

MAR 10 2023

SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A PERFORMANCE AUDIT OF THE
DEPARTMENT OF EDUCATION'S USE OF MONEYS APPROPRIATED FOR
THE CONSTRUCTION OF KULANIHAKOI HIGH SCHOOL.

1 WHEREAS, after decades of petitioning, item G.37 of section
2 3, was included in Act 134, Session Laws of Hawaii 2013, to
3 appropriate \$130,000,000 for "Kihei High School, Maui[.] Plans,
4 design and construction for a new high school in Kihei Maui.
5 Ground and site improvements; equipment and appurtenances"; and
6

7 WHEREAS, following several more years of planning, the
8 State finally broke ground in January 2016 on the long-awaited
9 high school in Kihei, Maui; and
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11 WHEREAS, constructed on approximately seventy-seven acres
12 of land next to Piilani Highway, the high school is designed to
13 have an enrollment of one thousand six hundred students, many of
14 whom would walk across Piilani Highway from their homes on the
15 other side of the road; and
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17 WHEREAS, recognizing that Piilani Highway is one of the
18 busiest thoroughfares on Maui and, in an effort to protect
19 students and other members of the community, the Land Use
20 Commission issued a requirement that the Department of Education
21 construct a grade-separated pedestrian crossing as a condition
22 for rezoning the land from Agricultural District to P-1
23 Public/Quasi-Public District;
24

25 WHEREAS, a grade-separated pedestrian crossing required by
26 the Land Use Commission could be a pedestrian overpass or
27 underpass, both of which would allow for the safe traversing of
28 the highway by pedestrians; and
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30 WHEREAS, the Maui County Council, in Ordinance 4135 (2014),
31 reaffirmed the Land Use Commission's decision to require the
32 Department of Education to construct a grade-separated



1 pedestrian crossing as a condition for the rezoning of the land;
2 and

3

4 WHEREAS, on April 25, 2019, the Land Use Commission
5 reiterated and affirmed its requirement for a pedestrian
6 overpass or underpass and issued an order stating, "Kihei High
7 School requires that a pedestrian overpass or underpass be
8 constructed before the opening of the first phase of the new
9 high school in Kihei and that construction of the overpass or
10 underpass was a mandatory requirement and was not optional.";
11 and

12

13 WHEREAS, the Department of Education, as late as March 23,
14 2020, stated that it "is committed to moving forward with the
15 design of the pedestrian overpass"; and

16

17 WHEREAS, on April 23, 2020, the County of Maui Department
18 of Planning informed the Department of Education that "the
19 "overpass (or underpass) must be completed and usable before or
20 at the same time that the school buildings are ready for
21 occupancy"; and

22

23 WHEREAS, on September 22, 2021, the Department of Education
24 Facilities Development Branch approved an Authorization for
25 Change to change the originally designed signalized intersection
26 at the intersection of Piilani Highway and Kulanihakoi Street to
27 a four-lane roundabout intersection at a cost of \$16,081,058;
28 and

29

30 WHEREAS, it is unclear how the Department of Education
31 obtained the approximately \$16,000,000 to construct the
32 roundabout or whether the original legislative appropriation was
33 for a different project; however, it appears that the source of
34 funding may have been from the original \$130,000,000
35 appropriated for the construction of the high school, and it is
36 unclear whether Act 134, Session Laws 2013, authorized any of
37 those moneys to be expended for an improvement to the highway
38 adjacent to the new school grounds; and

39

40 WHEREAS, the newly named Kulanihakoi High School was
41 expected to welcome its first students in January 2023, but was
42 not able to do so because it could not obtain a necessary



1 temporary Certificate of Occupancy from the County of Maui
2 Department of Planning; and

3
4 WHEREAS, the Department of Planning informed the Department
5 of Education that, despite the completion of the roundabout, the
6 Department of Education had not substantially completed
7 construction of the required grade-separated pedestrian crossing
8 and that if the Department of Education occupied the buildings
9 before the grade-separated pedestrian crossing was built, the
10 Department would be in violation of its State and County
11 entitlements; and

12
13 WHEREAS, in January 2023, construction of the
14 grade-separated pedestrian crossing had not yet started and,
15 once begun, is expected to take approximately five years to
16 complete; and

17
18 WHEREAS, it remains unclear why the required grade-
19 separated pedestrian crossing was not constructed; whether
20 moneys were appropriated or otherwise made available for this
21 purpose and, if not, why, and, if so, what happened to these
22 moneys; why a roundabout was constructed in place of a grade-
23 separated pedestrian crossing; where the moneys for this
24 construction came from; and whether those moneys could have been
25 used for the State- and County-mandated grade-separated
26 pedestrian crossing; and

27
28 WHEREAS, there appears to be a discrepancy between the
29 assertions of the Department of Education and the information
30 presented by other government entities; and

31
32 WHEREAS, among the duties of the Auditor are that:

33
34 The auditor shall conduct postaudits of the
35 transactions, accounts, programs, and performance of
36 all departments, offices, and agencies of the State
37 and its political subdivisions. The postaudits and
38 all examinations to discover evidence of any
39 unauthorized, illegal, irregular, improper, or unsafe
40 handling or expenditure of state funds or other
41 improper practice of financial administration shall be
42 conducted . . . as may be required by the legislature



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1 for the purpose of certifying to the accuracy of all
2 financial statements issued by the respective
3 accounting officers and of determining the validity of
4 expenditures of state or public funds.

5
6 as specified in section 23-4(a), Hawaii Revised Statutes; and
7

8 WHEREAS, section 23-5, Hawaii Revised Statutes, grants the
9 Auditor the authority to "examine and inspect all accounts,
10 books, records, files, papers, and documents and all financial
11 affairs of every department, office, agency, and political
12 subdivision" and to issue "[s]ubpoenas duces tecum compelling
13 the production of accounts, books, records, files, papers,
14 documents, or other evidence, which the auditor reasonably
15 believes may relate to an audit or other investigation being
16 conducted"; and
17

18 WHEREAS, the Audit Revolving Fund, established pursuant to
19 section 23-3.6, Hawaii Revised Statutes, was created
20 specifically to collect moneys for audits (including postaudits,
21 which are a specific type of audit), and the Legislature
22 specified that:
23

24 Moneys in the audit revolving fund shall be expended
25 by the auditor to conduct audits of the State's
26 departments, offices, agencies, and political
27 subdivisions, audits of special, revolving, capital
28 improvement, or trust funds, and for the services of
29 certified public accountants contracted to conduct
30 such audits[;]
31

32 now, therefore,
33

34 BE IT RESOLVED by the Senate of the Thirty-second
35 Legislature of the State of Hawaii, Regular Session of 2023, the
36 House of Representatives concurring, that the Auditor is
37 requested to conduct a performance audit of the Department of
38 Education's use of moneys appropriated for the construction of
39 Kulanihako'i High School; and
40

41 BE IT FURTHER RESOLVED that the Auditor is also requested
42 to determine:



- 1
2 (1) Whether moneys for road improvements of the
3 grade-separated pedestrian crossing were included in
4 the original appropriation for the construction of the
5 then-named Kihei High School or whether the Department
6 of Education later requested moneys for the
7 grade-separated pedestrian crossing during the
8 planning or construction process of the high school,
9 and if so, what happened to those moneys;
10
11 (2) Whether the Department of Education, or the Department
12 of Transportation, had, at any point during this
13 project, made plans or designs for a grade-separated
14 pedestrian crossing and spent any moneys for this
15 purpose and if not, why;
16
17 (3) After the Land Use Commission and the Maui County
18 Council confirmed that the grade-separated pedestrian
19 crossing was required to open Kulanihakoi High School,
20 what were the Department of Education's decision-
21 making process and reasons for not completing the
22 process to design and construct the grade-separated
23 pedestrian crossing;
24
25 (4) Why the Department of Education prioritized
26 constructing a roundabout instead of a grade-separated
27 pedestrian crossing, which was necessary for
28 Kulanihakoi High School to open;
29
30 (5) If the Department of Education funded the planning,
31 design, and construction of the roundabout in Kihei,
32 when a highway project of that nature typically would
33 have been funded by Department of Transportation
34 moneys, why and how did the Department of Education
35 fund it;
36
37 (6) When, why, and under whose direction the traffic
38 signal fronting Kulanihakoi High School on Piilani
39 Highway was changed to a roundabout; who approved the
40 construction change order; where the moneys for this
41 purpose came from; and whether the moneys used to fund
42 the roundabout planning, design, and construction



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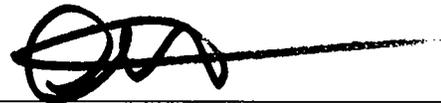
1 could have been used to plan, design, and construct
2 the critically required grade-separated pedestrian
3 crossing; and
4

- 5 (7) Regarding the approximately \$16,000,000 used to fund
6 the planning, design, and construction of the
7 roundabout, what were those moneys originally
8 appropriated for, who approved the redirection of the
9 moneys, and whether legislative approval was required
10 for that change; and
11

12 BE IT FURTHER RESOLVED that the Auditor is requested to
13 submit a report of its findings and recommendations, including
14 any proposed legislation, to the Legislature no later than
15 twenty days prior to the convening of the Regular Session of
16 2024; and
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18 BE IT FURTHER RESOLVED that certified copies of this
19 Concurrent Resolution be transmitted to the Auditor, Chairperson
20 of the Board of Education, Superintendent of Education, and
21 Director of Transportation.
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23
24

OFFERED BY: _____

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'A' shape followed by a horizontal line extending to the right.