

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



**GOV. MSG. NO. 1138**

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

May 26, 2026

The Honorable Ronald D. Kouchi  
President of the Senate,  
and Members of the Senate  
Thirty-Third State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Nadine K. Nakamura  
Speaker, and Members of the  
House of Representatives  
Thirty-Third State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on May 26, 2026, the following bill was signed into law:

S.B. NO. 3154, S.D. 2, H.D. 2,  
C.D. 1

RELATING TO TRANSPORTATION  
ENVIRONMENTAL REVIEW.  
**ACT 038**

Mahalo,

A handwritten signature in black ink that reads "Josh Green M.D.".

Josh Green, M.D.  
Governor, State of Hawai'i

# A BILL FOR AN ACT

RELATING TO TRANSPORTATION ENVIRONMENTAL REVIEW.

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

1           SECTION 1. The legislature finds that enabling the  
2 department of transportation to assume certain federal  
3 environmental review responsibilities under the National  
4 Environmental Policy Act of 1969 for highway projects, as well  
5 as railroad, public transportation, or multimodal projects  
6 within the State, will streamline project delivery while  
7 maintaining environmental protections.

8           The purpose of this Act is to:

9           (1) Authorize the department of transportation to  
10 participate in the National Environmental Policy Act  
11 Assignment Program under title 23 United States Code  
12 sections 326 and 327; and

13           (2) Provide a limited waiver of sovereign immunity to  
14 comply with federal requirements for participation in  
15 the program.

16           SECTION 2. Section 26-19, Hawaii Revised Statutes, is  
17 amended to read as follows:



1           **"§26-19 Department of transportation.** (a) The department  
2 of transportation shall be headed by a single executive to be  
3 known as the director of transportation. The department shall  
4 establish, maintain, and operate transportation facilities of  
5 the State, including highways, airports, harbors, and any other  
6 transportation facilities and activities as may be authorized by  
7 law.

8           (b) The department shall plan, develop, promote, and  
9 coordinate various transportation systems management programs  
10 that shall include but not be limited to alternate work and  
11 school hours programs, bicycling programs, and ridesharing  
12 programs.

13           (c) The department shall develop and promote ridesharing  
14 programs that shall include but not be limited to carpool and  
15 vanpool programs, and may assist organizations interested in  
16 promoting similar programs, arrange for contracts with private  
17 organizations to manage and operate these programs, and assist  
18 in the formulation of ridesharing arrangements. Ridesharing  
19 programs include informal arrangements in which two or more  
20 persons ride together in a motor vehicle.



1 (d) The functions and authority heretofore exercised by  
2 the department of public works with respect to highways are  
3 transferred to the department of transportation established by  
4 this chapter.

5 (e) On July 1, 1961, the Hawaii aeronautics commission,  
6 the board of harbor commissioners, and the highway commission  
7 shall be abolished and their remaining functions, duties, and  
8 powers shall be transferred to the department of transportation.

9 (f) Notwithstanding any law to the contrary, the  
10 department of transportation may:

11 (1) Acquire, or contract to acquire, by grant or purchase  
12 any real, personal, or mixed property or any interest  
13 therein for immediate or future use for the purposes  
14 of:

- 15 (A) Climate mitigation and adaptation;
- 16 (B) Noise and visual buffer zones and barriers;
- 17 (C) Transportation projects pursuant to section  
18 264-142;
- 19 (D) This section; or
- 20 (E) Title 15;



1           (2) Own, hold, improve, and rehabilitate any real,  
2           personal, or mixed property acquired pursuant to this  
3           subsection; and  
4           (3) Sell, assign, exchange, transfer, convey, lease or  
5           otherwise dispose of, or encumber any real, personal,  
6           or mixed property acquired pursuant to this  
7           subsection. Upon making a finding that it is  
8           necessary to acquire any real property for immediate  
9           or future use for the purposes of this section or  
10          title 15, the department of transportation may acquire  
11          the property by condemnation pursuant to chapter 101;  
12          provided that the property shall not thereafter be  
13          acquired for any other public use without the consent  
14          of the department of transportation;  
15          provided that for the purposes of this subsection, the director  
16          of transportation shall be authorized to exercise all the powers  
17          vested in the board of land and natural resources for functions  
18          subject to chapter 171; provided further that if state lands,  
19          other than public lands, under the control and management of  
20          another department or agency are required by the department of  
21          transportation for the purposes of this section or title 15, the



1 department or agency having control and management of the  
2 required lands shall, upon a request by the department of  
3 transportation and with the approval of the governor, transfer  
4 title to or lease those lands to the department of  
5 transportation under terms and conditions as may be agreed to by  
6 the parties.

7 (g) The department of transportation may assume  
8 responsibilities of the United States Department of  
9 Transportation with respect to duties under the National  
10 Environmental Policy Act of 1969, Public Law 91-190, and with  
11 respect to duties under other federal environmental laws as they  
12 apply to designated transportation projects. The department of  
13 transportation may:

- 14 (1) Assume responsibilities under title 23 United States  
15 Code sections 326 and 327;  
16 (2) Enter into one or more agreements, including memoranda  
17 of understanding, with the United States Secretary of  
18 Transportation related to:  
19 (A) The designation of categorical exclusions from  
20 federally required environmental assessments or  
21 impact statements for transportation projects as



1                   provided by title 23 United States Code section  
2                   326; or

3           (B) The federal surface transportation project  
4           delivery program for the delivery of  
5           transportation projects, including highway,  
6           railroad, public transportation, and multimodal  
7           projects as provided by title 23 United States  
8           Code section 327; and

9           (3) Adopt rules pursuant to chapter 91 to implement this  
10           subsection and adopt relevant federal environmental  
11           standards as the standards for the State for a program  
12           described in this subsection.

13           (h) Except as provided by this subsection, sovereign  
14 immunity to suit in federal court and from liability shall be  
15 waived and abolished with regard to the compliance, discharge,  
16 or enforcement of a responsibility assumed by the department of  
17 transportation under subsection (g). The waiver under this  
18 subsection shall not create liability for the department of  
19 transportation that exceeds the liability created under title 23  
20 United States Code section 326 or 327 and shall only be valid  
21 if:



- 1        (1) The department of transportation executes a memorandum  
2        of understanding with the United States Department of  
3        Transportation accepting the jurisdiction of the  
4        federal courts, as required by title 23 United States  
5        Code sections 326(c) and 327(c);
- 6        (2) The act or omission that is the subject of the lawsuit  
7        arises out of compliance with, discharge of, or  
8        enforcement of responsibilities assumed by the  
9        department of transportation pursuant to title 23  
10       United States Code sections 326 and 327; and
- 11       (3) The memorandum of understanding is in effect when the  
12       act or omission that is the subject of the federal  
13       lawsuit occurred."

14       SECTION 3. New statutory material is underscored.

15       SECTION 4. This Act shall take effect upon its approval.



S.B. NO. 3154  
S.D. 2  
H.D. 2  
C.D. 1

APPROVED this 26th day of May, 2026

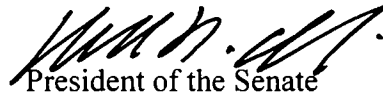
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GOVERNOR OF THE STATE OF HAWAII

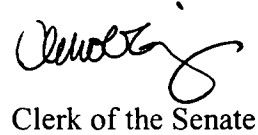
**THE SENATE OF THE STATE OF HAWAI‘I**

Date: May 1, 2026  
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Third Legislature of the State of Hawai‘i, Regular Session of 2026.



President of the Senate



Clerk of the Senate

SB No. 3154, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 6, 2026  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawaii, Regular Session of 2026.



Nadine K. Nakamura  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives