



1 to provide general education settings for children whose  
2 individualized education programs require [~~such~~] placement;  
3 provided further that the department may:

4 (1) Establish Title I-funded prekindergarten classrooms;  
5 and

6 (2) Directly accept private funding for the purpose of  
7 establishing public prekindergarten programs; provided  
8 further that:

9 (A) The department shall comply with section 302L-7;

10 (B) The department and the executive office on early  
11 learning shall sign a bilateral memorandum of  
12 agreement or understanding; and

13 (C) The department, the executive office on early  
14 learning, and the person or entity providing the  
15 private funding may sign a multilateral  
16 memorandum of agreement or understanding.

17 (c) If the private funding provided is insufficient to  
18 maintain the classroom operations of a public prekindergarten  
19 program established pursuant to subsection (b) (2), the  
20 department and executive office on early learning shall be



1 prohibited from requesting additional funding from the  
2 legislature to pay for the remaining costs.

3 (d) The department shall collaborate with the executive  
4 office on early learning to coordinate services for children who  
5 are placed through their individualized education programs in a  
6 general education prekindergarten setting in a classroom offered  
7 by the executive office on early learning public prekindergarten  
8 program. Under policies established by the early learning  
9 board, the executive office on early learning shall have  
10 administrative authority over all state-funded prekindergarten  
11 programs, and private partnership-funded prekindergarten  
12 programs in the public schools, except for special education and  
13 Title I-funded prekindergarten programs. The state librarian,  
14 under policies established by the board of education, shall be  
15 responsible for the administration of programs relating to  
16 public library services and transcribing services for the blind.

17 (e) The functions and authority exercised by the  
18 department relating to state-funded prekindergarten programs,  
19 private partnership-funded prekindergarten programs in the  
20 public schools, and classrooms to provide general education  
21 settings for children whose individualized education programs



1 require [~~such~~] placement, except for special education and Title  
2 I-funded prekindergarten programs, shall be transferred to the  
3 executive office on early learning; provided that the department  
4 shall continue to provide, and have administrative authority  
5 over:

6 (1) Services generally provided to the schools, excluding  
7 those services related to curriculum, instruction,  
8 assessment, and professional learning support, for any  
9 facility on a department school campus at which the  
10 executive office on early learning administers  
11 programs; and

12 (2) Public prekindergarten programs established pursuant  
13 to subsection (b) (2).

14 (f) The functions and authority heretofore exercised by  
15 the department of education (except dental health treatment  
16 transferred to the department of health), library of Hawaii,  
17 Hawaii county library, Maui county library, and the transcribing  
18 services program of the bureau of sight conservation and work  
19 with the blind, as heretofore constituted are transferred to the  
20 public library system established by this chapter.



1 (g) The management contract between the board of  
2 supervisors of the county of Kauai and the Kauai public library  
3 association shall be terminated at the earliest time after  
4 November 25, 1959, permissible under the terms of the contract  
5 and the provisions of this subsection shall constitute notice of  
6 termination, and the functions and authority heretofore  
7 exercised by the Kauai county library as heretofore constituted  
8 and the Kauai public library association over the public  
9 libraries in the county of Kauai shall thereupon be transferred  
10 to the public library system established by this chapter.

11 (h) The management contracts between the trustees of the  
12 library of Hawaii and the Friends of the Library of Hawaii, and  
13 between the library of Hawaii and the Hilo library and reading  
14 room association, shall be terminated at the earliest time after  
15 November 25, 1959, permissible under the terms of the contracts,  
16 and the provisions of this subsection shall constitute notice of  
17 termination.

18 (i) Upon the termination of the contracts, the State or  
19 the counties shall not enter into any library management  
20 contracts with any private association; provided that in  
21 providing library services, the board of education may enter



1 into contracts approved by the governor for the use of lands,  
2 buildings, equipment, and facilities owned by any private  
3 association.

4 (j) Notwithstanding any law to the contrary, the board of  
5 education may establish, specify the membership number and  
6 quorum requirements for, appoint members to, and disestablish a  
7 commission in each county to be known as the library advisory  
8 commission, which shall in each case sit in an advisory capacity  
9 to the board of education on matters relating to public library  
10 services in their respective county.

11 (k) The department shall establish, maintain, and operate  
12 the public education facilities of the State, including public  
13 schools and other educational facilities authorized by law. The  
14 department may enter into service-level agreements, memoranda of  
15 agreement, or memoranda of understanding with other departments  
16 for these responsibilities if the agreement or understanding is  
17 beneficial for the State."

18 SECTION 2. Section 302A-1111, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Under policies established by the board, the  
21 superintendent shall be designated as the chief executive



1 officer of the public school system having jurisdiction over the  
2 internal organization, operation, and management of the public  
3 school system, as provided by law; and shall administer programs  
4 of education and public instruction throughout the State,  
5 including education at the primary and secondary school levels,  
6 the superintendence and management of the internal improvements  
7 of the public education facilities of the State, and [~~sueh~~]  
8 other programs as may be established by law; provided that all  
9 state-funded prekindergarten programs, and private partnership-  
10 funded prekindergarten programs in the public schools, except  
11 for special education and Title I-funded prekindergarten  
12 programs, shall be under the administrative authority of the  
13 executive office on early learning; provided further that the  
14 department shall continue to provide, and have administrative  
15 authority over, services generally provided to the schools  
16 excluding those services related to curriculum, instruction,  
17 assessment, and professional learning support, for any facility  
18 on a department school campus at which the executive office on  
19 early learning administers programs."

20 PART II



1 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by adding three new sections to part VI, subpart A, to  
3 be appropriately designated and to read as follows:

4 "§302A-A Facilities and operations; separation. (a)

5 There is established within the department:

6 (1) The office of facilities and real estate development;  
7 and

8 (2) The office of school operations and services.

9 (b) The office of facilities and real estate development  
10 shall be responsible for the development, construction, repairs,  
11 maintenance, and other activities necessary for public education  
12 facilities as authorized by law or deemed necessary by board  
13 policy.

14 The head of the office of facilities and real estate  
15 development shall be known as the assistant superintendent of  
16 facilities and real estate development. The superintendent  
17 shall appoint the assistant superintendent of facilities and  
18 real estate development and a secretary, who shall be exempt  
19 from chapter 76. The assistant superintendent of facilities and  
20 real estate development and secretary may be removed by the  
21 superintendent.



1        (c) The office of school operations and services shall be  
2 responsible for service operations including school meals,  
3 transportation, and other activities as may be required by law  
4 or deemed necessary by board policy.

5        **§302A-B Office of facilities and real estate development;**  
6 **powers.** Except as otherwise limited by this chapter and upon  
7 approval by the board, the office of facilities and real estate  
8 development may:

9        (1) Acquire or contract to acquire by grant or purchase  
10 real, personal, or mixed property or any interest  
11 therein; clear, improve, rehabilitate; and sell,  
12 assign, exchange, transfer, convey, lease, subdivide,  
13 or otherwise dispose of or encumber the same;

14        (2) Acquire property by condemnation pursuant to chapter  
15 101;

16        (3) Enter into partnerships with qualified persons,  
17 including public-private partnerships, as defined in  
18 the department's rules, to acquire, construct,  
19 reconstruct, rehabilitate, improve, alter, or provide  
20 for the construction, reconstruction, improvement, or  
21 alteration of any project, including prekindergarten



1 facilities; and sell, assign, transfer, convey,  
2 exchange, lease, or otherwise dispose of or encumber  
3 any project; and in the case of the sale of any  
4 project, accept a purchase money mortgage in  
5 connection therewith;

6 (4) Grant options to acquire any project or renew any  
7 lease entered into by the office of facilities and  
8 real estate development in connection with any of its  
9 projects, on terms and conditions as it deems  
10 advisable;

11 (5) Grant options to purchase any project or renew any  
12 lease entered into by the office of facilities and  
13 real estate development in connection with any of its  
14 projects, on terms and conditions as it deems  
15 advisable;

16 (6) Appoint or retain by contract one or more attorneys  
17 who are independent of the attorney general to provide  
18 legal services solely in cases of negotiations in  
19 which the attorney general lacks the sufficient  
20 expertise; provided that the independent attorney



1           shall consult and work in conjunction with the  
 2           designated deputy attorney general; and  
 3        (7) Recruit, hire, and retain exempt employees,  
 4           architects, engineers, existing civil service  
 5           positions, and other technical positions required for  
 6           the development, planning, and construction related to  
 7           capital improvement projects, repair and maintenance,  
 8           and deferred maintenance.

9           **§302A-C Educational facilities and real estate development**

10 special fund. (a) There is established within the state  
 11 treasury a special fund to be known as the educational  
 12 facilities and real estate development special fund into which  
 13 shall be deposited:

14        (1) All moneys appropriated or transferred by the  
 15           legislature or counties for deposit into the special  
 16           fund;

17        (2) Any moneys received by the department in the form of a  
 18           grant, gift, endowment, or donation for the  
 19           development, planning, or construction of new  
 20           educational facilities or major renovations of  
 21           educational facilities; and



1       (3) All other moneys received by the department and not  
2       deposited into a trust fund or trust account,  
3       including unrestricted grants, gifts, and donations;  
4       proceeds from sales of property; rents and other  
5       receipts from leases, rights of entry, and the like;  
6       and interest, refunds, and other receipts and  
7       payments.

8       (b) The department shall establish and appropriately name  
9       subaccounts within the educational facilities and real estate  
10      development special fund to accept deposits of revenue from  
11      school impact fees that are required to be expended within a  
12      specific school impact district pursuant to section 302A-1608(a)  
13      or restricted for a specified purpose pursuant to part V,  
14      subpart B, of this chapter.

15      (c) The educational facilities and real estate development  
16      special fund shall be administered by the department and used to  
17      fund any school development, planning, or construction project,  
18      including prekindergarten facilities, within the jurisdiction of  
19      the department.

20      (d) Subject to chapter 84, notwithstanding any other law  
21      to the contrary, the governor may authorize expenditures from



1 the educational facilities and real estate development special  
2 fund of any donation, grant, bequest, and devise of money from  
3 any private institution, person, firm, or corporation for the  
4 purposes of funding the salaries of the department. If all or  
5 any portion of any salary of the department or any officer,  
6 agent, or employee of the department is funded pursuant to this  
7 subsection, the department shall submit a report to the  
8 legislature detailing the use of any funds authorized under this  
9 subsection no later than twenty days prior to the convening of  
10 the next regular session following the expenditure  
11 authorization.

12 (e) The department shall submit to the director of finance  
13 a report that shall be prepared in the form prescribed by the  
14 director of finance and shall identify the total amount of funds  
15 in the educational facilities and real estate development  
16 special fund that will carry over to the next fiscal year. The  
17 department shall submit the report to the director of finance  
18 and the legislature within ninety days of the close of each  
19 fiscal year.

20 (f) Within the educational facilities and real estate  
21 development special fund there shall be established accounts and



1 subaccounts as may be necessary from time to time to ensure  
2 compliance with the Internal Revenue Code, as amended."

3 PART III

4 SECTION 4. (a) In addition to the responsibilities set  
5 forth in section 302A-A, Hawaii Revised Statutes, the office of  
6 facilities and real estate development shall include:

- 7 (1) The branches of facilities development and facilities  
8 maintenance as identified in the 2022 department of  
9 education organizational chart;
- 10 (2) The school support program, previously under the  
11 auxiliary services branch;
- 12 (3) The project control section;
- 13 (4) The environmental services unit; and
- 14 (5) The safety, security, and emergency preparedness  
15 branch.

16 (b) In addition to the responsibilities set forth in  
17 section 302A-A, Hawaii Revised Statutes, the office of school  
18 operations and services shall include:

- 19 (1) School transportation and school services as  
20 identified in the 2022 department of education  
21 organization chart;





1 department, or drafting legal documents for the department;  
2 provided that the foregoing provision shall not apply to the  
3 employment or retention of attorneys:

4 (1) By the public utilities commission, the labor and  
5 industrial relations appeals board, and the Hawaii  
6 labor relations board;

7 (2) By any court or judicial or legislative office of the  
8 State; provided that if the attorney general is  
9 requested to provide representation to a court or  
10 judicial office by the chief justice or the chief  
11 justice's designee, or to a legislative office by the  
12 speaker of the house of representatives and the  
13 president of the senate jointly, and the attorney  
14 general declines to provide [~~such~~] representation on  
15 the grounds of conflict of interest, the attorney  
16 general shall retain an attorney for the court,  
17 judicial, or legislative office, subject to approval  
18 by the court, judicial, or legislative office;

19 (3) By the legislative reference bureau;

20 (4) By any compilation commission that may be constituted  
21 from time to time;



- 1 (5) By the real estate commission for any action involving  
2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action  
4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs for  
7 the enforcement of violations of chapters 480 and  
8 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaii health systems corporation, or its  
11 regional system boards, or any of their facilities;
- 12 (11) By the auditor;
- 13 (12) By the office of ombudsman;
- 14 (13) By the insurance division;
- 15 (14) By the University of Hawaii;
- 16 (15) By the Kahoolawe island reserve commission;
- 17 (16) By the division of consumer advocacy;
- 18 (17) By the office of elections;
- 19 (18) By the campaign spending commission;
- 20 (19) By the Hawaii tourism authority, as provided in  
21 section 201B-2.5;



1 (20) By the division of financial institutions;

2 (21) By the office of information practices;

3 [~~(22)~~ By the school facilities authority;

4 ~~(23)]~~ (22) By the Mauna Kea stewardship and oversight  
5 authority; or

6 [~~(24)]~~ (23) By a department, if the attorney general, for  
7 reasons deemed by the attorney general to be good and  
8 sufficient, declines to employ or retain an attorney  
9 for a department; provided that the governor waives  
10 the provision of this section."

11 SECTION 7. Section 76-16, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The civil service to which this chapter applies shall  
14 comprise all positions in the State now existing or hereafter  
15 established and embrace all personal services performed for the  
16 State, except the following:

17 (1) Commissioned and enlisted personnel of the Hawaii  
18 National Guard [~~as such~~], and positions in the Hawaii  
19 National Guard that are required by state or federal  
20 laws or regulations or orders of the National Guard to



- 1 be filled from those commissioned or enlisted  
2 personnel;
- 3 (2) Positions filled by persons employed by contract where  
4 the director of human resources development has  
5 certified that the service is special or unique or is  
6 essential to the public interest and that, because of  
7 circumstances surrounding its fulfillment, personnel  
8 to perform the service cannot be obtained through  
9 normal civil service recruitment procedures. Any  
10 ~~[such contract may be for any period not exceeding]~~  
11 contract under this paragraph shall not exceed one  
12 year;
- 13 (3) Positions that must be filled without delay to comply  
14 with a court order or decree if the director  
15 determines that recruitment through normal recruitment  
16 civil service procedures would result in delay or  
17 noncompliance, such as the Felix-Cayetano consent  
18 decree;
- 19 (4) Positions filled by the legislature or by either house  
20 or any committee thereof;



- 1 (5) Employees in the office of the governor and office of  
2 the lieutenant governor, and household employees at  
3 Washington Place;
- 4 (6) Positions filled by popular vote;
- 5 (7) Department heads, officers, and members of any board,  
6 commission, or other state agency whose appointments  
7 are made by the governor or are required by law to be  
8 confirmed by the senate;
- 9 (8) Judges, referees, receivers, masters, jurors, notaries  
10 public, land court examiners, court commissioners, and  
11 attorneys appointed by a state court for a special  
12 temporary service;
- 13 (9) One bailiff for the chief justice of the supreme court  
14 who shall have the powers and duties of a court  
15 officer and bailiff under section 606-14; one  
16 secretary or clerk for each justice of the supreme  
17 court, each judge of the intermediate appellate court,  
18 and each judge of the circuit court; one secretary for  
19 the judicial council; one deputy administrative  
20 director of the courts; three law clerks for the chief  
21 justice of the supreme court, two law clerks for each



1 associate justice of the supreme court and each judge  
2 of the intermediate appellate court, one law clerk for  
3 each judge of the circuit court, two additional law  
4 clerks for the civil administrative judge of the  
5 circuit court of the first circuit, two additional law  
6 clerks for the criminal administrative judge of the  
7 circuit court of the first circuit, one additional law  
8 clerk for the senior judge of the family court of the  
9 first circuit, two additional law clerks for the civil  
10 motions judge of the circuit court of the first  
11 circuit, two additional law clerks for the criminal  
12 motions judge of the circuit court of the first  
13 circuit, and two law clerks for the administrative  
14 judge of the district court of the first circuit; and  
15 one private secretary for the administrative director  
16 of the courts, the deputy administrative director of  
17 the courts, each department head, each deputy or first  
18 assistant, and each additional deputy, or assistant  
19 deputy, or assistant defined in paragraph (16);  
20 (10) First deputy and deputy attorneys general, the  
21 administrative services manager of the department of



1 the attorney general, one secretary for the  
2 administrative services manager, an administrator and  
3 any support staff for the criminal and juvenile  
4 justice resources coordination functions, and law  
5 clerks;

6 (11) (A) Teachers, principals, vice-principals, complex  
7 area superintendents, deputy and assistant  
8 superintendents, other certificated personnel, no  
9 more than twenty noncertificated administrative,  
10 professional, and technical personnel not engaged  
11 in instructional work;

12 (B) Effective July 1, 2003, teaching assistants,  
13 educational assistants, bilingual/bicultural  
14 school-home assistants, school psychologists,  
15 psychological examiners, speech pathologists,  
16 athletic health care trainers, alternative school  
17 work study assistants, alternative school  
18 educational/supportive services specialists,  
19 alternative school project coordinators, and  
20 communications aides in the department of  
21 education;



1 (C) The special assistant to the state librarian and  
2 one secretary for the special assistant to the  
3 state librarian; and

4 (D) Members of the faculty of the University of  
5 Hawaii, including research workers, extension  
6 agents, personnel engaged in instructional work,  
7 and administrative, professional, and technical  
8 personnel of the university;

9 (12) Employees engaged in special, research, or  
10 demonstration projects approved by the governor;

11 (13) (A) Positions filled by inmates, patients of state  
12 institutions, persons with severe physical or  
13 mental disabilities participating in the work  
14 experience training programs;

15 (B) Positions filled with students in accordance with  
16 guidelines for established state employment  
17 programs; and

18 (C) Positions that provide work experience training  
19 or temporary public service employment that are  
20 filled by persons entering the workforce or  
21 persons transitioning into other careers under



1 programs such as the federal Workforce Investment  
 2 Act of 1998, as amended, or the Senior Community  
 3 Service Employment Program of the Employment and  
 4 Training Administration of the United States  
 5 Department of Labor, or under other similar state  
 6 programs;

7 (14) A custodian or guide at Iolani Palace, the Royal  
 8 Mausoleum, and Hulihee Palace;

9 (15) Positions filled by persons employed on a fee,  
 10 contract, or piecework basis, who may lawfully perform  
 11 their duties concurrently with their private business  
 12 or profession or other private employment and whose  
 13 duties require only a portion of their time, if it is  
 14 impracticable to ascertain or anticipate the portion  
 15 of time to be devoted to the service of the State;

16 (16) Positions of first deputies or first assistants of  
 17 each department head appointed under or in the manner  
 18 provided in section 6, article V, of the Hawaii State  
 19 Constitution; three additional deputies or assistants  
 20 either in charge of the highways, harbors, and  
 21 airports divisions or other functions within the



1 department of transportation as may be assigned by the  
2 director of transportation, with the approval of the  
3 governor; one additional deputy in the department of  
4 human services either in charge of welfare or other  
5 functions within the department as may be assigned by  
6 the director of human services; four additional  
7 deputies in the department of health, each in charge  
8 of one of the following: behavioral health,  
9 environmental health, hospitals, and health resources  
10 administration, including other functions within the  
11 department as may be assigned by the director of  
12 health, with the approval of the governor; two  
13 additional deputies in charge of the law enforcement  
14 programs, administration, or other functions within  
15 the department of law enforcement as may be assigned  
16 by the director of law enforcement, with the approval  
17 of the governor; three additional deputies each in  
18 charge of the correctional institutions,  
19 rehabilitation services and programs, and  
20 administration or other functions within the  
21 department of corrections and rehabilitation as may be



1 assigned by the director [~~or~~] of corrections and  
2 rehabilitation, with the approval of the governor; an  
3 administrative assistant to the state librarian; and  
4 an administrative assistant to the superintendent of  
5 education;

6 (17) Positions specifically exempted from this part by any  
7 other law; provided that:

8 (A) Any exemption created after July 1, 2014, shall  
9 expire three years after its enactment unless  
10 affirmatively extended by an act of the  
11 legislature; and

12 (B) All of the positions defined by paragraph (9)  
13 shall be included in the position classification  
14 plan;

15 (18) Positions in the state foster grandparent program and  
16 positions for temporary employment of senior citizens  
17 in occupations in which there is a severe personnel  
18 shortage or in special projects;

19 (19) Household employees at the official residence of the  
20 president of the University of Hawaii;



- 1       (20) Employees in the department of education engaged in  
2           the supervision of students during meal periods in the  
3           distribution, collection, and counting of meal  
4           tickets, and in the cleaning of classrooms after  
5           school hours on a less than half-time basis;
- 6       (21) Employees hired under the tenant hire program of the  
7           Hawaii public housing authority; provided that not  
8           more than twenty-six per cent of the authority's  
9           workforce in any housing project maintained or  
10          operated by the authority shall be hired under the  
11          tenant hire program;
- 12       (22) Positions of the federally funded expanded food and  
13           nutrition program of the University of Hawaii that  
14           require the hiring of nutrition program assistants who  
15           live in the areas they serve;
- 16       (23) Positions filled by persons with severe disabilities  
17           who are certified by the state vocational  
18           rehabilitation office that they are able to perform  
19           safely the duties of the positions;
- 20       (24) The sheriff;



- 1 (25) A gender and other fairness coordinator hired by the  
2 judiciary;
- 3 (26) Positions in the Hawaii National Guard youth and adult  
4 education programs;
- 5 (27) In the state energy office in the department of  
6 business, economic development, and tourism, all  
7 energy program managers, energy program specialists,  
8 energy program assistants, and energy analysts;
- 9 (28) Administrative appeals hearing officers in the  
10 department of human services;
- 11 (29) In the Med-QUEST division of the department of human  
12 services, the division administrator, finance officer,  
13 health care services branch administrator, medical  
14 director, and clinical standards administrator;
- 15 (30) In the director's office of the department of human  
16 services, the enterprise officer, information security  
17 and privacy compliance officer, security and privacy  
18 compliance engineer, security and privacy compliance  
19 analyst, information technology implementation  
20 manager, assistant information technology  
21 implementation manager, resource manager,



1 community/project development director, policy  
2 director, special assistant to the director, and  
3 limited English proficiency project  
4 manager/coordinator;

5 (31) The Alzheimer's disease and related dementia services  
6 coordinator in the executive office on aging;

7 (32) In the Hawaii emergency management agency, the  
8 executive officer, public information officer, civil  
9 defense administrative officer, branch chiefs, and  
10 emergency operations center state warning point  
11 personnel; provided that for state warning point  
12 personnel, the director shall determine that  
13 recruitment through normal civil service recruitment  
14 procedures would result in delay or noncompliance;

15 [~~(33)~~] ~~The executive director and seven full-time~~  
16 ~~administrative positions of the school facilities~~  
17 ~~authority;~~

18 ~~(34)]~~ (33) Positions in the Mauna Kea stewardship and  
19 oversight authority;



1     ~~[(35)]~~ (34) In the office of homeland security of the  
2             department of law enforcement, the statewide  
3             interoperable communications coordinator; and

4     ~~[(36)]~~ (35) In the social services division of the  
5             department of human services, the business technology  
6             analyst.

7             The director shall determine the applicability of this  
8 section to specific positions.

9             Nothing in this section shall be deemed to affect the civil  
10 service status of any incumbent as it existed on July 1, 1955."

11             SECTION 8. Section 84-17, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13             "(c) The following persons shall file annually with the  
14 state ethics commission a disclosure of financial interests:

15             (1) The governor, lieutenant governor, members of the  
16             legislature, and delegates to the constitutional  
17             convention; provided that delegates to the  
18             constitutional convention shall only be required to  
19             file initial disclosures;

20             (2) The directors and their deputies, the division chiefs,  
21             the executive directors and the executive secretaries



1 and their deputies, the purchasing agents, and the  
2 fiscal officers, regardless of the titles by which the  
3 foregoing persons are designated, of every state  
4 agency and department;

5 (3) The permanent employees of the legislature and its  
6 service agencies, other than persons employed in  
7 clerical, secretarial, or similar positions;

8 (4) The administrative director of the State, and the  
9 assistants in the office of the governor and  
10 lieutenant governor, other than persons employed in  
11 clerical, secretarial, or similar positions;

12 (5) The hearings officers of every state agency and  
13 department;

14 (6) The president, vice presidents, assistant vice  
15 presidents, chancellors, and provosts of the  
16 University of Hawaii and its community colleges;

17 (7) The superintendent, deputy superintendent, assistant  
18 superintendents, complex area superintendents, state  
19 librarian, and deputy state librarian of the  
20 department of education;



1 (8) The administrative director and deputy director of the  
2 courts;

3 (9) The members of every state board or commission whose  
4 original terms of office are for periods exceeding one  
5 year and whose functions are not solely advisory;

6 (10) Candidates for state elective offices, including  
7 candidates for election to the constitutional  
8 convention; provided that candidates shall only be  
9 required to file initial disclosures;

10 (11) The administrator and assistant administrator of the  
11 office of Hawaiian affairs; and

12 (12) The Hawaii unmanned aerial systems test site chief  
13 operating officer[~~;~~and

14 ~~(13) The members of the school facilities board appointed~~  
15 ~~by the governor]."~~

16 SECTION 9. Section 171-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§171-2 Definition of public lands.** "Public lands" means  
19 all lands or interest therein in the State classed as government  
20 or crown lands previous to August 15, 1895, or acquired or  
21 reserved by the government upon or subsequent to that date by



1 purchase, exchange, escheat, or the exercise of the right of  
2 eminent domain, or in any other manner; including lands accreted  
3 after May 20, 2003, and not otherwise awarded, submerged lands,  
4 and lands beneath tidal waters that are suitable for  
5 reclamation, together with reclaimed lands that have been given  
6 the status of public lands under this chapter, except:

7 (1) Lands designated in section 203 of the Hawaiian Homes  
8 Commission Act, 1920, as amended;

9 (2) Lands set aside pursuant to law for the use of the  
10 United States;

11 (3) Lands being used for roads and streets;

12 (4) Lands to which the United States relinquished the  
13 absolute fee and ownership under section 91 of the  
14 Hawaiian Organic Act before the admission of Hawaii as  
15 a state of the United States unless subsequently  
16 placed under the control of the board of land and  
17 natural resources and given the status of public lands  
18 in accordance with the state constitution, the  
19 Hawaiian Homes Commission Act, 1920, as amended, or  
20 other laws;

21 (5) Lands to which the University of Hawaii holds title;



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



1 (11) Lands that are set aside by the governor to the  
2 agribusiness development corporation, lands leased to  
3 the agribusiness development corporation by any  
4 department or agency of the State, or lands to which  
5 the agribusiness development corporation in its  
6 corporate capacity holds title;

7 (12) Lands to which the Hawaii technology development  
8 corporation in its corporate capacity holds title;

9 (13) Lands to which the department of education holds  
10 title; and

11 (14) Lands to which the stadium authority holds title; [~~and~~

12 ~~(15) Lands to which the school facilities authority holds~~  
13 ~~title;]~~

14 provided that, except as otherwise limited under federal law and  
15 except for state land used as an airport as defined in section  
16 262-1, public lands shall include the air rights over any  
17 portion of state land upon which a county mass transit project  
18 is developed after July 11, 2005; provided further that if the  
19 lands pursuant to paragraph (6) are no longer needed for housing  
20 finance and development purposes, the lands shall be returned to  
21 the agency from which they were obtained; provided further that



1 if the lands pursuant to paragraph (14) are no longer needed for  
2 the stadium development district or related purposes, the lands  
3 shall be returned to the public land trust administered by the  
4 department."

5 SECTION 10. Section 171-64.7, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) This section applies to all lands or interest therein  
8 owned or under the control of state departments and agencies  
9 classed as government or crown lands previous to August 15,  
10 1895, or acquired or reserved by the government upon or  
11 subsequent to that date by purchase, exchange, escheat, or the  
12 exercise of the right of eminent domain, or any other manner,  
13 including accreted lands not otherwise awarded, submerged lands,  
14 and lands beneath tidal waters that are suitable for  
15 reclamation, together with reclaimed lands that have been given  
16 the status of public lands under this chapter, including:

- 17 (1) Land set aside pursuant to law for the use of the  
18 United States;
- 19 (2) Land to which the United States relinquished the  
20 absolute fee and ownership under section 91 of the



- 1           Organic Act before the admission of Hawaii as a state  
2           of the United States;
- 3           (3) Land to which the University of Hawaii holds title;
- 4           (4) Non-ceded land set aside by the governor to the Hawaii  
5           housing finance and development corporation or land to  
6           which the Hawaii housing finance and development  
7           corporation in its corporate capacity holds title;
- 8           (5) Land to which the department of agriculture holds  
9           title by way of foreclosure, voluntary surrender, or  
10          otherwise, to recover moneys loaned or to recover  
11          debts otherwise owed the department under chapter 167;
- 12          (6) Land that is set aside by the governor to the Aloha  
13          Tower development corporation or land to which the  
14          Aloha Tower development corporation holds title in its  
15          corporate capacity;
- 16          (7) Land that is set aside by the governor to the  
17          agribusiness development corporation or land to which  
18          the agribusiness development corporation in its  
19          corporate capacity holds title;
- 20          (8) Land to which the Hawaii technology development  
21          corporation in its corporate capacity holds title;



- 1 (9) Land to which the department of education holds title;
- 2 (10) Land to which the Hawaii public housing authority in
- 3 its corporate capacity holds title; and
- 4 (11) Land to which the stadium authority holds title[~~;~~ ~~and~~
- 5 ~~(12) Land to which the school facilities authority holds~~
- 6 ~~title]."~~

7 SECTION 11. Section 302A-1151.1, Hawaii Revised Statutes,  
8 is amended to read as follows:

9 **"§302A-1151.1 Pilot program for lease of public school**

10 **land.** (a) There shall be established within the [~~school~~  
11 ~~facilities authority~~] department a pilot program for the lease  
12 of public school land, including facilities. The [~~school~~  
13 ~~facilities authority,~~] department, in consultation with any  
14 other appropriate agency, shall serve as the facilitator of the  
15 pilot program.

16 (b) Notwithstanding sections 171-13 and 302A-1151, or any  
17 other law to the contrary, the [~~school facilities authority~~]  
18 board may lease public school land on terms it deems  
19 appropriate, including a leaseback of all or a portion of the  
20 improvements constructed; provided that:



1 (1) The [~~school facilities authority~~] department may  
2 identify and select up to five public school land  
3 sites as candidates for participation in the pilot  
4 program; provided that:

5 (A) During the identification and selection process,  
6 the [~~school facilities authority~~] board shall be  
7 subject to chapter 92, shall hold at least one  
8 public meeting in each affected community, and  
9 shall foster school and community participation;  
10 and

11 (B) If the site is on land owned by the county, the  
12 [~~school facilities authority~~] department shall  
13 consult with the county;

14 (2) The [~~school facilities authority~~] department may lease  
15 public school land for no more than three public  
16 school land sites identified and selected by the  
17 [~~school facilities authority~~] board pursuant to  
18 paragraph (1) under leases for a term of not more than  
19 ninety-nine years per lease, to lessees who shall be  
20 required to modify, construct, or utilize facilities  
21 to benefit public educational purposes, in accordance



1 with specific request for proposal or request for  
2 information guidelines;

3 (3) Each lease shall stipulate that the lessee may retain  
4 any revenue generated from the facilities; provided  
5 that:

6 (A) The lessee shall be obligated to maintain and  
7 operate the facilities to benefit public  
8 educational purposes for the length of the lease;

9 (B) The lessee shall be obligated to pay to the  
10 county all applicable property tax on the value  
11 of any improvements;

12 (C) A leasehold premium may be charged to the lessee  
13 for the right to use the public school land based  
14 on a competitive process that complies with  
15 applicable sections of chapter 103D;

16 (D) Upon the expiration of the lease, the facilities  
17 shall revert to the [~~school facilities~~  
18 ~~authority,~~] department; and

19 (E) All revenues and proceeds derived by the State  
20 under this section shall be deposited in the



1 school facilities subaccount pursuant to section  
2 302A-1151.2; and

3 (4) Notwithstanding any law to the contrary, the [~~school~~  
4 ~~facilities authority~~] department may enter into  
5 leaseback agreements that allow the [~~school facilities~~  
6 ~~authority~~] department to lease or sublease the  
7 property to a third party. The [~~school facilities~~  
8 ~~authority~~] department may lease back the property from  
9 the third-party lessee or sublessee for a contractual  
10 period of time, after which the [~~school facilities~~  
11 ~~authority~~] department shall own any improvements.

12 (c) Any redevelopment involving nonschool purposes shall:

13 (1) Comply with county plans, ordinances, and zoning and  
14 development codes; and

15 (2) Acquire all required government approvals and permits.

16 (d) Nothing in this section shall preclude the [~~school~~  
17 ~~facilities authority~~] department from working with and receiving  
18 assistance from any other department or agency in carrying out  
19 the purposes of this section.



1       ~~[(e) Any lease entered into by the school facilities~~  
2 ~~authority pursuant to subsection (b) shall be fully executed no~~  
3 ~~later than ten years from July 1, 2013.~~

4       ~~(f)]~~ (e) For purposes of this section, public educational  
5 purposes shall include but are not limited to:

6       (1) A new revenue source from the redevelopment of one or  
7 more underutilized [~~school facilities authority~~]  
8 department facilities;

9       (2) New construction of [~~school facilities authority~~]  
10 department facilities or renovation of existing,  
11 underutilized [~~school facilities authority~~] department  
12 facilities into a twenty-first century school; or

13       (3) A combination of paragraphs (1) and (2)."

14       SECTION 12. Section 302A-1602, Hawaii Revised Statutes, is  
15 amended as follows:

16       1. By amending the definition of "school facilities" to  
17 read:

18       ""School facilities" means the facilities owned or operated  
19 by [~~the authority or~~] the department, or the facilities included  
20 in [~~the authority or~~] the department's capital budget or capital  
21 facilities plan."



1           2. By repealing the definition of "authority":

2           [~~"Authority" means the school facilities authority~~  
3 ~~established by section 302A-1702."~~]

4           SECTION 13. Section 302A-1603, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§302A-1603 Applicability and exemptions.** (a) Except as  
7 provided in subsection (b), any person who seeks to develop a  
8 new residential development within a designated school impact  
9 district requiring:

10           (1) A county subdivision approval;

11           (2) A county building permit; or

12           (3) A condominium property regime approval for the  
13 project,

14 shall be required to fulfill the land component impact fee or  
15 fee in lieu requirement and construction cost component impact  
16 fee requirement of the [~~authority,~~] department, including all  
17 government housing projects and projects processed pursuant to  
18 sections 46-15.1 and 201H-38.

19           (b) The following shall be exempt from this section:



- 1 (1) Any form of housing permanently excluding school-aged
- 2 children, with the necessary covenants or declarations
- 3 of restrictions recorded on the property;
- 4 (2) Any form of housing that is or will be paying the
- 5 transient accommodations tax under chapter 237D;
- 6 (3) All nonresidential development;
- 7 (4) Any development with an executed education
- 8 contribution agreement or other like document with
- 9 [~~the authority or~~] the department for the contribution
- 10 of school sites or payment of fees for school land or
- 11 school construction;
- 12 (5) Any form of housing developed by the department of
- 13 Hawaiian home lands for use by beneficiaries of the
- 14 Hawaiian Homes Commission Act, 1920, as amended; and
- 15 (6) Any form of development by the Hawaii community
- 16 development authority pursuant to part XII of chapter
- 17 206E."

18 SECTION 14. Sections 302A-1604, 302A-1605, 302A-1606,  
 19 302A-1607, 302A-1609, 302A-1610, 302A-1611, and 302A-1612,  
 20 Hawaii Revised Statutes, are amended by substituting the term



1 "department", or similar term, wherever the term "authority", or  
2 similar term, appears, as the context requires.

3 SECTION 15. All rights, powers, functions, and duties of  
4 the school facilities authority are transferred to the  
5 department of education.

6 SECTION 16. All appropriations, records, equipment,  
7 machines, files, supplies, contracts, books, papers, documents,  
8 maps, and other personal property heretofore made, used,  
9 acquired, or held by the school facilities authority relating to  
10 the functions transferred to the department of education shall  
11 be transferred with the functions to which they relate.

12 SECTION 17. All rules, policies, procedures, guidelines,  
13 and other material adopted or developed by the school facilities  
14 authority to implement provisions of the Hawaii Revised Statutes  
15 that are made reenacted or applicable to the department of  
16 education by this Act shall remain in full force and effect  
17 until amended or repealed by the board of education pursuant to  
18 chapter 91, Hawaii Revised Statutes.

19 In the interim, every reference to the school facilities  
20 authority or the school facilities authority board in those  
21 rules, policies, procedures, guidelines, and other material is



1 amended to refer to the department of education and the board of  
2 education, as appropriate.

3 SECTION 18. All deeds, leases, contracts, loans,  
4 agreements, permits, or other documents executed or entered into  
5 by or on behalf of the school facilities authority, pursuant to  
6 the provisions of the Hawaii Revised Statutes, that are  
7 reenacted or made applicable to the department of education by  
8 this Act shall remain in full force and effect. Upon effective  
9 date of this Act, every reference to the school facilities  
10 authority or the executive director of the school facilities  
11 authority therein shall be construed as a reference of the  
12 department of education or the superintendent of education, as  
13 appropriate.

14 SECTION 19. Any unencumbered balance in the school  
15 facilities special fund established pursuant to section 302A-  
16 1706, Hawaii Revised Statutes, and repealed under section 5 of  
17 this Act shall be transferred to the credit of the educational  
18 facilities and real estate development special fund established  
19 pursuant to section 3 of this Act.

20 PART VI



1 SECTION 20. In accordance with section 9 of article VII of  
 2 the Hawaii State Constitution and sections 37-91 and 37-93,  
 3 Hawaii Revised Statutes, the legislature has determined that the  
 4 appropriations contained in Act 164, Regular Session of 2023,  
 5 and this Act will cause the state general fund expenditure  
 6 ceiling for fiscal year 2024-2025 to be exceeded by  
 7 \$ or per cent. This current declaration takes  
 8 into account general fund appropriations authorized for fiscal  
 9 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
 10 only. The reasons for exceeding the general fund expenditure  
 11 ceiling are that:

- 12 (1) The appropriation made in this Act is necessary to  
 13 serve the public interest; and
- 14 (2) The appropriation made in this Act meets the needs  
 15 addressed by this Act.

16 SECTION 21. There is appropriated out of the general  
 17 revenues of the State of Hawaii the sum of \$ or so  
 18 much thereof as may be necessary for fiscal year 2024-2025 to  
 19 establish the following positions:

- 20 (1) The assistant superintendent of facilities and real  
 21 estate development; and



1 (2) One full-time equivalent (1.0 FTE) secretary position,  
2 who shall be exempt from chapter 76, Hawaii Revised  
3 Statutes.

4 The sum appropriated shall be expended by the department of  
5 education for the purposes of this Act.

6 PART VII

7 SECTION 22. In codifying the new sections added by section  
8 3 of this Act, the revisor of statutes shall substitute  
9 appropriate section numbers for the letters used in designating  
10 the new sections in this Act.

11 SECTION 23. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 24. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 25. This Act shall take effect on July 1, 3000;  
20 provided that sections 5 through 14, section 19, and section 21



- 1 shall take effect on July 1, 2024; provided further that section
- 2 3 shall be repealed on July 1, 2031.



**Report Title:**

DOE; SFA; School Facilities; Real Estate Development; School Operations; Expenditure Ceiling; Appropriation

**Description:**

Clarifies the Department of Education's authority to oversee public education facilities and real estate development. Establishes the Office of Facilities and Real Estate Development and the Office of School Operations and Services. Repeals the School Facilities Authority. Makes conforming amendments. Appropriates funds. Repeals the Office of Facilities and Real Estate Development and Office of School Operations and Services on 7/1/2031. Effective 7/1/3000. (HD1)

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

