kipapa Elementary); CS/Pav, 2BB/2VB Courts, SB, Play App

(41) TMK 1-1-1-34-42 (Moanalua Elementary); NONE

(42) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate); CS, Pool, 3BB/1VB Courts, 2 SB Fields

(43) TMK 1-1-1-2-6 (Nimitz Elementary);

(44) TMK 1-1-1-10-27 (Pearl Harbor Elementary);

(45) TMKs 1-7-1-2-8, 1-7-5-5-7, 1-7-5-5-3 (Wahiawa Elementary);

(46) TMK 1-6-7-1-10 (Waialua Elementary); Tennis Court

(47) TMK 1-9-8-8-7 (portion) (Waimalu Elementary); CS/Pav, BB/VB Courts, SB Field, Play App

(48) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary); Rec Ctr, 2BB/VB/2T Courts, 2SB Fields, Play App

(49) TMKs 3-4-004-006, 3-4-004-007 (Anuenue Elementary);

(50) TMKs 2-1-005-001 (portion) CS/Pav, 2BB/2VB/2T Courts, SB Field, Play App, 2-1-009-002, NONE 2-1-009-003 (Central Intermediate); NONE

(51) TMKs 1-3-024-005, 1-3-024-004 (portion) (Dole Intermediate);

(52) TMKs 1-3-001-023, 1-3-001-017 (portion) (Fern Elementary);

(53) TMK 3-9-038-001 (portion) (Hahaione Elementary); CS/Pav, 2BB/2VB Courts, SB Field, Play App

(54) TMKs 2-8-029-010, NONE 2-8-029-011 (Hokulani Elementary); Rec Ctr, Pool, 2BB/1VB/2T Courts, 1BB/3SB Fields, Play App

(55) TMK 2-4-012-002 (Kaahumanu Elementary);

(56) TMKs 1-3-024-001 NONE, 1-3-024-002 (Kaewai Elementary); Gym, Pool, 2BB/2VB/3T Courts, 1BB/1SB Fields, Play App

(57) TMK 3-5-011-027 (Kahala Elementary);

(58) TMK 3-2-059-002 (Kaimuki Intermediate); Gym

(59) TMKs 1-5-024-040 NONE, 1-5-025-002 (portion) (Kalakaua Intermediate); Gym, Rec Ctr, 4BB/3VB/4T Courts, 2SB Fields, Play App

(60) TMK 1-4-007-002 (portion) (Kalihi Elementary);

(61) TMK 1-5-025-002 (portion) (Kalihi-Kai Elementary); Gym, Rec Ctr, 4BB/3VB/4T Courts, 2SB Fields, Play App

(62) TMKs 1-3-035-001 (portion) 1Bb/1VB Courts, 1 SB Field, Play App, 1-3-036-079 (Kalihi-Uka Elementary); Rec Ctr (Part of School Building), 1Bb/1VB Courts

(63) TMK 3-9-005-061 (Kamiloiki Elementary); Rec Ctr, 4BB/2VB Courts, SB Field, Play App

(64) TMK 1-6-026-022 (Kapalama Elementary);

(65) TMK 1-7-023-042 (Kauluwela Elementary); NONE

(66) TMK 2-2-009-011 (Kawananakoa Intermediate);

(67) TMK 3-9-022-037 (Koko Head Elementary); CS/Pav, 2BB/2VB Courts, 2SB Field, Play App

(68) TMKs 2-7-017-030, 2-7-027-010 (portion) (Kuhio Elementary);

(69) TMK 3-2-021-035 (Liholiho Elementary);

(70) TMKs 1-6-008-016, 1-6-008-022, 1-6-008-024, 1-6-008-038, 1-6-008-058 (Likelike Elementary);

(71) TMK 1-3-039-005 (Linapuni Elementary);

(72) TMKs 2-3-030-055, 2-3-030-056 (Lunalilo Elementary);

(73) TMK 2-9-036-003 (portion) (Manoa Elementary); 2Gyms, Rec Ctr, Pool, 2BB/2VB/5T Courts, 1BB/3SB Fields, Play App

- (74) TMK 3-7-003-010 (portion) (Niu Valley Intermediate); 2T
- (75) TMK 2-9-023-023 (Noelani Elementary);
- (76) TMK 2-2-043-011 (Nuuuanu Elementary);
- (77) TMK 3-4-002-001 (Palolo Elementary);
- (78) TMK 2-2-016-020 (portion) (Pauoa Elementary);
- (79) TMK 1-2-008-001 (Puuhale Elementary);
- (80) TMK 3-2-045-003 (Waialae Elementary);
- (81) TMK 3-1-025-001 (portion) (Waikiki Elementary);
- (82) TMK 2-3-026-001 (Washington Intermediate); and
- (83) TMK 3-5-017-012 (portion) (Wilson Elementary). Rec Ctr, 3BB/1VB Courts, 2SB Field, Play App

BEFORE THE HOUSE COMMITTEES ON EDUCATION AND WATER & LAND

Hawaii State Legislature
March 21, 2018

Senate Bill 2237 SD2
Relating to Public Schools

Aloha Chair Woodson, Vice Chair Kong, Chair Yamane, Vice Chair Todd, and Members of the Committees,

The Ka Lāhui Hawaii Political Action Committee (KPAC) opposes Senate Bill 2237 SD2 which consolidates ownership of lands currently being used by the Department of Education (DOE) under the DOE and removes these lands from the ‘public lands’ category in order to make it easier for the DOE to develop and commercialize these lands in order to raise funds. KPAC opposes for the following reasons:

1. It is the State’s responsibility to adequately fund the DOE and should make this a priority in budgeting and should fully fund the DOE’s budget requests.
2. Utilizing public educational facilities like public schools for corporate development could set a dangerous precedent in the commercialization of public facilities including the education of our most precious resource, our children.
3. These lands are primarily Kanaka Maoli lands or “ceded lands” (former Hawaiian Kingdom Crown and government) to which Kanaka Maoli never relinquished their rights too. These lands should not be removed from the “ceded lands” inventory without first consulting the Kanaka Maoli people.
4. The removal of DOE lands from “public lands” and from the 5(f) public trust purposes that include being used toward the betterment of the conditions of native Hawaiians could also potentially be determined to be a breach of trust (see below).

By way of background, Professor Williamson Chang of the UH Law School has detailed his analysis that the Joint Resolution was incapable of acquiring Hawai‘i at http://blog.hawaii.edu/aplpj/files/2015/09/APLPJ_16_2_Chang.pdf. Despite this analysis, the former Crown and government lands of the Kingdom of Hawai‘i were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawaii to be held as a public trust for 5 purposes including the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920. The Admissions Act further states that any other object besides the 5 purposes shall constitute a breach of trust for which suit may be brought by the United States. The Article XII Constitutional provisions further establish that the lands are held as a public trust for native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920 and should be used solely for that purpose.

The Ka Lāhui Hawai‘i Political Action Committee (KPAC) affirms and defends the Kanaka Maoli peoples’ right to over 1.8 million acres of our national lands.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC