

**STATE OF HAWAII**  
**BOARD OF EDUCATION**  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

Testimony of Warren Haruki  
Chairperson, Board of Education  
Chairperson, 2024 Legislative Ad Hoc Committee

**Senate Committee on Education**  
Wednesday, February 7, 2024  
3:00 p.m.  
Hawaii State Capitol, Room 229

**Measure: SB3328, Relating to Education**

Aloha Chair Kidani, Vice Chair Kim, and Members of the Committee:

The Board of Education (Board) **strongly supports** this measure as it provides greater clarity regarding the Department of Education's authority over facilities.

The Board is encouraged that the measure provides the opportunity for the Department to reorganize its facilities and operations team. The Superintendent has made it a priority to examine opportunities to increase effectiveness and efficiency in completing capital improvements, deferred maintenance, and repairs across the 250+ campuses statewide. SB3328 is an enabler to implementing the changes that are much needed.

The Board respectfully requests amendments to the timeframes established in sections 5(c) and (d), to allow at least three additional months for both deadlines – no earlier than November and December 2024, respectively. More time will likely be needed for the Board to work with the Department and School Facilities Authority to determine the numerous implementation details. Only after the myriad of tasks and actions are identified could this matter then be brought to the Board for anticipated approval.

The Board defers to the Department and/or its administratively attached agencies, when appropriate, on operational and implementation matters, while maintaining strategic oversight and guidance.

Mahalo for this opportunity to testify on behalf of the Board.



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

**Date:** 02/07/2024

**Time:** 03:00 PM

**Location:** CR 229 & Videoconference

**Committee:** Senate Education

**Department:** Education

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

**Title of Bill:** SB 3328 RELATING TO EDUCATION.

**Purpose of Bill:** Clarifies the Department of Education's authority to oversee public education facilities and real estate development. Establishes the Office of Facilities and Real Estate Development and the Office of School Operations and Services. Repeals the School Facilities Authority. Reorganizes the Department of Education's organizational structure for facilities and real estate development. Establishes positions. Makes conforming amendments. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Repeals the Office of Facilities and Real Estate Development and Office of School Operations and Services 7/1/2031.

**Department's Position:**

The Hawaii State Department of Education (Department) supports Senate Bill 3328.

The Department looks forward to working with all agencies in the expansion of pre-kindergarten programs at schools statewide as well as the ability to work with other agencies on the Department's facilities priorities.

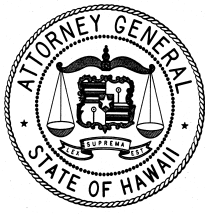
The Department recognizes the importance and urgency of improving its facilities operations which are referenced in Part II of the bill. The Department is working with the Board of Education and industry advisors and experts on an approach for overall real estate optimization which includes reorganization, as appropriate. The Department believes that optimization is best accomplished through existing processes, rather than through statutory change. The Department is working closely with the Board of

Education and labor partners on reorganization.

The Department is currently working with the Board of Education to establish a baseline of its facilities and operations to better understand which functions need greater attention. SB 3328 supports this endeavor by providing necessary resources and funds to revitalize the organization to operate more efficiently.

The Department looks forward to continue working with the Legislature and the Board of Education on this matter.

Thank you for the opportunity to support SB 3328.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**  
S.B. NO. 3328, RELATING TO EDUCATION.

**BEFORE THE:**  
SENATE COMMITTEE ON EDUCATION

**DATE:** Wednesday, February 7, 2024      **TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 229 and Videoconference

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

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Chair Kidani and Members of the Committee:

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

The bill: (1) clarifies the Department of Education's (DOE) authority to oversee public education facilities and real estate development; (2) establishes the Office of Facilities and Real Estate Development and the Office of School Operations and Services; (3) repeals the School Facilities Authority (SFA); (4) reorganizes the DOE's organizational structure for facilities and real estate development; (5) establishes positions; and (6) repeals the Office of Facilities and Real Estate Development and Office of School Operations and Services on July 1, 2031.

The Department objects to new section 302A-B(6), Hawaii Revised Statutes (HRS), on page 11, lines 5-11, which will allow the Office of Facilities and Real Estate Development to:

Appoint or retain by contract one or more attorneys who are independent of the attorney general to provide legal services solely in cases of negotiations in which the attorney general lacks the sufficient expertise; provided that the independent attorney shall consult and work in conjunction with the designated deputy attorney general[.]

The Attorney General is the chief legal officer under the Hawai'i Constitution, serves as legal counsel to the State of Hawai'i, and has statutory legal obligations

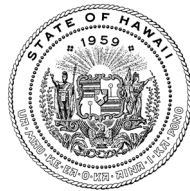
including providing legal advice to state agencies. Because it has been called the largest “law firm” in Hawai‘i, with diverse subject-matter divisions, the Department of the Attorney General is best suited to provide legal advice to its state clients on a broad array of matters, and therefore, as a general matter, state agencies are best served by deputy attorneys general. By utilizing deputy attorneys general, state agencies benefit from the wide range of experience and expertise in a cost-effective and conflict-free manner.

The Department has substantial experience in negotiations. However, to the extent that certain matters require attorneys with a specific kind of experience, the Attorney General can already appoint special deputy attorneys general who can address specific issues as they arise. HRS § 28-8(b). Therefore, the provision in page 11, lines 5-11, is unnecessary because attorneys with specific experience can already be employed through the special-deputy process.

For these reasons, the Department respectfully requests that new section 302A-B(6) on page 11, lines 5-11, be stricken.

Additionally, the Department suggests adding to the bill a section to amend section 84-17(c), HRS, to repeal paragraph (13), which requires the members of the SFA to provide disclosure of financial interest statements to the ethics commission, and which will no longer be necessary if this bill is enacted.

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



JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE  
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ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT

**WRITTEN ONLY**  
TESTIMONY BY LUIS P. SALAVERIA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEE ON EDUCATION  
ON  
SENATE BILL NO. 3328

**February 7, 2024**  
**3:00 p.m.**  
**Room 229 and Videoconference**

RELATING TO EDUCATION

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 3328:

- Adds a new section to Section 26-12, HRS, that the Department of Education (DOE) shall establish, maintain, and operate the public education facilities of the State, including public schools and other educational facilities authorized by law; and the DOE may enter into service-level agreements, memoranda of agreement, or memoranda of understanding with other departments for these responsibilities if the agreement or understanding is beneficial for the State.
- The measure adds three new sections to Chapter 302A, HRS, to establish: 1) the Office of Facilities and Real Estate Development (OFRED), which shall be responsible for the development, construction, repairs, maintenance, and other activities necessary for public education facilities as authorized by law or deemed necessary by the Board of Education (BOE) policy; 2) the Office of School Operations and Services (OSOS), which shall be responsible for service operations, including school meals, transportation, and other activities as may be required by law or deemed necessary by BOE policy; and 3) the Educational Facilities and Real Estate Development Special Fund (EFREDSF) into which shall be deposited: 1) all

moneys appropriated or transferred by the Legislature or counties for deposit into the EFREDSF; 2) any moneys received by DOE in the form of a grant, gift, endowment, or donation for the development, planning, or construction of new educational facilities or major renovations of educational facilities; and 3) all other moneys received by DOE and not deposited into a trust fund or trust account, including unrestricted grants, gifts, and donations; proceeds from sales of property; rents and other receipts from leases, rights of entry, and the like; and interest, refunds, and other receipts and payments.

- The measure amends Chapter 302A, Part VI, Subpart C, HRS, to repeal the School Facilities Authority.
- The measure declares that the general fund expenditure ceiling is exceeded in FY 25 by an undetermined amount.
- The measure establishes two full-time equivalent positions, including an Assistant Superintendent of Facilities and Real Estate Development and a secretary position and appropriates an undetermined amount of general funds in FY 25.
- Lastly, the measure repeals OFRED and OSOS on July 1, 2031.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 3328, it is difficult to determine whether the proposed EFREDSF would be self-sustaining.

Thank you for your consideration of our comments.