



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 896, S.D. 1, RELATING TO EDUCATION.

**BEFORE THE:**

SENATE COMMITTEE ON EDUCATION

**DATE:** Wednesday, February 18, 2026      **TIME:** 1:02 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Anne T. Horiuchi or Randall M. Wat,  
Deputy Attorneys General

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Chair Kim and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill: (1) requires the Department of Education (DOE) to submit annual reports to the Legislature outlining certain information concerning capital improvement projects (CIP) and facilities; (2) requires the reports to be posted on the DOE's website annually in a searchable format; (3) provides that any CIP funds encumbered for more than five years without commencement of construction shall be specifically identified and justified, or shall be subject to legislative review for reversion or reassignment; and (4) establishes a five-year pilot program authorizing the Superintendent of Education to redesignate funded, vacant positions in the Office of Facilities and Operations (OFO) as positions exempt from Hawaii's Civil Service Laws for the purpose of hiring qualified professionals.

Section 2 of the bill (starting on page 3, line 9) adds a new section to chapter 302A, Hawaii Revised Statutes (HRS), requiring the DOE to submit annual CIP reports to the Legislature. The bill provides that this new section shall be added to part IV, subpart B, of chapter 302A, HRS – the subpart entitled "Accountability." This subpart currently contains statutes relating to matters including student bias, reporting of crime-related incidents, and the newly enacted Harm to Students Registry; none appear to be

related to construction or CIP projects. However, section 302A-1312, HRS, entitled "Six-Year Program and Financial Plan for School Repair and Maintenance," currently requires in subsection (c) that the DOE annually post on its website information including a list of projects initiated by the DOE, as well as a list of projects completed with associated actual cost. The Department suggests that, as chapter 302A is organized, it may be clearer if the facilities-related report created by section 2 of the bill is placed in chapter 302A near section 302A-1312, which already requires a repair-and-maintenance report. Consequently, the Department recommends amending section 2 of the bill on page 3, line 10, to replace "part IV, subpart B," with "part V, subpart B".

Section 3 of the bill (starting on page 5, line 8) adds a new section to chapter 302A, HRS, creating a pilot program within the DOE's OFO authorizing the Superintendent to redesignate funded, vacant positions as positions exempt from chapter 76, HRS. In section 3, new section 302A- (b), HRS, provides that the Superintendent "may fix the compensation for positions redesignated and converted to positions exempt from chapter 76 under this section at rates comparable to prevailing market rates." (Page 7, lines 3-6.) The Department notes that pursuant to section 89-9, HRS, wages are a mandatory subject of bargaining for employees included in bargaining units under section 89-6, HRS. Changing a position to "exempt" does not change its bargaining unit inclusion/exclusion status. To address this concern, the Department recommends revising the new section 302A (b) in section 3 of the bill, on page 7, lines 3-6, as follows:

(b) **[The] Notwithstanding any law to the contrary and if negotiated pursuant to section 89-9, for those employees within appropriate bargaining units under section 89-6, the** superintendent may fix the compensation for positions redesignated and converted to positions exempt from chapter 76 under this section at rates comparable to prevailing market rates.

(Suggested changes Ramseyered against the existing text of the bill and in bold.)

Thank you for the opportunity to provide comments on this bill.



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



**Date:** 02/18/2026

**Time:** 01:02 PM

**Location:** CR 229 & Videoconference

**Committee:** EDU

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** SB896, SD1, PROPOSED, RELATING TO EDUCATION.

**Purpose of Bill:** Requires the Department of Education to submit annual reports to the Legislature outlining certain information concerning capital improvement projects and facilities. Requires the reports to be posted on DOE's website annually in a searchable format. Provides that any CIP funds encumbered for more than five years without commencement of construction shall be specifically identified and justified, or shall be subject to legislative review for reversion or reassignment. Establishes a five-year pilot program authorizing the Superintendent of Education to redesignate funded, vacant positions in the Office of Facilities and Operations as positions exempt from Hawaii's Civil Service Laws for the purpose of hiring qualified professionals. (SD1)

**Department's Position:**

The Hawai'i State Department of Education (Department) appreciates the opportunity to offer comments on SB 896, SD 1.

The Department recognizes the Legislature's concern regarding the execution of capital improvement projects (CIP), transparency, and technical capacity. We share the goal of strengthening accountability and improving internal expertise to ensure timely delivery of school facilities projects.

**I. Annual Capital Improvement Project Reporting (Proposed Section 2, §302A-\_\_\_)**

The Department can report the following, using existing systems:

- Project title and location;
- Amounts allotted and unallotted (appropriated but not yet allotted) for unlaps

funds;

- Amounts expended and encumbrance balance by project (Office of Facilities and Operations (OFO) job number);
- Project milestone group (planning, scoping, design contract, design, bid, construction contracting, construction, closed);
- Initial contract end date and revised contract end dates;
- Total deferred maintenance backlog;
- Number of licensed technical staff assigned to OFO;
- Number of vacant facilities-related positions; and
- Consultant expenditures, if the reporting period is clearly defined.

Fiscal data is maintained in the Aukahi Financial Management System (AFMS), while project status data is maintained in the Capital Projects Tracker (CPT). The Department is assessing and evaluating how these systems can be better aligned to strengthen consolidated reporting.

The following elements would require substantial manual reconciliation and additional staff effort:

- Consolidating fiscal and project status data into a single integrated report;
- Identifying and explaining all delays exceeding twenty-four months, particularly for multi-phase or multi-appropriation projects;
- Compiling comprehensive reporting on cost overruns, change orders, protests, and redesigns in a standardized format;
- Determining and reporting whether each project is "on time and within budget," as these determinations often depend on scope changes, funding timing, procurement protests, permitting requirements, or other external factors; and
- Producing comparable fiscal data for older, lapsed appropriations.

The Department respectfully recommends that subsection (b) allow flexibility in reporting structure rather than prescribing each data element in statute, to allow continued system modernization while maintaining transparency.

The Department also respectfully requests clarification that reporting requirements apply only to Department-administered projects and do not include attached agencies, such as the School Facilities Authority, State Public Charter School Commission, or the Hawai'i State Public Library System, which have separate governance structures and reporting responsibilities.

## **II. Five-Year Encumbrance Review (Proposed Section 2, §302A-\_\_(e))**

The Department can identify projects with funds encumbered for more than five years. However, clarification is recommended to ensure that projects in active planning, design, procurement, environmental review, or phased construction are not deemed inactive solely due to elapsed time. Complex school projects often span multiple fiscal years and appropriations before construction begins.

## **III. Pilot Program for Exempt Technical Positions (Proposed Section 3, §302A-\_\_)**

The Department supports the goal of improving recruitment and retention of qualified technical professionals.

Allowing up to twenty vacant OFO positions to be converted to positions exempt from

Chapter 76, Hawai'i Revised Statutes (civil service), with compensation set at prevailing market rates, may improve hiring flexibility.

However, limiting flexibility only to newly converted exempt positions may create compensation disparities with similarly situated civil service employees. Also, requiring identification of a specific digital project management system before appointment may delay hiring if procurement processes are still underway.

The Department supports increased flexibility and recommends practical implementation timelines.

In conclusion, the Department supports the Legislature's objective of enhanced transparency and improved technical capacity. Many reporting elements can be produced using existing systems. Certain consolidated and highly detailed elements will require additional manual effort and system integration.

With reasonable flexibility in reporting structure and clarification regarding scope and attached agencies, the Department can continue to improve accountability while maintaining focus on timely project delivery.

Thank you for the opportunity to provide comments on SB 896, SD 1.

**SB-896-SD-1**

Submitted on: 2/14/2026 12:40:00 AM

Testimony for EDU on 2/18/2026 1:02:00 PM

| <b>Submitted By</b>  | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|----------------------|---------------------|---------------------------|---------------------------|
| Johnnie-Mae L. Perry | Individual          | Support                   | Written Testimony<br>Only |

Comments:

I, Johnnie-Mae L. Perry, Support

896 SB RELATING TO EDUCATION.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii  
The Senate  
Committee on Education

Testimony by  
Hawaii Government Employees Association

**LATE**

February 18, 2026

S.B. 896, S.D. 1 — RELATING TO EDUCATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes S.B. 896, S.D. 1, **specifically Section 3**, which establishes a five-year pilot program authorizing the Superintendent of Education to redesignate funded, vacant positions in the Office of Facilities and Operations as positions exempt from Hawai'i's Civil Service Laws for the purpose of hiring qualified professionals.

While we can appreciate the intent of this bill, we are concerned for the need to grant the Superintendent unilateral authority to exempt vacant positions within the Office of Facilities and Operations. Exempt employees do not have the same rights compared to civil service employees as they are considered "at-will" by the employer. Furthermore, exempt employees do not go through any merit-based hiring which opens the door for patronage hires. Over these past few years, we have seen an increase in the use of exempt positions, which in large part, is due to our lethargic civil service hiring process, our states refusal to increase civil service pay to a competitive rate, and frankly, some managers just looking to assert more control over their employees by making them 'at-will'.

Additionally, this bill may lead to pay equity issues because exempt employees are generally compensated at a higher rate compared to civil service employees. This may negatively impact the morale of an incumbent civil service employee when a newly hired exempt employee, whom is performing the same duties, is compensated at a higher rate.

This proposal does not address the root issue and is rather a band-aid fix. Rather than exempting positions, we implore the DOE to look at streamlining its hiring and recruiting process, and adequately pricing these civil service positions to appropriately reflect a competitive salary, comparable to similar positions within the public and private sector, and in general, the market rate.

Thank you for the opportunity to provide testimony in opposition to S.B. 896, S.D. 1.

Respectfully submitted,

  
Randy Perreira  
Executive Director