

**SCR 64 / SR 37**

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

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No. \_\_\_\_\_

TESTIMONY ON SENATE CONCURRENT RESOLUTION 64/ SENATE RESOLUTION 37  
REQUESTING THE ESTABLISHMENT OF AN EARNED TIME PROGRAM

by

Jodie F. Maesaka-Hirata, Director  
Department of Public Safety

Senate Committee on Public Safety, Government Operations, and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

Tuesday, April 5, 2011, 2:55 PM  
State Capitol, Conference Room 224

Chair Espero, Vice Chair Kidani, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Concurrent Resolution 64/ Senate Resolution 37 that requests us to establish an earned time program for those sentenced for non-violent drug offenses who have successfully completed a residential drug abuse program.

The issue of re-establishing a "good-time" program in Hawaii has been regularly brought before the Legislature over the past ten years and needs to be seriously considered. We are concerned, though, that the method proposed in this resolution would have the Department establish an earned time program without statutory authority and that only a select group of inmates would benefit from it. The granting and rescinding of earned time in other states is well defined in statute and case law. In addition, as proposed this program would conflict with existing Hawaii

laws governing parole and mandatory minimums. We also believe all inmates, except those serving life without parole sentences, should have equal opportunity to earn time for good behavior and program participation.

Given the above, we ask that this resolution be amended to request the Department include in its Reentry Master Plan a thorough review of how best to re-introduce "good time," including draft legislation to implement an earned time credit program.

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

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
1177 ALAKEA STREET, GROUND FLOOR  
Honolulu, Hawaii 96813

BERT Y. MATSUOKA  
ACTING CHAIR

ROY W. REEBER  
MEMBER

GAIL MURANAKA  
MEMBER

TOMMY JOHNSON  
ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON SENATE CONCURRENT RESOLUTION 64 AND SENATE  
RESOLUTION 37 REQUESTING THE ESTABLISHMENT OF AN EARNED TIME  
PROGRAM

**HAWAII PAROLING AUTHORITY**  
Tommy Johnson, Administrator

Committee on Public Safety, Government Operations and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

Tuesday, April 5, 2011, 2:55p.m.  
State Capitol, Conference Room 224

Chair Espero, Vice Chair Kidani and Committee Members:

The Hawaii Paroling Authority (HPA) appreciates the legislature's interest in the Department of Public Safety (PSD) planning and implementing an earned time program for persons who are serving time for a non-violent drug offenses and who have successfully completed a residential drug abuse program as outlined in both Senate Concurrent Resolution 64 and Senate Resolution 37.

The HPA has several serious issues of concern with this measure, which are as follows:

1. At present, all persons sentenced to any term(s) of imprisonment are thoroughly assessed using certified assessment instruments such as the Level of Service Inventory Revised (LSI-R) and the Adult Substance Abuse Use Survey (ASUS) and other appropriate tools to determine the persons level of risk, treatment, rehabilitative, and educational needs. Based on the results, the offenders are programmed to attend the appropriate services and treatment during their respective sequential phasing process.

2. In order to implement and manage an earned time program for persons who are serving time for non-violent drug offenses PSD would require additional staff and other resources, which it currently does not have. Given the State's current extreme fiscal challenges now and for the foreseeable future, it would not be fiscally prudent to expend limited resources on such a program.
3. By identifying and singling out non-violent drug offenders for automatic earned time credits, this measure creates a clear disparity in treatment among persons sentenced to terms of imprisonment. The disparity created by this measure will undoubtedly lead to costly litigation for the State.
4. All State's that have developed and implemented any type of earned time credits program have experienced costly litigation that have dramatically added to their respective budgets. Further, earned time credits programs currently in existence have experienced serious challenges as the programs require constant monitoring and adjustments to individual hearings by both the respective Departments of Corrections, Public Safety, Prisons, and regional and/or Statewide Paroling Authorities based on the award, withdrawal, and/or return of earned time credits. Despite close monitoring in those jurisdictions, costly litigation nonetheless often occurred as errors were made.
5. This measure does not address how PSD would have the ability to apply earned time credits to those persons serving court ordered mandatory minimum sentences as repeat offenders or those serving prison terms of life without the possibility of parole that includes non-violent drug offenses. In both scenarios, the award of earned time credits by PSD would be questionable at best, and may violate the separation of powers between the branches of government.

6. This measure does not specify if earned time credits are to be applied to the maximum term release date or to the minimum sentence(s) established by the HPA, and/or how it would apply of court ordered mandatory minimum sentences.

It would be more fiscally prudent to ensure that PSD has sufficient funding for substance abuse treatment and other institutional programs so that offenders are provided with the opportunity to complete all recommended programs prior to the expiration of the longest minimum sentence(s) regardless of offense(s) committed. This would help ensure they are prepared for parole and/or are better positioned to be granted a reduction in their minimum sentence(s) when eligible to apply in accordance with Hawaii Revised Statutes §706-669, Hawaii Revised Statutes, 353-62, and Hawaii Administrative Rules 23-700-27.

Further, overall, the cost to implement this program would be excessive, the liability for PSD, HPA and the State would be greater, the workload of PSD and the HPA would be greater, and the impact on the initial release dates of inmates would be minimal. Therefore, the HPA opposes this measure, as it is impractical, very costly, and would have a negative impact on the priorities set forth in the Executive Budget for Fiscal Year 2012-2013.

The HPA believes that more prudent and informed approach to reducing the prison population without jeopardizing public safety, and one that holds offenders accountable would include the draft proposal recently provided to the Director of the Department of Public Safety to utilize existing funding allocated to house inmates on the mainland here is Hawaii. If implemented, the plan could substantially reduce the number of inmates incarcerated that are classified as community and minimum custody.

Thank you for the opportunity to provide testimony on these measures.



the  
**Drug Policy  
Forum**  
o f h a w a i ' i

April 5, 2011

To: Senator Wil Espero, Chair  
Senator Michelle Kidani, Vice Chair and  
Members of the Committee on Public Safety, Government Operations  
and Military Affairs

From: Jeanne Y. Ohta, Executive Director

Re: SCR 64 / SR 37 Establishing Earned Time  
Hearing: Tuesday, April 5, 2011, 2:55 p.m., Room 224

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of SCR 64/SR 37 which requests the establishment of an earned time policy which would allow an inmate to received "earned time" credit to reduce the length of prison sentences.

Hawai'i uses incarceration as the main criminal justice tool. It is an expensive choice. As the prison budget has skyrocketed, we are poorer, but not safer. Drug treatment programs are less expensive and more effective than prison; yet, we continue to send those with drug problems to prison rather than to treatment programs. Since Hawai'i has taken this path to use incarceration instead of other alternatives, an earned time policy makes sense.

Earned time is a concept that provides incentives to participate in programs while in prison. It allows inmates the ability to reduce the length of prison sentences. While in prison, attendance in programs like drug treatment, vocational training, and education should be encouraged. Earned time is the incentive. Longer sentences are not necessarily more effective.

Earned time allows prison officials to better manage prison populations and release those who are most appropriate for early release. It is also a fiscally responsible way to reduce prison costs while keeping the community safe. It encourages inmates to use their time while in prison productively. DPFH urges the committee to pass the measure so that prison costs can be kept under control during these tough economic times.

Thank you for this opportunity to provide testimony.

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**National Association of Reformed Criminals  
1765 Ala Moana Blvd. #1388  
Honolulu, Hawaii, 96815  
April 5, 2011**

**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday April 5, 2011

2:55 PM

Room 224

**SB 64/37 –REQUESTING THE ESTABLISHMENT OF AN EARNED TIME PROGRAM**

**STRONG SUPPORT**

NARC supports any and all avenues of community reintegration as opposed to warehousing for profit. Presently, the Federal Bureau of Prisons uses the Residential Drug and Alcohol Program (RDAP) in its facilities. RDAP provides time-off for successful completion of the 2-phase program, which includes up to 6 months in a half-way house.

Mahalo,

Andy Botts



**Mary Bowman**  
**Marybowman70@aol.com**  
**Honolulu, Hawaii, 96815**  
**April 5, 2011**

**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday April 5, 2011

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Room 224

**SB 64/37 –REQUESTING THE ESTABLISHMENT OF AN EARNED TIME PROGRAM**

**STRONG SUPPORT**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 31, 2011 10:01 PM  
**To:** PGM Testimony  
**Cc:** web@cartoonistforchrist.org  
**Subject:** Testimony for SCR64 on 4/5/2011 2:55:00 PM

Testimony for PGM 4/5/2011 2:55:00 PM SCR64

Conference room: 224  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Lee McIntosh  
Organization: Individual  
Address:  
Phone:  
E-mail: [web@cartoonistforchrist.org](mailto:web@cartoonistforchrist.org)  
Submitted on: 3/31/2011

Comments:

Mr. Chair and Members of the Committee on Public Safety, Government Operations, and Military Affairs:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I am not in favor of SCR 64, which requests the establishment of an earned time program. Criminals should serve their full sentence. If the punishment does not fit the crime, then our laws should be amended to reflect just punishments. Thank you for the opportunity to testify on SCR 64.

From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, March 31, 2011 10:03 PM  
To: PGM Testimony  
Cc: web@cartoonistforchrist.org  
Subject: Testimony for SR37 on 4/5/2011 2:55:00 PM

Testimony for PGM 4/5/2011 2:55:00 PM SR37

Conference room: 224  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Lee McIntosh  
Organization: Individual  
Address:  
Phone:  
E-mail: [web@cartoonistforchrist.org](mailto:web@cartoonistforchrist.org)  
Submitted on: 3/31/2011

Comments:

Mr. Chair and Members of the Committee on Public Safety, Government Operations, and Military Affairs:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I am not in favor of SR 37, which requests the establishment of an earned time program. Criminals should serve their full sentence. If the punishment does not fit the crime, then our laws should be amended to reflect just punishments. Thank you for the opportunity to testify on SR 37.