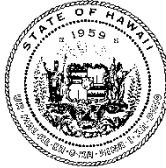


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**TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEE
ON
WAYS AND MEANS
FEBRUARY 25, 2026, 10:55 AM**

**SENATE BILL 2549, SD 1
RELATING TO STUDENT TRANSPORTATION**

Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2549, SD1, which authorizes the Department of Education (DOE) to suspend or terminate school bus contracts after five or more missed instructional days. The State Procurement Office (SPO) respectfully offers comments and recommendations.

Comments

The intent of Senate Bill 2549, SD1, to enforce contractual remedies for non-performance, is already addressed in Hawaii Revised Statutes (HRS), Chapter 103D, Hawaii Public Procurement Code (Code), and Hawaii Administrative Rules (HAR) Chapter 3-125, which provide the statutory framework for contract enforcement, termination, and remedies for contractor non-performance. The DOE shall continue to consistently enforce the existing procurement requirements. Furthermore, redundant statutory requirements within the established framework may compromise the consistency and uniform application of the current Code.

Additionally, this bill authorizes the Governor to make procurement decisions related to the removal or suspension of school routes, and to approve interim agreements for providing transportation on affected school routes. However, pursuant to Chapter 103D-203, the Chief Procurement Officer for the Department of Education is the Superintendent of Education. Giving the Governor the authority to intervene in DOE contracting processes usurps the CPO's authority pursuant to HRS Section 103D-205. This section of the Hawaii Public Procurement Code reads as follows:

"§103D-205 Authority and duties of the chief procurement officer. (a) For their respective jurisdictions and unless otherwise specifically provided in this chapter, each chief

procurement officer shall serve as the central procurement officer for the officer's respective jurisdiction and:

- (1) Procure or supervise the procurement of all goods, services, and construction;
- (2) Exercise general supervision and control over all inventories of goods;
- (3) Sell, trade, or otherwise dispose of surplus goods;
- (4) Establish and maintain programs for the inspection, testing, and acceptance of goods, services, and construction;
- (5) Coordinate with the administrator regarding procurement policies, opportunities for statewide innovation implementation, and concerns;
- (6) Report procurement contract data pursuant to requirements established by the administrator, in the form and manner prescribed by the state procurement office; and
- (7) Assist and cooperate with the administrator regarding any compliance review by the administrator pursuant to section 103D-206.

(b) Consistent with the provisions of this chapter and rules adopted by the policy board to implement its provisions, the chief procurement officers may adopt operational procedures to assist in the performance of these duties and responsibilities."

Authorizing one entity to intervene in another jurisdiction's procurement decisions establishes a precedent that procurement authority may be reassigned outside existing statutory structures. This undermines the uniform statewide framework established in HRS Chapter 103D and introduces uncertainty into procurement governance.

Such shifts in authority can also lead to inconsistent application of contract enforcement, and reduced vendor and public confidence. Ensuring that all agencies follow the same procurement requirements is essential to maintaining transparency, safeguarding taxpayer funds, and supporting fair and open competition.

Recommendations

The SPO respectfully recommends that the Committee defer Senate Bill 2549, SD1, as written, and instead emphasize the consistent enforcement of existing procurement rules and contract provisions.

Thank you for the opportunity to submit testimony on this measure.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/25/2026

Time: 10:55 AM

Location: CR 211 & Videoconference

Committee: WAM

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB2549, SD1, RELATING TO STUDENT TRANSPORTATION.

Purpose of Bill: Requires the Department of Education to hire a new contractor or contractors with the Governor's approval if a contractor under a student transportation contract fails to provide service on a contracted route for five or more consecutive instructional days. Requires the DOE to assess a penalty if a contractor fails to provide service on a contracted route without an approved justification. Specifies that the assessed penalties be deposited into the School Bus Fare Revolving Fund. Beginning 7/1/2026, requires all requests for proposals issued and contracts executed by the DOE for student transportation services to specifically reference certain new provisions. Authorizes the use of the School Bus Fare Revolving Fund to offset costs associated with procuring replacement services. Requires quarterly reports to the Legislature. (SD1)

Department's Position:

The Hawai'i State Department of Education (Department) appreciates the opportunity to provide testimony on S.B. No. 2549, S.D. 1.

The Department acknowledges the Education Committee's findings that recent transportation disruptions have burdened families and affected student attendance. Ensuring reliable transportation services is essential to student access and educational continuity. The Department remains committed to improving service stability.

However, after careful review of the amended measure, the Department respectfully opposes S.B. No. 2549, S.D. 1, because its principal mechanisms do not address the underlying cause of current service disruptions: the statewide shortage of qualified school bus drivers. Instead, the bill may introduce additional fiscal, procurement, and market risks.

I. The Mandatory Route Removal Requirement in Section 2(c) Does Not Increase Service Capacity

As amended, Section 2(c) requires the Department, upon written approval of the Governor, to remove or temporarily suspend affected routes and to enter into interim agreements when a contractor fails to provide service for five consecutive instructional days.

While the objective of increased accountability is understandable, the principal constraint affecting student transportation is workforce availability. The current service interruptions arise from an insufficient number of CDL drivers with school bus endorsements. In multiple regions of the State, there is no excess carrier capacity available to assume removed routes.

Accordingly, the mandatory removal mechanism may reassign contractual responsibility without increasing actual service capacity. Replacement carriers, where available, would draw from the same limited driver pool. In some complex areas, no alternative provider exists to assume additional routes without affecting other services. The statutory removal requirement therefore may not restore service where workforce capacity is lacking.

II. The Exclusion of Labor Shortages as an Approved Justification in Section 2(f) Reallocates Systemic Risk Without Resolving the Underlying Shortage

Section 2(f), as amended, clarifies that lack of available labor or inability to recruit drivers shall not constitute an approved justification absent a declared state of emergency specifically affecting the workforce.

The shortage of qualified school bus drivers is structural and persistent rather than episodic. It is not necessarily accompanied by a formally declared emergency. By excluding labor availability as a justification in most circumstances, the measure reallocates systemic workforce risk entirely to contractors.

In a limited and concentrated market, such reallocation is likely to affect pricing and participation in future procurements. Contractors may incorporate increased statutory exposure into bid calculations or may decline to pursue contracts that carry heightened financial risk. While the provision is intended to strengthen accountability, it does not expand the available driver pool and may increase long-term transportation costs.

III. The Increased Penalty Structure May Increase Fiscal Exposure Without Ensuring Service Restoration

The amended measure increases the financial penalty to one hundred percent of the daily contract value or liquidated damages equal to the reasonable cost of replacement transportation services, whichever is greater.

Although intended to compensate the State and incentivize performance, penalties cannot ensure service restoration where replacement drivers are unavailable. In circumstances where no alternative provider has available workforce capacity, financial penalties function as fiscal transfers rather than operational solutions.

Moreover, in a small vendor market, heightened penalty exposure may reduce participation in future solicitations or increase bid pricing to offset statutory risk. These outcomes may increase long-term fiscal obligations without improving service reliability.

IV. The Chapter 103D Exemption for Interim Agreements May Affect Procurement Stability

Section 2(d) authorizes interim agreements exempt from Chapter 103D for a period of up to thirty months. While this provision is intended to provide flexibility in securing replacement service, extended exemptions from established procurement processes may introduce uncertainty into the vendor market.

Chapter 103D is designed to promote fairness, transparency, and open competition. Predictability in procurement processes is particularly important in markets with a limited number of qualified providers. Procurement variability, even when authorized by statute, may affect vendor confidence and participation in future solicitations.

The exemption does not increase workforce capacity and therefore does not address the underlying driver shortage.

V. Transparency Through Quarterly Reporting Is Valuable but Does Not Address Workforce Supply

The amended measure requires quarterly reporting to the Legislature regarding implementation, impact on driver shortages, and disruptions to service. The Department supports transparency and data-informed policymaking. However, reporting requirements, while constructive, do not increase the number of qualified drivers available to perform transportation services.

VI. Workforce-Focused Strategies Would More Directly Advance the Committee's Objective of Route Availability

The Education Committee's report emphasizes ensuring appropriate mechanisms to promote route availability and support student success. Route availability ultimately depends upon driver availability.

Measures that expand the pipeline of qualified drivers (e.g., CDL training partnerships, recruitment and retention incentives, streamlined endorsement processing, and workforce development initiatives) would more directly address the structural cause of service disruptions. Increasing driver supply is essential to achieving sustained improvements in reliability.

For the above reasons, the Department respectfully opposes the measure as drafted and remains prepared to work collaboratively with the Legislature on workforce-centered solutions that directly address driver shortages and support reliable transportation services for Hawai'i's students.

Thank you for the opportunity to provide testimony. The Department is available to respond to any questions.

SB-2549-SD-1

Submitted on: 2/23/2026 9:13:39 PM

Testimony for WAM on 2/25/2026 10:55:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2549 SB RELATING TO STUDENT TRANSPORTATION

SUPPORT PUBLIC TRANSPORTATION SINCE NO PROBLEM WITH SHORTAGE OF BUS OPERATORS