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# 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.*

