

MAR 10 2023

SENATE 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
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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
33 pedestrian crossing as a condition for the rezoning of the land;
34 and
35



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

10 WHEREAS, the Department of Education, as late as March 23,
11 2020, stated that it "is committed to moving forward with the
12 design of the pedestrian overpass"; and
13

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

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

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

37 WHEREAS, the newly named Kulanihakoi High School was
38 expected to welcome its first students in January 2023, but was
39 not able to do so because it could not obtain a necessary
40 temporary Certificate of Occupancy from the County of Maui
41 Department of Planning; and
42



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

10 WHEREAS, in January 2023, construction of the
11 grade-separated pedestrian crossing had not yet started and,
12 once begun, is expected to take approximately five years to
13 complete; and
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15 WHEREAS, it remains unclear why the required grade-
16 separated pedestrian crossing was not constructed; whether
17 moneys were appropriated or otherwise made available for this
18 purpose and, if not, why, and, if so, what happened to these
19 moneys; why a roundabout was constructed in place of a grade-
20 separated pedestrian crossing; where the moneys for this
21 construction came from; and whether those moneys could have been
22 used for the State- and County-mandated grade-separated
23 pedestrian crossing; and
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25 WHEREAS, there appears to be a discrepancy between the
26 assertions of the Department of Education and the information
27 presented by other government entities; and
28

29 WHEREAS, among the duties of the Auditor are that:
30

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



1 accounting officers and of determining the validity of
2 expenditures of state or public funds.

3
4 as specified in section 23-4(a), Hawaii Revised Statutes; and

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

15
16 WHEREAS, the Audit Revolving Fund, established pursuant to
17 section 23-3.6, Hawaii Revised Statutes, was created
18 specifically to collect moneys for audits (including postaudits,
19 which are a specific type of audit), and the Legislature
20 specified that:

21
22 Moneys in the audit revolving fund shall be expended
23 by the auditor to conduct audits of the State's
24 departments, offices, agencies, and political
25 subdivisions, audits of special, revolving, capital
26 improvement, or trust funds, and for the services of
27 certified public accountants contracted to conduct
28 such audits[;]

29
30 now, therefore,

31
32 BE IT RESOLVED by the Senate of the Thirty-second
33 Legislature of the State of Hawaii, Regular Session of 2023,
34 that the Auditor is requested to conduct a performance audit of
35 the Department of Education's use of moneys appropriated for the
36 construction of Kulanihako'i High School; and

37
38 BE IT FURTHER RESOLVED that the Auditor is also requested
39 to determine:

- 40
41 (1) Whether moneys for road improvements of the
42 grade-separated pedestrian crossing were included in



1 the original appropriation for the construction of the
2 then-named Kihei High School or whether the Department
3 of Education later requested moneys for the
4 grade-separated pedestrian crossing during the
5 planning or construction process of the high school,
6 and if so, what happened to those moneys;
7

8 (2) Whether the Department of Education, or the Department
9 of Transportation, had, at any point during this
10 project, made plans or designs for a grade-separated
11 pedestrian crossing and spent any moneys for this
12 purpose and if not, why;
13

14 (3) After the Land Use Commission and the Maui County
15 Council confirmed that the grade-separated pedestrian
16 crossing was required to open Kulanihakoi High School,
17 what were the Department of Education's decision-
18 making process and reasons for not completing the
19 process to design and construct the grade-separated
20 pedestrian crossing;
21

22 (4) Why the Department of Education prioritized
23 constructing a roundabout instead of a grade-separated
24 pedestrian crossing, which was necessary for
25 Kulanihakoi High School to open;
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27 (5) If the Department of Education funded the planning,
28 design, and construction of the roundabout in Kihei,
29 when a highway project of that nature typically would
30 have been funded by Department of Transportation
31 moneys, why and how did the Department of Education
32 fund it;
33

34 (6) When, why, and under whose direction the traffic
35 signal fronting Kulanihakoi High School on Piilani
36 Highway was changed to a roundabout; who approved the
37 construction change order; where the moneys for this
38 purpose came from; and whether the moneys used to fund
39 the roundabout planning, design, and construction
40 could have been used to plan, design, and construct
41 the critically required grade-separated pedestrian
42 crossing; and



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

8 BE IT FURTHER RESOLVED that the Auditor is requested to
9 submit a report of its findings and recommendations, including
10 any proposed legislation, to the Legislature no later than
11 twenty days prior to the convening of the Regular Session of
12 2024; and
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14 BE IT FURTHER RESOLVED that certified copies of this
15 Resolution be transmitted to the Auditor, Chairperson of the
16 Board of Education, Superintendent of Education, and Director of
17 Transportation.
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OFFERED BY: _____

