STAND. COM. REP. NO. 2718

Honolulu, Hawaii

FEB 25 2026

RE: S.B. No. 3123
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Sir:

Your Committees on Judiciary and Education, to which was referred S.B. No. 3123 entitled:

"A BILL FOR AN ACT RELATING TO PRIVATE SUPPORT OF EDUCATION,"

beg leave to report as follows:

The purpose and intent of this measure is to clarify that free tuition at private educational institutions are to be considered conditional gifts that support educational advancements rather than contractual obligations.

Your Committees received testimony in support of this measure from the Office of the Governor, Office of Hawaiian Affairs, Hawai'i Association of Independent Schools, Hawaiian Council, Kamehameha Schools, Hawai'i Community Foundation, Hawai'i School for Girls at La Pietra, St. Andrew's Schools, Association of Hawaiian Civic Clubs, Hawai'i Children's Action Network Speaks!, Ke One O Kākuhihewa, Mid-Pacific Institute, Saint Louis School, Sacred Hearts Academy, CARES, and fourteen individuals.

Your Committees find that donor-conditioned educational awards that support private educational efforts are conditional gifts and are not intended to create contractual obligations. Treating these educational awards as contractual obligations may undermine donor intent and discourage charitable giving, creating uncertainty and inconsistent legal treatment of these awards. This measure will clarify and promote uniformity regarding the

treatment of donor-conditioned awards to preserve donative intent and encourage the continued availability of privately funded educational assistance.

Your Committees note the concern raised by Kamehameha Schools that further clarification of the distinction between a charitable gift, including school-conditioned enrollment, and contractual relationship is necessary to provide certainty that donors and schools who support educational programs in the State may do so without fear that their generosity will later be recharacterized in ways that impose obligations or restrictions to which schools and donors did not agree. Therefore, amendments to this measure are necessary to address this concern.

Your Committees have amended this measure by:

(1) Specifying that unless the parties agree otherwise in writing, any donor-conditioned educational award for attendance at a private educational institution or any school-conditioned enrollment at a private educational institution where no tuition or other monetary consideration is required or paid by the recipient shall be considered a conditional gift and not a contract;

(2) Clarifying that a donor or school operator may require the student or the student's parents or guardians to pay for optional extracurricular benefits, goods, or services or enter into certain agreements;

(3) Specifying that the modification or termination of any donor-conditioned educational award or any school-conditioned enrollment for failure to satisfy the applicable conditions shall not give rise to a contractual claim;

(4) Specifying that this measure shall apply only to donor-conditioned educational awards and school-conditioned enrollments made on or after its effective date;

(5) Amending section 1 to reflect its amended purpose; and

(6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3123, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3123, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Education,

DONNA MERCADO KIM, Chair

KARL RHOADS, Chair

The Senate
Thirty-Third Legislature
State of Hawai'i

# Record of Votes
# Committee on Judiciary
# JDC

| Bill / Resolution No.:* | Committee Referral: | Date: |
|---|---|---|
| SB 3123 | JDC / EDU | 2/12/26 |

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

| Members | Aye | Aye (WR) | Nay | Excused |
|---|---|---|---|---|
| RHOADS, Karl (C) | ✓ | | | |
| GABBARD, Mike (VC) | ✓ | | | |
| CHANG, Stanley | | | | ✓ |
| SAN BUENAVENTURA, Joy A. | | ✓ | | |
| AWA, Brenton | ✓ | | | |
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Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature:

**Distribution:** Original — File with Committee Report; Yellow — Committee; Pink — Drafting Agency

*Only one measure per Record of Votes

Revised: 01/02/26

The Senate
Thirty-Third Legislature
State of Hawai'i

# Record of Votes
## Committee on Education
## EDU

| Bill / Resolution No.:* | Committee Referral: | Date: |
|---|---|---|
| SB 3123 | JDC/EDU | 02/12/2026 |

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

| Members | Aye | Aye (WR) | Nay | Excused |
|---|---|---|---|---|
| KIM, Donna Mercado (C) | | ✓ | | |
| KIDANI, Michelle N. (VC) | | ✓ | | |
| FUKUNAGA, Carol | ✓ | | | |
| HASHIMOTO, Troy N. | | ✓ | | |
| DECORTE, Samantha | ✓ | | | |
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| **TOTAL** | 2 | 3 | 0 | 0 |

Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature: Michelle N. Kidani

**Distribution:** Original — File with Committee Report; Yellow — Committee; Pink — Drafting Agency

*Only one measure per Record of Votes

Revised: 01/02/26