



LATE TESTIMONY

TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SIXTH LEGISLATURE, 2011

ON THE FOLLOWING MEASURE:

H.C.R. NO. 166, REQUESTING THE AUDITOR TO CONDUCT A STUDY
REGARDING THE TRANSFER OF NON-GENERAL FUNDS TO THE GENERAL FUND.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, April 13, 2011 **TIME:** 10:40 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General supports this concurrent resolution.

House Concurrent Resolution No. 166 requests the Auditor to conduct a study that identifies the non-general funds that can be transferred to the general fund and to determine the source of the non-general fund moneys.

Under the Hawaii Supreme Court's decision in Hawaii Insurers Council v. Lingle, 120 Haw. 51, 201 P.3d 564 (2008), the ability to transfer non-general fund moneys to the general fund is dependent on the identification of the source, nature, and purpose of the subject moneys. Generally, regulatory fees imposed by an administrative agency cannot be transferred to the general fund. We believe that the Auditor's study of the discrete components of the State's non-general funds would be useful in determining the propriety of transfers of non-general fund moneys to the general fund.

Thank you for the opportunity to testify on this matter.