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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. Section 26-12, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "§26-12 Department of education. (a) The department of  
5 education shall be headed by an executive board to be known as  
6 the board of education.

7 (b) Under policies established by the board, the  
8 superintendent shall administer programs of education and public  
9 instruction throughout the State, including education at the  
10 primary and secondary school levels, adult education, school  
11 library services, health education and instruction (not  
12 including dental health treatment transferred to the department  
13 of health), special education and Title I funded programs at the  
14 prekindergarten level, and ~~such~~ other programs as may be  
15 established by law; provided that the department shall not  
16 establish general education prekindergarten classrooms,  
17 including private partnership-funded classrooms and classrooms



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



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

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

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

15 (f) The functions and authority heretofore exercised by  
16 the department of education (except dental health treatment  
17 transferred to the department of health), library of Hawaii,  
18 Hawaii county library, Maui county library, and the transcribing  
19 services program of the bureau of sight conservation and work



1 with the blind, as heretofore constituted are transferred to the  
2 public library system established by this chapter.

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

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



1           (i) Upon the termination of the contracts, the State or  
2 the counties shall not enter into any library management  
3 contracts with any private association; provided that in  
4 providing library services, the board of education may enter  
5 into contracts approved by the governor for the use of lands,  
6 buildings, equipment, and facilities owned by any private  
7 association.

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

15           (k) The department shall establish, maintain, and operate  
16 the public education facilities of the State, including public  
17 schools and other educational facilities authorized by law. The  
18 department may enter into service-level agreements, memoranda of  
19 agreement, or memoranda of understanding with other departments



1 for these responsibilities if the agreement or understanding is  
2 beneficial for the State."

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

5 "(a) Under policies established by the board, the  
6 superintendent shall be designated as the chief executive  
7 officer of the public school system having jurisdiction over the  
8 internal organization, operation, and management of the public  
9 school system, as provided by law; and shall administer programs  
10 of education and public instruction throughout the State,  
11 including education at the primary and secondary school levels,  
12 the superintendence and management of the internal improvements  
13 of the public education facilities of the State, and [such]  
14 other programs as may be established by law; provided that all  
15 state-funded prekindergarten programs, and private partnership-  
16 funded prekindergarten programs in the public schools, except  
17 for special education and Title I-funded prekindergarten  
18 programs, shall be under the administrative authority of the  
19 executive office on early learning; provided further that the  
20 department shall continue to provide, and have administrative



1 authority over, services generally provided to the schools  
2 excluding those services related to curriculum, instruction,  
3 assessment, and professional learning support, for any facility  
4 on a department school campus at which the executive office on  
5 early learning administers programs."

6 PART II

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

10 "§302A-A Separation of facilities and operations. (a)

11 There is established within the department:

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

13 and

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

15 (b) The office of facilities and real estate development

16 shall be responsible for the development, construction, repairs,

17 maintenance, and other activities necessary for public education

18 facilities as authorized by law or deemed necessary by board

19 policy.



1       The head of the office of facilities and real estate  
2 development shall be known as the assistant superintendent of  
3 facilities and real estate development. The superintendent  
4 shall appoint the assistant superintendent of facilities and  
5 real estate development and a secretary, who shall be exempt  
6 from chapter 76. The assistant superintendent of facilities and  
7 real estate development and secretary may be removed by the  
8 superintendent.

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

13       **§302A-B Office of facilities and real estate development;**  
14 **powers.** Except as otherwise limited by this chapter and upon  
15 approval by the board, the office of facilities and real estate  
16 development may:

17       (1) Acquire or contract to acquire by grant or purchase  
18 real, personal, or mixed property or any interest  
19 therein; to clear, improve, rehabilitate; and to sell,



1 assign, exchange, transfer, convey, lease, subdivide,  
2 or otherwise dispose of or encumber the same;

3 (2) Acquire property by condemnation pursuant to chapter  
4 101;

5 (3) Enter into partnerships with qualified persons,  
6 including public-private partnerships, as defined in  
7 the department's rules, to acquire, construct,  
8 reconstruct, rehabilitate, improve, alter, or provide  
9 for the construction, reconstruction, improvement, or  
10 alteration of any project, including prekindergarten  
11 facilities; and sell, assign, transfer, convey,  
12 exchange, lease, or otherwise dispose of or encumber  
13 any project; and in the case of the sale of any  
14 project, accept a purchase money mortgage in  
15 connection therewith;

16 (4) Grant options to acquire any project or to renew any  
17 lease entered into by the office of facilities and  
18 real estate development in connection with any of its  
19 projects, on terms and conditions as it deems  
20 advisable;





1 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VI, subpart A, to be  
3 appropriately designated and to read as follows:

4 "§302A-C Educational facilities and real estate  
5 development special fund. (a) There is established within the  
6 state treasury a special fund to be known as the educational  
7 facilities and real estate development special fund into which  
8 shall be deposited:

9 (1) All moneys appropriated or transferred by the  
10 legislature or counties for deposit into the special  
11 fund;

12 (2) Any moneys received by the department in the form of a  
13 grant, gift, endowment, or donation for the  
14 development, planning, or construction of new  
15 educational facilities or major renovations of  
16 educational facilities; and

17 (3) All other moneys received by the department and not  
18 deposited into a trust fund or trust account,  
19 including unrestricted grants, gifts, and donations;  
20 proceeds from sales of property; rents and other



1           receipts from leases, rights of entry, and the like;  
2           and interest, refunds, and other receipts and  
3           payments.

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

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

16          (d) Subject to chapter 84, notwithstanding any other law  
17          to the contrary, the governor may authorize expenditures from  
18          the educational facilities and real estate development special  
19          fund of any donation, grant, bequest, and devise of money from  
20          any private institution, person, firm, or corporation for the



1 purposes of funding the salaries of the department. If all or  
2 any portion of any salary of the department or any officer,  
3 agent, or employee of the department is funded pursuant to this  
4 subsection, the department shall submit a report to the  
5 legislature detailing the use of any funds authorized under this  
6 subsection no later than twenty days prior to the convening of  
7 the next regular session following the expenditure  
8 authorization.

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

17 (f) Within the educational facilities and real estate  
18 development special fund there shall be established accounts and  
19 subaccounts as may be necessary from time to time to ensure  
20 compliance with the Internal Revenue Code, as amended."



1 PART IV

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

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

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

- 17 (1) School transportation and school services as  
18 identified in the 2022 department of education  
19 organization chart;
- 20 (2) The school food services branch; and



1 (3) The reprographic section within the auxiliary services  
2 branch.

3 (c) The board of education shall act on the reorganization  
4 of the office of facilities and real estate development and the  
5 office of school operations and services no later than August  
6 2024.

7 (d) The board of education shall approve a reorganization  
8 of the office of facilities and real estate development and the  
9 office of school operations and services no later than September  
10 2024.

11 SECTION 6. All rights, powers, functions, and duties of  
12 the school facilities authority are transferred to the  
13 department of education.

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



1 SECTION 8. All rules, policies, procedures, guidelines,  
2 and other material adopted or developed by the school facilities  
3 authority to implement provisions of the Hawaii Revised Statutes  
4 that are made reenacted or applicable to the department of  
5 education by this Act shall remain in full force and effect  
6 until amended or repealed by the board of education pursuant to  
7 chapter 91, Hawaii Revised Statutes.

8 In the interim, every reference to the school facilities  
9 authority or the school facilities authority board in those  
10 rules, policies, procedures, guidelines, and other material is  
11 amended to refer to the department of education and the board of  
12 education, as appropriate.

13 SECTION 9. All deeds, leases, contracts, loans,  
14 agreements, permits, or other documents executed or entered into  
15 by or on behalf of the school facilities authority, pursuant to  
16 the provisions of the Hawaii Revised Statutes, that are  
17 reenacted or made applicable to the department of education by  
18 this Act shall remain in full force and effect. Upon effective  
19 date of this Act, every reference to the school facilities  
20 authority or the executive director of the school facilities



1 authority therein shall be construed as a reference of the  
2 department of education or the superintendent of education, as  
3 appropriate.

4 PART V

5 SECTION 10. Section 28-8.3, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) No department of the State other than the attorney  
8 general may employ or retain any attorney, by contract or  
9 otherwise, for the purpose of representing the State or the  
10 department in any litigation, rendering legal counsel to the  
11 department, or drafting legal documents for the department;  
12 provided that the foregoing provision shall not apply to the  
13 employment or retention of attorneys:

14 (1) By the public utilities commission, the labor and  
15 industrial relations appeals board, and the Hawaii  
16 labor relations board;

17 (2) By any court or judicial or legislative office of the  
18 State; provided that if the attorney general is  
19 requested to provide representation to a court or  
20 judicial office by the chief justice or the chief



1 justice's designee, or to a legislative office by the  
2 speaker of the house of representatives and the  
3 president of the senate jointly, and the attorney  
4 general declines to provide [such] representation on  
5 the grounds of conflict of interest, the attorney  
6 general shall retain an attorney for the court,  
7 judicial, or legislative office, subject to approval  
8 by the court, judicial, or legislative office;

9 (3) By the legislative reference bureau;

10 (4) By any compilation commission that may be constituted  
11 from time to time;

12 (5) By the real estate commission for any action involving  
13 the real estate recovery fund;

14 (6) By the contractors license board for any action  
15 involving the contractors recovery fund;

16 (7) By the office of Hawaiian affairs;

17 (8) By the department of commerce and consumer affairs for  
18 the enforcement of violations of chapters 480 and  
19 485A;

20 (9) As grand jury counsel;



1 (10) By the Hawaii health systems corporation, or its  
2 regional system boards, or any of their facilities;

3 (11) By the auditor;

4 (12) By the office of ombudsman;

5 (13) By the insurance division;

6 (14) By the University of Hawaii;

7 (15) By the Kahoolawe island reserve commission;

8 (16) By the division of consumer advocacy;

9 (17) By the office of elections;

10 (18) By the campaign spending commission;

11 (19) By the Hawaii tourism authority, as provided in  
12 section 201B-2.5;

13 (20) By the division of financial institutions;

14 (21) By the office of information practices;

15 [~~22~~] ~~By the school facilities authority;~~

16 ~~23~~] (22) By the Mauna Kea stewardship and oversight  
17 authority; or

18 [~~24~~] (23) By a department, if the attorney general, for  
19 reasons deemed by the attorney general to be good and  
20 sufficient, declines to employ or retain an attorney



1           for a department; provided that the governor waives  
2           the provision of this section."

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

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

9           (1) Commissioned and enlisted personnel of the Hawaii  
10 National Guard [~~as such~~], and positions in the Hawaii  
11 National Guard that are required by state or federal  
12 laws or regulations or orders of the National Guard to  
13 be filled from those commissioned or enlisted  
14 personnel;

15           (2) Positions filled by persons employed by contract where  
16 the director of human resources development has  
17 certified that the service is special or unique or is  
18 essential to the public interest and that, because of  
19 circumstances surrounding its fulfillment, personnel  
20 to perform the service cannot be obtained through



1 normal civil service recruitment procedures. Any  
2 ~~[such contract may be for any period not exceeding]~~  
3 contract under this paragraph shall not exceed one  
4 year;

5 (3) Positions that must be filled without delay to comply  
6 with a court order or decree if the director  
7 determines that recruitment through normal recruitment  
8 civil service procedures would result in delay or  
9 noncompliance, such as the Felix-Cayetano consent  
10 decree;

11 (4) Positions filled by the legislature or by either house  
12 or any committee thereof;

13 (5) Employees in the office of the governor and office of  
14 the lieutenant governor, and household employees at  
15 Washington Place;

16 (6) Positions filled by popular vote;

17 (7) Department heads, officers, and members of any board,  
18 commission, or other state agency whose appointments  
19 are made by the governor or are required by law to be  
20 confirmed by the senate;



- 1 (8) Judges, referees, receivers, masters, jurors, notaries  
2 public, land court examiners, court commissioners, and  
3 attorneys appointed by a state court for a special  
4 temporary service;
- 5 (9) One bailiff for the chief justice of the supreme court  
6 who shall have the powers and duties of a court  
7 officer and bailiff under section 606-14; one  
8 secretary or clerk for each justice of the supreme  
9 court, each judge of the intermediate appellate court,  
10 and each judge of the circuit court; one secretary for  
11 the judicial council; one deputy administrative  
12 director of the courts; three law clerks for the chief  
13 justice of the supreme court, two law clerks for each  
14 associate justice of the supreme court and each judge  
15 of the intermediate appellate court, one law clerk for  
16 each judge of the circuit court, two additional law  
17 clerks for the civil administrative judge of the  
18 circuit court of the first circuit, two additional law  
19 clerks for the criminal administrative judge of the  
20 circuit court of the first circuit, one additional law



1 clerk for the senior judge of the family court of the  
2 first circuit, two additional law clerks for the civil  
3 motions judge of the circuit court of the first  
4 circuit, two additional law clerks for the criminal  
5 motions judge of the circuit court of the first  
6 circuit, and two law clerks for the administrative  
7 judge of the district court of the first circuit; and  
8 one private secretary for the administrative director  
9 of the courts, the deputy administrative director of  
10 the courts, each department head, each deputy or first  
11 assistant, and each additional deputy, or assistant  
12 deputy, or assistant defined in paragraph (16);  
13 (10) First deputy and deputy attorneys general, the  
14 administrative services manager of the department of  
15 the attorney general, one secretary for the  
16 administrative services manager, an administrator and  
17 any support staff for the criminal and juvenile  
18 justice resources coordination functions, and law  
19 clerks;



- 1           (11) (A) Teachers, principals, vice-principals, complex  
2                            area superintendents, deputy and assistant  
3                            superintendents, other certificated personnel, no  
4                            more than twenty noncertificated administrative,  
5                            professional, and technical personnel not engaged  
6                            in instructional work;
- 7           (B) Effective July 1, 2003, teaching assistants,  
8                            educational assistants, bilingual/bicultural  
9                            school-home assistants, school psychologists,  
10                          psychological examiners, speech pathologists,  
11                          athletic health care trainers, alternative school  
12                          work study assistants, alternative school  
13                          educational/supportive services specialists,  
14                          alternative school project coordinators, and  
15                          communications aides in the department of  
16                          education;
- 17           (C) The special assistant to the state librarian and  
18                          one secretary for the special assistant to the  
19                          state librarian; and



- 1 (D) Members of the faculty of the University of  
2 Hawaii, including research workers, extension  
3 agents, personnel engaged in instructional work,  
4 and administrative, professional, and technical  
5 personnel of the university;
- 6 (12) Employees engaged in special, research, or  
7 demonstration projects approved by the governor;
- 8 (13) (A) Positions filled by inmates, patients of state  
9 institutions, persons with severe physical or  
10 mental disabilities participating in the work  
11 experience training programs;
- 12 (B) Positions filled with students in accordance with  
13 guidelines for established state employment  
14 programs; and
- 15 (C) Positions that provide work experience training  
16 or temporary public service employment that are  
17 filled by persons entering the workforce or  
18 persons transitioning into other careers under  
19 programs such as the federal Workforce Investment  
20 Act of 1998, as amended, or the Senior Community



1           Service Employment Program of the Employment and  
2           Training Administration of the United States  
3           Department of Labor, or under other similar state  
4           programs;

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

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

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



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



1 assigned by the director or 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



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

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

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

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

19 ~~(34)]~~ (33) Positions in the Mauna Kea stewardship and  
20 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 12. Section 84-17, Hawaii Revised Statutes, is  
12 amended 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;



- 1           (2) The directors and their deputies, the division chiefs,  
2           the executive directors and the executive secretaries  
3           and their deputies, the purchasing agents, and the  
4           fiscal officers, regardless of the titles by which the  
5           foregoing persons are designated, of every state  
6           agency and department;
- 7           (3) The permanent employees of the legislature and its  
8           service agencies, other than persons employed in  
9           clerical, secretarial, or similar positions;
- 10          (4) The administrative director of the State, and the  
11          assistants in the office of the governor and  
12          lieutenant governor, other than persons employed in  
13          clerical, secretarial, or similar positions;
- 14          (5) The hearings officers of every state agency and  
15          department;
- 16          (6) The president, vice presidents, assistant vice  
17          presidents, chancellors, and provosts of the  
18          University of Hawaii and its community colleges;
- 19          (7) The superintendent, deputy superintendent, assistant  
20          superintendents, complex area superintendents, state



- 1           librarian, and deputy state librarian of the  
2           department of education;
- 3           (8) The administrative director and deputy director of the  
4           courts;
- 5           (9) The members of every state board or commission whose  
6           original terms of office are for periods exceeding one  
7           year and whose functions are not solely advisory;
- 8           (10) Candidates for state elective offices, including  
9           candidates for election to the constitutional  
10           convention; provided that candidates shall only be  
11           required to file initial disclosures;
- 12           (11) The administrator and assistant administrator of the  
13           office of Hawaiian affairs; and
- 14           (12) The Hawaii unmanned aerial systems test site chief  
15           operating officer[~~;~~ and
- 16           ~~(13) The members of the school facilities board appointed~~  
17           ~~by the governor]."~~

18           SECTION 13. Section 171-2, Hawaii Revised Statutes, is  
19           amended to read as follows:



1           **"§171-2 Definition of public lands.** "Public lands" means  
2 all lands or interest therein in the State classed as government  
3 or crown lands previous to August 15, 1895, or acquired or  
4 reserved by the government upon or subsequent to that date by  
5 purchase, exchange, escheat, or the exercise of the right of  
6 eminent domain, or in any other manner; including lands accreted  
7 after May 20, 2003, and not otherwise awarded, submerged lands,  
8 and lands beneath tidal waters that are suitable for  
9 reclamation, together with reclaimed lands that have been given  
10 the status of public lands under this chapter, except:

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



1 natural resources and given the status of public lands  
2 in accordance with the state constitution, the  
3 Hawaiian Homes Commission Act, 1920, as amended, or  
4 other laws;

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

6 (6) Non-ceded lands set aside by the governor to the  
7 Hawaii housing finance and development corporation or  
8 lands to which the Hawaii housing finance and  
9 development corporation in its corporate capacity  
10 holds title;

11 (7) Lands to which the Hawaii community development  
12 authority in its corporate capacity holds title;

13 (8) Lands set aside by the governor to the Hawaii public  
14 housing authority or lands to which the Hawaii public  
15 housing authority in its corporate capacity holds  
16 title;

17 (9) Lands to which the department of agriculture holds  
18 title by way of foreclosure, voluntary surrender, or  
19 otherwise, to recover moneys loaned or to recover  
20 debts otherwise owed the department under chapter 167;



- 1       (10) Lands that are set aside by the governor to the Aloha  
2           Tower development corporation, lands leased to the  
3           Aloha Tower development corporation by any department  
4           or agency of the State, or lands to which the Aloha  
5           Tower development corporation holds title in its  
6           corporate capacity;
- 7       (11) Lands that are set aside by the governor to the  
8           agribusiness development corporation, lands leased to  
9           the agribusiness development corporation by any  
10          department or agency of the State, or lands to which  
11          the agribusiness development corporation in its  
12          corporate capacity holds title;
- 13       (12) Lands to which the Hawaii technology development  
14          corporation in its corporate capacity holds title;
- 15       (13) Lands to which the department of education holds  
16          title; and
- 17       (14) Lands to which the stadium authority holds title; [and  
18       ~~(15) Lands to which the school facilities authority holds~~  
19          ~~title;~~]



1 provided that, except as otherwise limited under federal law and  
2 except for state land used as an airport as defined in section  
3 262-1, public lands shall include the air rights over any  
4 portion of state land upon which a county mass transit project  
5 is developed after July 11, 2005; provided further that if the  
6 lands pursuant to paragraph (6) are no longer needed for housing  
7 finance and development purposes, the lands shall be returned to  
8 the agency from which they were obtained; provided further that  
9 if the lands pursuant to paragraph (14) are no longer needed for  
10 the stadium development district or related purposes, the lands  
11 shall be returned to the public land trust administered by the  
12 department."

13 SECTION 14. 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,



1 including accreted lands not otherwise awarded, submerged lands,  
2 and lands beneath tidal waters that are suitable for  
3 reclamation, together with reclaimed lands that have been given  
4 the status of public lands under this chapter, including:

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

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

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

12 (4) Non-ceded land set aside by the governor to the Hawaii  
13 housing finance and development corporation or land to  
14 which the Hawaii housing finance and development  
15 corporation in its corporate capacity holds title;

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



- 1 (6) Land that is set aside by the governor to the Aloha
- 2 Tower development corporation or land to which the
- 3 Aloha Tower development corporation holds title in its
- 4 corporate capacity;
- 5 (7) Land that is set aside by the governor to the
- 6 agribusiness development corporation or land to which
- 7 the agribusiness development corporation in its
- 8 corporate capacity holds title;
- 9 (8) Land to which the Hawaii technology development
- 10 corporation in its corporate capacity holds title;
- 11 (9) Land to which the department of education holds title;
- 12 (10) Land to which the Hawaii public housing authority in
- 13 its corporate capacity holds title; and
- 14 (11) Land to which the stadium authority holds title [~~and~~
- 15 ~~(12) Land to which the school facilities authority holds~~
- 16 ~~title~~]."

17 SECTION 15. Section 302A-1151.1, Hawaii Revised Statutes,  
 18 is amended to read as follows:

19 "§302A-1151.1 Pilot program for lease of public school  
 20 land. (a) There shall be established within the [~~school~~



1 ~~facilities authority]~~ department a pilot program for the lease  
2 of public school land, including facilities. The [~~school~~  
3 ~~facilities authority,~~] department, in consultation with any  
4 other appropriate agency, shall serve as the facilitator of the  
5 pilot program.

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

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

15 (A) During the identification and selection process,  
16 the [~~school facilities authority]~~ board shall be  
17 subject to chapter 92, shall hold at least one  
18 public meeting in each affected community, and  
19 shall foster school and community participation;  
20 and



- 1 (B) If the site is on land owned by the county, the  
2 [~~school facilities authority~~] department shall  
3 consult with the county;
- 4 (2) The [~~school facilities authority~~] department may lease  
5 public school land for no more than three public  
6 school land sites identified and selected by the  
7 [~~school facilities authority~~] board pursuant to  
8 paragraph (1) under leases for a term of not more than  
9 ninety-nine years per lease, to lessees who shall be  
10 required to modify, construct, or utilize facilities  
11 to benefit public educational purposes, in accordance  
12 with specific request for proposal or request for  
13 information guidelines;
- 14 (3) Each lease shall stipulate that the lessee may retain  
15 any revenue generated from the facilities; provided  
16 that:
- 17 (A) The lessee shall be obligated to maintain and  
18 operate the facilities to benefit public  
19 educational purposes for the length of the lease;



- 1 (B) The lessee shall be obligated to pay to the  
2 county all applicable property tax on the value  
3 of any improvements;
- 4 (C) A leasehold premium may be charged to the lessee  
5 for the right to use the public school land based  
6 on a competitive process that complies with  
7 applicable sections of chapter 103D;
- 8 (D) Upon the expiration of the lease, the facilities  
9 shall revert to the [~~school facilities~~  
10 ~~authority,~~] department; and
- 11 (E) All revenues and proceeds derived by the State  
12 under this section shall be deposited in the  
13 school facilities subaccount pursuant to section  
14 302A-1151.2; and
- 15 (4) Notwithstanding any law to the contrary, the [~~school~~  
16 ~~facilities authority~~] department may enter into  
17 leaseback agreements that allow the [~~school facilities~~  
18 ~~authority~~] department to lease or sublease the  
19 property to a third party. The [~~school facilities~~  
20 ~~authority~~] department may lease back the property from



1 the third-party lessee or sublessee for a contractual  
2 period of time, after which the [~~school facilities~~  
3 ~~authority~~] department shall own any improvements.

4 (c) Any redevelopment involving nonschool purposes shall:

5 (1) Comply with county plans, ordinances, and zoning and  
6 development codes; and

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

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

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

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

17 (1) A new revenue source from the redevelopment of one or  
18 more underutilized [~~school facilities authority~~]  
19 department facilities;



- 1 (2) New construction of [~~school facilities authority~~]
- 2 department facilities or renovation of existing,
- 3 underutilized [~~school facilities authority~~] department
- 4 facilities into a twenty-first century school; or
- 5 (3) A combination of paragraphs (1) and (2)."

6 SECTION 16. Section 302A-1602, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By amending the definition of "school facilities" to  
9 read:

10 "School facilities" means the facilities owned or operated  
11 by [~~the authority or~~] the department, or the facilities included  
12 in [~~the authority or~~] the department's capital budget or capital  
13 facilities plan."

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

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

17 SECTION 17. Section 302A-1603, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§302A-1603 Applicability and exemptions.** (a) Except as  
20 provided in subsection (b), any person who seeks to develop a



1 new residential development within a designated school impact  
2 district requiring:

- 3 (1) A county subdivision approval;
- 4 (2) A county building permit; or
- 5 (3) A condominium property regime approval for the  
6 project,

7 shall be required to fulfill the land component impact fee or  
8 fee in lieu requirement and construction cost component impact  
9 fee requirement of the [~~authority,~~] department, including all  
10 government housing projects and projects processed pursuant to  
11 sections 46-15.1 and 201H-38.

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

- 13 (1) Any form of housing permanently excluding school-aged  
14 children, with the necessary covenants or declarations  
15 of restrictions recorded on the property;
- 16 (2) Any form of housing that is or will be paying the  
17 transient accommodations tax under chapter 237D;
- 18 (3) All nonresidential development;
- 19 (4) Any development with an executed education  
20 contribution agreement or other like document with



1           ~~[the authority or]~~ the department for the contribution  
2           of school sites or payment of fees for school land or  
3           school construction;

4           (5) Any form of housing developed by the department of  
5           Hawaiian home lands for use by beneficiaries of the  
6           Hawaiian Homes Commission Act, 1920, as amended; and

7           (6) Any form of development by the Hawaii community  
8           development authority pursuant to part XII of chapter  
9           206E."

10          SECTION 18. Sections 302A-1604, 302A-1605, 302A-1606,  
11          302A-1607, 302A-1609, 302A-1610, 302A-1611, and 302A-1612,  
12          Hawaii Revised Statutes, are amended by substituting the term  
13          "department", or similar term, wherever the term "authority", or  
14          similar term, appears, as the context requires.

15          SECTION 19. Chapter 302A, part VI, subpart C, Hawaii  
16          Revised Statutes, is repealed.

17          SECTION 20. Any unencumbered balance in the school  
18          facilities special fund established pursuant to section 302A-  
19          1706, Hawaii Revised Statutes, and repealed under section 19 of  
20          this Act shall be transferred to the credit of the educational



1 facilities and real estate development special fund pursuant to  
2 section 4 of this Act.

3 PART VI

4 SECTION 21. In accordance with section 9 of article VII of  
5 the Hawaii State Constitution and sections 37-91 and 37-93,  
6 Hawaii Revised Statutes, the legislature has determined that the  
7 appropriations contained in Act 164, Regular Session of 2023,  
8 and this Act will cause the state general fund expenditure  
9 ceiling for fiscal year 2024-2025 to be exceeded by  
10 \$ or per cent. This current declaration takes  
11 into account general fund appropriations authorized for fiscal  
12 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
13 only. The reasons for exceeding the general fund expenditure  
14 ceiling are that:

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

19 SECTION 22. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2024-2025 to  
2 establish the following positions:

3 (1) The assistant superintendent of facilities and real  
4 estate development; and

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

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

10 SECTION 23. In codifying the new sections added by section  
11 2 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 24. If any provision of this Act, or the  
15 application thereof to any person or circumstance, is held  
16 invalid, the invalidity does not affect other provisions or  
17 applications of the Act that can be given effect without the  
18 invalid provision or application, and to this end the provisions  
19 of this Act are severable.



1 SECTION 25. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 26. This Act shall take effect on July 1, 2050;  
4 provided that sections 10 through 20 and section 22 shall take  
5 effect on July 1, 2024; provided further that sections 3 and 4  
6 shall be repealed on July 1, 2031.



**Report Title:**

DOE; SFA; 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. Reorganizes the Department of Education's organizational structure for facilities and real estate development. Establishes positions. Makes conforming amendments. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Repeals the Office of Facilities and Real Estate Development and Office of School Operations and Services 7/1/2031. Takes effect 7/1/2050. (SD1)

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

