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Forum**  
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February 22, 2008

To: Senator Rosalyn Baker, Chair  
Senator Shan Tsutsui, Vice Chair  
And Members of the Committee on Ways and Means

From: Jeanne Y. Ohta  
Executive Director

Re: SB2342 SD1 Relating to the Auditor  
Hearing: February 22, 2008, 11:00 a.m., Room 211

Position: Strong Support

The Drug Policy Forum of Hawaii supports this measure which would require the legislative auditor to conduct performance audits of two prisons on the mainland that hold the majority of Hawaii prisoners.

The contracts with private prisons are some of the most expensive contracts that the state enters into. These contracts also involve persons whose care is entrusted to the State of Hawaii. It is because of this important responsibility that an independent audit of private prisons is necessary. The Department of Public Safety has not provided public access to monitoring reports.

Private prisons have different objectives than those run by government entities. They are for-profit operations; whose goal is to keep as many beds occupied as possible while keeping expenses low. There have been numerous problems at the prisons; sometimes with questions as to implementation of programs that are required under the contracts. Is the department enforcing the terms of the contract? An independent auditor will be able to answer that question for the public. Are we getting what we pay for? We'd like to know.

Please pass this bill so that we can know whether the contractors are complying with the terms of their contract. They must be held accountable.

Thank you for hearing this measure.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON WAYS AND MEANS

Sen. Rosalyn Baker, Chair

Sen. Shan Tsutsui, Vice Chair

Friday, February 22, 2008

11:00 AM

Room 211

### **STRONG SUPPORT - SB 2342 SD1 - PERFORMANCE AUDIT OF PRIVATE PRISONS HOUSING HAWAII PRISONERS**

Aloha Chair Baker, Vice Chair Tsutsui and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai'i for a decade. I respectfully offer our testimony being always being mindful that Hawai'i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 2342 requires the auditor to conduct performance audits of private prisons on the mainland that house Hawai'i prisoners. Makes appropriation. The SD1 narrows the audit to Saguaro Correctional Facility in Eloy, AZ, where more than 1,900 of our men live and to Otter Creek Correctional Center in Wheelwright, KY, where 175 of our women live. Otter Creek would only be audited if the state does not start the process of returning all our women to Hawai'i.

Community Alliance on Prisons strongly supports this bill. This audit is long overdue. We started shipping people out - the first 300 - in 1996. Twelve years later, Hawai'i still has no exit strategy for this 'temporary situation'. In 2006, that number of inmates exported rose to 1,844 Hawai'i inmates serving their sentences in prisons across the U.S. continent. As of January 7, 2008, we had 2,089 Hawai'i individuals serving their sentences abroad - more than one-third of Hawai'i's entire incarcerated population of 6,010.

What has shipping out - the exportation of the bulk of our prison population brought us? Sadly, it has delivered multiple gangs, individuals returning from U.S. prisons more hardened, and an increasing number of devastated families trying to survive back home. Hawai'i needs to train a more critical eye on what is happening in these contract prisons. Are we getting the programs and services for which we are paying more than \$50 million a year? Are our people being treated humanely?

This bill would give us an independent view of how our contracts are being enforced and how private prisons are complying with contract provisions. The glaring facts are that our people have died in these prisons, several of our people have been hospitalized for serious medical conditions, and now we find out that an employee at Otter Creek smuggled in a loaded 22 in the prison with no one noticing anything. This is more than a breach of security. This is a clear indication that something is wrong.

Something is very wrong. The state is still responsible for the care of individuals sentenced by our courts regardless of where those individuals are housed.

In November 2007, I traveled with the Senate Public Safety Committee to Eloy, Arizona to visit the two prisons housing the majority of our male prisoners. Saguaro Correctional Facility was built by Corrections Corporation of America in the Sonoran desert exclusively for Hawai'i's prisoners and 'sold' to Hawai'i as a program-intensive prison.

The staff at the prisons is young and inexperienced in corrections best practices. This has been illustrated with the problems of cell doors opening 'by mistake' at several CCA prisons. When this happened in Tallahatchie in Tutwiler, Mississippi, one of our inmates was beaten to within an inch of his life. It's interesting that these events occurred in the administrative segregation unit, called SHIP.

Sadly, the most constant program in Saguaro is SHIP - Special Housing Intensive Program. SHIP is described as a behavior-modification program for people who are violent and cannot live in the general population because they are 'always violating the rules'. The individual does discipline time and gets a due process hearing, we were told. He can appeal the decision to the warden. SHIP has six month levels:

- SHIP I: 1 - 16 people - locked down 23 hours a day with 1 hour out for recreation
- SHIP II: 11 - 13 people - locked down 22 hours a day with 2 hours out for recreation
- SHIP III: 11 - 16 people - locked down 20-21 hours a day with 3-4 hours out for recreation  
(CCA mentioned that these numbers are from October 25, 2007)

Does this sound like a program? What could someone learn being locked down for 20-23 hours a day? Community Alliance on Prisons has received numerous letters from our men in Saguaro and from their families advising us that 'write-ups' are increasing for minor infractions. In other words, men are being put in lockdown (aka SHIP I program) for taking an extra 8 ounce cup of juice with meals, for not lining up correctly, or for not displaying their ID badges prominently. We have been advised that the SHIP program is full. Is this the 'intensive programming' that we are paying for?

On August 12, 2007, the Honolulu Star Bulletin, in an article entitled "Mainland prison slammed" (<http://starbulletin.com/2007/08/12/news/story03.html>) reported that:

*"The heads of the education and addiction-treatment programs at a private Arizona prison holding Hawaii inmates abruptly quit their jobs complaining of poor management, inadequate facilities and lack of staffing.*

*Their resignations came just days before an Aug. 3 incident in which the staff at Saguaro Correctional Facility inadvertently opened security doors, releasing Hawaii inmates from their cells. Seven inmates left their cells when the doors opened, one was injured in a fight with another inmate and a third inmate had to be subdued for refusing to return to his cell, Hawaii Department of Public Safety officials said.*

*Rich Stokes was the principal at Saguaro Correctional Facility in Eloy. Michael VanSlyke was the facility's addiction treatment manager.*

*"They essentially walked out," said Steve Owen, spokesman for the Tennessee-based Corrections Corporation of America, which runs the Saguaro facility. "Their leaving was not expected."*

*Stokes and VanSlyke did not explain their departures to CCA officials but instead sent e-mails to Shari Kimoto, state Department of Public Safety mainland branch administrator.*

*In the e-mails, Stokes said upper management at the facility spies on staff, controls all communication with the outside, and devalues and degrades inmates and programs for them. He said water runs into cells when inmates take showers because the drains are higher than the surrounding floors, the air-conditioning system experiences frequent failure and staff are often locked in or out of their units because doors cannot be opened."*

In a briefing in front of this committee last this month, the department of public safety reported that the Electrical Engineering teacher had also quit. Community Alliance on Prisons has also heard that there is little to no programming taking place at Saguaro since the Hawai'i delegation's trip in November. Something is very wrong.

At Otter Creek Correctional Center in Wheelwright, KY, there has been and continues to be many problems for our women banished there.

In December 2005, three of our women were rushed to the hospital after repeatedly asking for medical care. One had pneumonia, one had triple by-pass surgery, and Sarah Ah Mau died on December 31, 2005 after being threatened with lockdown if she continued to ask for help.

A Kentucky inmate died in August of 2007. When we questioned public safety about the death, they told us that it was a Kentucky inmate, so they had no reason to question anything. Why would we not be concerned if someone died in a facility holding our women? Isn't any death a serious situation?

The health care at Otter Creek leaves a lot to be desired. Women have reported to us that their physician-prescribed medications are denied or changed by the facility, nurses who have left the facility confided to me that they were asked to perform procedures outside their scope of practice, and that Otter Creek is 'a mess'.

Of course, the latest incident involving the warden's secretary who smuggled a loaded 22 into Otter Creek is of great concern and is indicative of much more than a 'security breach'. Something is very wrong.

There also appear to be some shenanigans going on with the money that families and loved ones send to prisoners' accounts. The system recently changed so that all money sent to inmate accounts goes to a company in Georgia. I know of families who sent money to be placed in inmates' accounts in early December. By mid-January that money had not been deposited in the inmate's account. Why? Who is keeping track of these funds? Is this just another scam to make money off the backs of some of Hawai'i's most economically-challenged families?

Again, we reiterate that the state bears the responsibility for the health and safety of our people in prisons thousands of miles away. Corrections Corporation of America is a private company listed on the NYSE. Where do you think their first responsibility lies? Correct...their first responsibility is to their shareholders.

We're sure that it is very convenient to house states' prisoners thousands of miles away - CCA is enjoying relative autonomy as evidenced by this statement that was overheard recently by a family member. "If it was up to me, you'd get nothing," said Assistant Warden Ben Griego, who is now Acting Warden at Saguaro - the program-intensive prison built for Hawai'i's inmates.

The Legislative Auditor, Marian Higa was in the Legislative Management Committee, which heard the house version of this bill, but which also included an audit of every prison commissary in Hawai'i and the private prisons holding our people, and when asked what the cost would be for such an audit, she replied \$300,000 - \$500,000.

Since the state pays out millions of dollars a year to settle claims, we assert that this investment is wise because you, the legislature, will have more information - independent information - to work with as you allocate the state's resources in the most effective and efficient way.

Community Alliance on Prisons respectfully urges the committee to pass this bill with appropriate funding so that a full and independent audit of these contract prisons can be done. Hawai'i is in its twelfth year of exporting prisoners. It is about time that we thoroughly and independently analyze the wisdom of that policy decision, the rigor of contract compliance from the vendor, and the level of scrutiny that Hawai'i applies to monitoring these contracts.

An independent audit is the only way we will discover what is really going on in these private prisons.

Our trip in November revealed that the department of public safety has been making excuses for CCA's non-compliance. When Senators questioned the lack of programming in Saguaro, the program-intensive prison, the department repeatedly jumped in to answer for CCA saying they are 'ramping up'. Our question is simple, "Why did they open the prison if they were not ready to provide the services for which we have been paying?"

As the great poet Arundhati Roy wrote:

"I think my eyes were knocked open and they don't close. I sometimes wish I could close them and look away... But once you've seen certain things, you can't un-see them, and seeing nothing is as political an act as seeing something."

We need answers, not more hardened criminals.

Community Alliance on Prisons urges the committee to pass SB 2342 SD1 with appropriate funding. An audit will provide the data you need to make necessary and important policy changes.

Mahalo for this opportunity to testify.

**testimony**

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**From:** kaianahaili [kaianahaili@hawaii.rr.com]  
**Sent:** Wednesday, February 20, 2008 9:57 PM  
**To:** testimony  
**Subject:** SB 2342 SD1

**COMMITTEE ON WAYS AND MEANS**

Sen. Rosalyn Baker, Chair  
 Sen. Shan Tsutsui, Vice Chair  
 Friday, February 22, 2008

11:00 AM  
 Room 211

**STRONG SUPPORT - SB 2342 SD1 - PERFORMANCE AUDIT OF PRIVATE PRISONS****HOUSING HAWAII PRISONERS**

Aloha Chair Baker, Vice Chair Tsutsui and Members of the Committee!

*“What happens inside jails and prisons does not stay inside jails and prisons. It comes home with the prisoners after they are released and with corrections officers at the end of each day’s shift. We must create safe and productive conditions of confinement not only because it is the right thing to do, but because it influences the safety, health and prosperity of us all.”* “Confronting Confinement” The Commission on Safety and Abuse in America’s Prisons, June 2006

My name is Ka`iana Haili, I am an instructor at Hawai`i Community College in the Hawaiian Studies Dept and I have worked at Kulani Correctional Facility as an instructor of Cognitive Skills and Hawaiian Culture since 1996. I am an ordained minister and continue to work with youth and adults at risk, adjudicated and incarcerated in numerous human service areas such as religious studies of Hawai`i. I have worked with the Turning Point for Families Ke Ala Lōkahi Domestic Violence program funded by the Center for Disease Control and now implemented by Child and Family Services, the State of Hawai`i Adult Mental Health Jail Diversion program and Catholic Charities Care A Van Homelessness project. I am involved with community committees such as Mayor Kim’s “Going Home” and Hawai`i Island Corrections Advisory Committee, concerning the difficulties of transitioning for our incarcerated; as such we stand in strong support of this measure to provide a comprehensive offender reentry system to help adult offenders prepare for release and reintegration back to the community. Hawai`i’s needs to correct our current system of exporting our prisoners with alternative healing centers on each island to rehabilitate those inmates that WILL return to OUR communities.

I respectfully offer our testimony being always being mindful that Hawai`i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 2342 requires the auditor to conduct performance audits of private prisons on the mainland that house Hawai`i prisoners. Makes appropriation. The SD1 narrows the audit to Saguaro Correctional Facility in Eloy, AZ, where more than 1,900 of our men live and to

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What has shipping out – the exportation of the bulk of our prison population brought us? Sadly, it has delivered multiple gangs, individuals returning from U.S. prisons more hardened, and an increasing number of devastated families trying to survive back home. Hawai'i needs to train a more critical eye on what is happening in these contract prisons. Are we getting the programs and services for which we are paying more than \$50 million a year? Are our people being treated humanely?

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We need answers, not more hardened criminals.

Community Alliance on Prisons urges the committee to pass SB 2342 SD1 with appropriate funding. An audit will provide the data you need to make necessary and important policy changes.

Mahalo for this opportunity to testify

Ka'iana Haili

**COMMITTEE ON WAYS AND MEANS**

Sen. Rosalyn Baker, Chair  
Sen. Shan Tsutsui, Vice Chair  
Friday, February 22, 2008  
11:00 AM  
Room 211

**SUPPORT: SB 2342 SD1 RELATING TO THE AUDITOR**  
Requiring the Auditor to Conduct Performance Audits of Private Prisons

Aloha Chair Baker, Vice Chair Tsutsui and Members of the Committee:

My name is Carrie Ann Shiota, and I am writing in strong support of SB 2342 SD1.

Given the State of Hawai'i's increased reliance of transferring our prisoners to out of state correctional facilities, it is imperative that our elected officials and community are fully aware of the fiscal costs associated with these transfers. In fiscal year, the Department of Public Safety spent \$50,291,459.61 to transfer inmates from Hawai'i out of state private prisons in Oklahoma, Mississippi, Arizona, and Kentucky.

As a taxpayer and citizen who believes in rehabilitation opportunities to stop the cycle of incarceration, I would like to know how the \$50 million dollars were spent. In particular, I am interested in learning about the amount of money spent on programs, such as education, substance abuse treatment, mental health services, vocational training and medical care, as well as the effectiveness of these services. I am also interested in the number of in person and teleconference visits, and contracts outlining the telephone rates. We should be investing in programs that work, and better prepare men and women for their transition back into the community as law-abiding, contributing members of their families and our community.

In addition, the audit should detail the Department of Public Safety's execution of its duties in the areas of: 1) monitoring private prisons; 2) enforcement of contract provisions and c) public access to contract and monitoring reports. Public access to these contracts, monitoring reports, and other demographic data relating to persons housed out of state is critical in order to provide for accountability and transparency, and to determine if out-of-state transfers is cost-effective to reducing recidivism rates in Hawai'i.

As elected officials, our community looks to you for leadership in shaping legislation and ensuring that hard earned tax dollars are spent in a fiscally responsible matter. Please hold the Department of Public Safety responsible for an accounting of its \$50+million dollar expenditure. In addition, I humbly ask that you contemplate the real costs associated with warehousing prisoners both in Hawai'i and in out of state prisons. In order to reduce the revolving door to prison, we must increase educational and vocational training, treatment programs and reentry support services starting from the first day of incarceration.

Mahalo for this opportunity to submit testimony in support of SB 2342 SD1.

Sincerely,

Carrie Ann Shiota, Esq.  
Kahului, Hawai'i  
[cashirota@aol.com](mailto:cashirota@aol.com)  
(808) 269-3858

## COMMITTEE ON WAYS AND MEANS

Sen. Rosalyn Baker, Chair

Sen. Shan Tsutsui, Vice Chair

Friday, February 22, 2008

11:00 AM

Room 211

### **STRONG SUPPORT - SB 2342 SD1 - PERFORMANCE AUDIT OF PRIVATE PRISONS**

#### **HOUSING HAWAII PRISONERS**

Aloha Chair Baker, Vice Chair Tsutsui and Members of the Committee,

My name is Karin Hokoana and I am a prisoner's advocate as well as a fourth generation Hawaii State resident, born when Hawaii was but a mere territory of the United States.

It is common knowledge that to hold anyone accountable, one must know what was done. In this case routine audits of our vendors would be the most effective in holding these contracts accountable.

For more than a decade, Hawaii has been "farming out" our prisoners as a "band-aid fix" rather than address the overcrowded prison population and create a permanent solution. This process costs the taxpayers millions of dollars. Do we actually know what we are getting for our money? What we are told is happening and what actually is happening are extremely different.

For every action, there is an equal opposite reaction. Failure to perform what is expected creates more chaos in the future. An audit would identify the failures that need to be addressed. Covering them up with "false" documentation and explanation is not acceptable.

In society today, more and more of us are gaining the knowledge to intervene, unlike the generations before us that had faith in what was seen as professional entities. These so called professionals are no longer able to keep their secrets and there is a definite need to learn their shortfalls and errors.

Given the amount the State of Hawaii spends on these contracts, the State should have the peace of mind that the job is being done right, that contracts are being upheld. An audit of any contract should be done regularly. Please keep in mind that it would have to be done by an independent entity, not affiliated with the State or the contracted vendor. To utilize an affiliation, would just compound the failure.

Healthcare is part of the contracted services. In my spare time, I am a prisoner advocate, but by profession, I am a registered Patient Care Advocate. On several occasions, I have had clients incarcerated for crimes they have committed, more often than not, for good reason. I have had to deal with their families fighting the prison system for the minimal care they need to survive. Please take note of two examples. A client, diagnosed with

end stage cancer became incarcerated while still receiving treatment, both oral chemotherapy and pain management. He received neither while incarcerated, rather by some "loop hole" not, done by his attorney but by the prison system, he was released, back into society, homeless and sick. A chronic violent "crystal meth" user is now back on the street. Another incarcerated client, diagnosed with Hepatitis C, is constantly refused treatment (dental and meds) because of his condition. Apparently, this seems due to the lack of education health employees have within the system. I have many more cases but for now, these two should be good enough as examples of how things fail or are covered up.

Simply put, there are but two choices for this whole mess to be solved:

- 1) Build new prisons in Hawaii and have the Dept of Public Safety hire qualified people to do a proper job
- OR
- 2) PASS SB2432 SD1 and by requiring routine audits of CCA and all their facilities that house Hawaii residents, make CCA accountable and then enforce the contract.

Mahalo for allowing my testimony.

## **COMMITTEE ON WAYS AND MEANS**

Sen. Rosalyn Baker, Chair

Sen. Shan Tsutsui, Vice Chair

Friday, February 22, 2008

11:00 AM

Room 211

### **STRONG SUPPORT - SB 2342 SD1 - PERFORMANCE AUDIT OF PRIVATE PRISONS HOUSING HAWAII PRISONERS**

Aloha,

I am writing in regard to my support of SB 2342 SD1. I will make this very short and sweet because what this bill proposes is something that should and needs to be done not only for the protection of our incarcerated men & women but also as a tax payer I and others need to know that our tax dollars are being used in the appropriate way which does not appear to be the case when these men & women are being sent so far away with basically no one watching over them and minimal if any rehabilitation being provided.

I happen to be the parent of a young man that was incarcerated in Tallahatchie County Correctional Facility. During this period I had to bring a number of wrongs to the attention of the Department of Corrections. It took a lot of effort to get them to look into things but when they did 9 times out of 10 it was a problem caused by corruption in this CCA run facility. I appreciate the effort that the PDS put into this but normally it would take months to get to the bottom of the problem and a lot of dollars spent to figure this out. Flying back & forth to the mainland to look into problems isn't the best solution to look into these problems. It is pretty elementary that by having an on site auditor it would reduce costs and most importantly be a safe haven or sounding board for these men & women who have been virtually cut off from their support systems here in Hawaii.

I am thankful that my son has been home for a while and is doing fantastic but I was shocked by what I heard went on in this facility. He shared some things while there but since getting out I have learned more that has turned my stomach. And as far as what I hear from men that are now in Arizona it has gotten worse.

There is corruption throughout these places and most of it involves these young, uneducated guards but also from what I have heard even the Management is involved. Most of these areas are poverty stricken and it doesn't take much for these prison workers to bring contraband & drugs inside, protect certain prisoners, etc etc for the right amount of money.

So please do the right thing and provide this layer of support to not only the department of Public Safety but also to these men & women.

I urge the committee to pass SB 2342 SD1 with appropriate funding. An audit will provide the data you need to make necessary and important policy changes.

Thank you,

Susan Hams

Committee On Ways And Means

Chair: Sen Rosalyn Baker

Vice Chair: Sen. Shan Tsutsui

Friday, February22,20811:00am

Room 211

Strong support SB2342 SD1

Hello Chair Baker , Vice Chair Tsutsui and Members of the Committee.

My name is Cathy Tilley and I am a member of the Community Alliance on Prisons and I have a son who is an inmate at Saguaro Correction Facility in Arizona.

I strongly support SB332342 SD1 that would require the auditor to conduct performance audits on the private prisons on the mainland that house Hawaii prisoners. We have been housing prisons on the mainland for twelve years and have not held the CC accountable and it is time we do. The state needs to make sure we are getting all the programs and services that was in the agreement and that we are paying for.

We need to know the staff is properly trained so that the facilities are run with the intent to preparing the men and women to reenter society. Not just put them in lockdown for the slightest infractions which is what seems to be happening at Saguaro. I do believe the name of the Facility is Saguaro Correctional Facility not Saguaro Lockdown Facility.

We can not loose track of the idea that the best way to help the inmates learn from their mistakes and prepare for their return to society is through education, programs and drug treatment. Not days , weeks and years of lockdown isolation and harsh and disrespectful attitudes by the people who are in charge of them

It is the states responsibility to hold the CCA accountable and the only way is through performance audits. I ask you please pass Sb2342 SD1 with the necessary funding

Sincerely ,  
Cathy Tilley  
621 Pauku St  
Kailua, HI 96734

**testimony**

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**From:** Richard S. Miller [rmiller@aya.yale.edu]  
**Sent:** Thursday, February 21, 2008 5:02 PM  
**To:** testimony  
**Subject:** My Testimony on SB 2342 SD1 Prison Audit Requirement

Richard S. Miller, Prof. of Law, Emeritus and former Dean  
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Board Member, Kokua Council and Drug Policy Forum of Hawaii  
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**Testimony on SB 2342 SD1 - WAM 2.22.08 - 11 AM**

**To: COMMITTEE ON WAYS AND MEANS**

Sen. Rosalyn Baker, Chair

Sen. Shan Tsutsui, Vice Chair

Friday, February 22, 2008

11:00 AM

Room 211

**SUBJECT: TESTIMONY IN STRONG SUPPORT OF SB 2342 SD1, PERFORMANCE AUDIT OF PRIVATE PRISONS HOUSING HAWAII PRISONERS**

Chair Baker, Vice Chair Tsutsui and Distinguished Members of the Committee:

My name is Richard S. Miller. I am a professor of law, emeritus, and former dean of the William S. Richardson School of Law. I am a member of the Board of Directors of Kokua Council and the Drug Policy Forum of Hawaii and am a Legal Consultant to the Hawaii Coalition for Health. I am here speaking only as a private citizen because I have just learned of this bill and have not had an opportunity to seek the support of these organizations.

I strongly support SB 2342 SD1 and the testimony offered in support of it by Kat Brady of the Community Alliance for Prisons. I have learned over many years as a colleague of hers on the Drug Policy Forum that she has great credibility and that her service and commitment to our community is extraordinarily important and insightful.

That our fellow citizens, both men and women, serving as convicted inmates in prisons in other states, may be subject to inhumane and unfair treatment and provided with medical care and treatment that may be inadequate, all as described by in Kat Brady's testimony, is an affront to justice and fairness. Only a fair audit will discover whether such conditions exist. We fellow citizens have a special duty, under the circumstances as described by Kat Brady, to go forward with and to adequately finance an honest and complete audit of these prisons as called for by SB 2342, SD1.



Thank you for considering my testimony.

Respectfully,

A handwritten signature in black ink, appearing to be 'R. S.', with a long horizontal flourish extending to the right.