



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON HOUSE BILL NO. 26, HOUSE DRAFT 1, MAKING APPROPRIATIONS FOR THE
EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE
REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION**

Senate Committee on Ways and Means

February 4, 2013

Chair Ige and Members of the Committee:

Thank you for this opportunity to testify in support of this bill that would, among other purposes, appropriate funds for my office for FY2013-14.

In summary, our budget request of \$2,673,849 in general funds for operations represents a restoration of \$160,000, or 6.4% of the current budget. Even with this restoration, however, our total budget remains *below* FY2009 funding levels by \$236,836 or 8.1%. With these funds, we expect to be able to shore up our thin in-house audit staff ranks. In addition, these funds will be used to replace IT equipment vital to our work. Over five years ago we developed and then converted from a hardcopy working paper system to an electronic one with an electronic workflow. As you are aware, the performance of IT equipment declines with age and it is past time for those servers and other IT equipment to be replaced.

More specifically, Exhibit 1 presents our proposed budget by program and compares amounts with the current year's budget. Exhibit 2 presents the budget request by objects of expenditure. Exhibit 3 presents our current budget and estimated expenditures.

I am pleased to report to you that again this past year, the financial statements for my office, the Legislative Reference Bureau, the Ombudsman, and the Ethics Commission (which is administratively attached to my office) have earned clean opinions from a contracted CPA firm.

Also, we have again won an Impact Award from the National Legislative Program Evaluation Society (NLPES), a staff section of the National Conference of State Legislatures (NCSL). This award was for our 2012 *Performance Audit of the Hawai'i Charter School System*. The award was announced at the NCSL 2012 Legislative Summit in Chicago and presented at the NLPES 2012 Professional Development Conference in Atlanta.

We remain active in our profession, serving as training conference speakers and legislative staff leaders. I serve on the NCSL Executive Committee and Assistant Auditor Rachel Hibbard serves on the NLPES Executive Committee. Both Rachel and I made presentations at the NCSL Legislative Summit and the NLPES Professional Development Conference. In addition, I was the winner of the 2012 Legislative Education Staff Network Recognition Award for outstanding service to the legislative process awarded jointly by the Education Commission of the States and the NCSL.

Exhibit 4 lists our reports to the 2012 and 2013 Legislatures in chronological order and Exhibit 5 presents the same information by categories of work. I'd like to thank the audit teams, managers, and support staff who have worked so diligently to deliver meaningful audits and information to assist you with your legislative decision-making.

The financial statement audits that we administer through the Audit Revolving Fund include the audit of the State's Comprehensive Annual Financial Report, or CAFR. I am pleased to be able to tell you that the current administration has committed the time and attention of its cabinet members to substantially improve on its timeline for issuing this key financial report. Previous years' CAFRs for fiscal years 2009 and 2010 were issued in October of their respective following years. With the current administration's commitment of cabinet-level staff to the effort, last year the FY2011 CAFR was issued in mid-February. This year, the FY2012 CAFR

was issued on January 28, 2013, reflecting a substantial improvement in timeliness from three years ago.

Financial reporting deadlines are also important in our relationship with the federal government. State entities that receive more than \$500,000 in federal funds must report via *Single Audits* nine months after the close of the fiscal year (i.e., March 31, 2013 for the FY2011-12 Single Audit). The prior administration's comptroller decided to consolidate Hawai'i's department-based Single Audits into a singular administration-wide Single Audit without laying the groundwork for a smooth consolidation. Although the current administration is still grappling with this change, everyone is working diligently to issue the Single Audit by March 2013.

In prior years, we brought to your attention that we administer most—but not all—of the State's financial statement audits. The Hawai'i Health Systems Corporation (HHSC) and University of Hawai'i financial statement audits have remained outside administration by my office. In the past, we have suggested that this needs to change, especially in the case of HHSC. With the severe fiscal constraints facing the hospital system, and given the difficulties we encountered the last time we tried to conduct a financial review of it, I offer the idea of bringing the HHSC audit contract under our Audit Revolving Fund. This would entail raising the revolving fund ceiling by \$850,000 and shifting the appropriation of that amount of general funds to the fund, with a parallel reduction in HHSC's budget as the session proceeds.

Lastly, since the start of session, those legislators who have introduced bills that propose to create new special, trust, or revolving funds have been contacted by my staff. One of our statutorily mandated tasks, as noted in Exhibits 4 and 5, is to analyze these bills and submit our analyses by a statutory deadline. Our practice is to submit them by mid-February so that all committees of referral will have a chance to see the analyses. Last year, all of the analyses were submitted by our earlier deadline. Thank you to you and your staff for your expeditious responses to our questions.

Thank you also to the entire Legislature for its enduring support of our constitutional and statutory responsibilities. We ask for your favorable consideration of this budget request. I welcome your questions.

OFFICE OF THE AUDITOR
Budget for FY2013-14
(With Comparative Amounts for FY2012-13)

Exhibit 1

AUDIT	<u>2012-2013</u>		<u>2013-2014</u>	
Personal services				
Staff	1,109,464	(18)	1,158,113	(18)
Contract	134,942		134,942	
Other expenses	<u>73,014</u>		<u>102,203</u>	
Total audit	<u>1,317,420</u>		<u>1,395,258</u>	
 PROGRAM EVALUATION AND SPECIAL STUDIES				
Personal services				
Staff	446,057	(8)	467,678	(8)
Contract	59,974		59,974	
Other expenses	<u>32,451</u>		<u>45,424</u>	
Total program evaluation and special studies	<u>538,482</u>		<u>573,076</u>	
 LEGISLATIVE SERVICES				
Personal services - staff	223,029	(4)	233,839	(4)
Other expenses	<u>16,225</u>		<u>22,712</u>	
Total legislative services	<u>239,254</u>		<u>256,551</u>	
 SUNSET EVALUATIONS AND SUNRISE ANALYSES				
Personal services - staff	55,757	(1)	58,460	(1)
Other expenses	<u>4,056</u>		<u>5,678</u>	
Total sunset evaluation and sunrise analyses	<u>59,813</u>		<u>64,138</u>	
 FOLLOW-UP				
Personal services - staff	167,271	(3)	175,379	(3)
Other expenses	<u>12,169</u>		<u>17,034</u>	
Total follow-up	<u>179,440</u>		<u>192,413</u>	
 GENERAL SUPPORT				
Personal services - staff	167,271	(3)	175,379	(3)
Other expenses	<u>12,169</u>		<u>17,034</u>	
Total general support	<u>179,440</u>		<u>192,413</u>	
 TOTAL OPERATING BUDGET				
	<u>2,513,849</u>	(37)	<u>2,673,849</u>	(37)
 AUDIT REVOLVING FUND				
	<u>2,550,828</u>		<u>2,550,828</u>	

OFFICE OF THE AUDITOR
Statement Showing Budget for Office Operations
By Object of Expenditure for FY2013-14

Exhibit 2

Operating Budget

Personal services:

Staff salaries	\$2,268,849
Contractual services	\$194,916
	<hr/>
Total personal services	\$2,463,765

Other expenses:

Office Expenses	45,500
Intrastate transportation and travel	4,800
Out-of-state travel	42,000
Training	12,000
Printing	7,000
Rental and maintenance of equipment	20,000
Books	500
Equipment	76,284
Miscellaneous	2,000
	<hr/>
Total other expenses	210,084

Total operating budget \$2,673,849

Audit Revolving Fund

\$2,550,828

Expenditure Ceiling

\$6,000,000

OFFICE OF THE AUDITOR
Statement Showing Budget and Estimated Expenditures
By Object of Expenditure for FY2012-13

Exhibit 3

	<u>Budget</u>	<u>Estimated</u>	<u>Variance</u>
Personal services:			
Staff salaries	\$2,168,849	\$ 2,168,849	\$ -
Contractual services	\$194,916	194,916	-
Total personal services	<u>\$ 2,363,765</u>	<u>\$ 2,363,765</u>	<u>\$ -</u>
Other expenses:			
Office expenses	45,500	45,500	-
Intrastate transportation and travel	4,800	4,800	-
Out-of-state travel	42,000	42,000	-
Training	12,000	12,000	-
Printing	7,000	7,000	-
Rental and maintenance of equipment	20,000	20,000	-
Books	500	500	-
Equipment	16,284	16,284	-
Miscellaneous	2,000	2,000	-
Total other expenses	<u>\$ 150,084</u>	<u>\$ 150,084</u>	<u>\$ -</u>
TOTAL	<u>\$ 2,513,849</u>	<u>\$ 2,513,849</u>	<u>\$ -</u>
Special Studies Appropriation (Act 1, SLH 2010)	<u>\$ 150,000</u>	<u>\$ -</u>	<u>\$ 150,000</u>
Audit Revolving Fund Appropriation (Act 1, SLH 2010)	<u>\$ 2,550,828</u>	<u>\$ 2,550,828</u>	<u>\$ -</u>

**Office of the Auditor
Reports Submitted to Date to 2012 Legislature and Work to the 2013 Legislature
In Chronological Order**

- 12-01: Report on the Implementation of State Auditor's 2008 Recommendations
- 12-02: Investigation of the Stadium Authority's Swap Meet Operations
- 12-03: Management Audit of the Natural Energy Laboratory of Hawai'i Authority
- 2011 Annual Report
- 12-04: Study of the Transfer of Non-general Funds to the General Fund
- 12-05: Audit of the Department of Taxation's Administrative Oversight of High-Technology Business Investment and Research Activities Tax Credits
- 12-06: Report on the Implementation of State Auditor's 2009 Recommendations
- 12-07: Management Audit of the Department of Education's School Bus Transportation Services
- 12-08: Sunrise Analysis: Regulation of Ziplines and Canopy Tours
- 12-09: Mandatory Health Insurance Coverage for Fertility Preservation Procedures for People of Reproductive Age Diagnosed With Cancer
- State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2008
- State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2010
- 12-10: Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation
- 12-11: Study of the Higher Education Act

- 13-__ : Management Audit of the Measurement Standards Branch of the Department of Agriculture (SCR89, SD1, 2012)
- 13-__ : Management and Financial Audit of the Department of Hawaiian Home Lands' Homestead Services Division (Act 106, SLH 2012)
- 13-__ : Fiscal Audit of the Kaho'olawe Rehabilitation Trust Fund (SCR63, SD1, 2012)
- State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2012 (Sect. 342G-107, Hawai'i Revised Statutes)
- 13-__ : Management Audit of the Office of Hawaiian Affairs (Sect. 10-14.55, Hawai'i Revised Statutes)
- 13-__ : Report on the Implementation of State Auditor's 2010 Recommendations (Sect. 23-7.5, Hawai'i Revised Statutes)
- 2012 Annual Report

Pending Work

- Study on Removing Amateur Boxing From the State Boxing Commission (HCR171; 2009)
- Health Care Summit Membership, Report, and Strategic Plan 2010 and 2011 (SCR170, SD2; 2009)
- Nursing Joint Advisory Committee (SCR167, SD 2; HR98, HD1; 2010)
- Department of Transportation Procurement Examination
- Department of Labor and Industrial Relations IT Security Audit
- Audit of the Administration of the Child Protective Services Program
- 2050 Branding Report

Act 4 Financial Statement Audits—FY2011

- State of Hawai'i, Comprehensive Annual Financial Report and Statewide Single Audit—Deloitte & Touche LLP
- Department of Accounting and General Services:
 - Stadium Authority—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
 - State Parking Control/State Motor Pool Revolving Funds—Egami & Ichikawa CPAs, Inc.
- Department of the Attorney General—Akamine, Oyadomari & Kosaki CPAs
- Department of Budget & Finance, Hawai'i Employer Union Health Benefits Trust Fund—Macias, Gini & O'Connell LLP

- Department of Business, Economic Development, & Tourism:
 - Hawai'i Housing, Finance, & Development Corporation—Accuity LLP
 - Hawai'i Community Development Authority—Ohata, Chun & Yuen CPAs, Inc.
 - Hawai'i Tourism Authority & Hawai'i Convention Center—KPMG LLP
- Department of Education—KPMG LLP
- Department of Hawaiian Home Lands—Accuity LLP
- Department of Health, Water Pollution Control Revolving Fund, and Drinking Water Treatment Revolving Loan Fund—Accuity LLP
- Department of Human Services—N&K CPAs, Inc.
 - Hawai'i Public Housing Authority—KMH LLP
- Department of Transportation Administration—CW Associates
- Department of Transportation Airports—KPMG LLP
- Department of Transportation Harbors—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
- Department of Transportation Highways—KMH LLP
- Oahu Metropolitan Planning Office—Gilford Sato & Associates CPAs

Act 4 Financial Statement Audits—FY2012

- State of Hawai'i, Comprehensive Annual Financial Report and Statewide Single Audit—Deloitte & Touche LLP
- Department of Accounting and General Services:
 - Stadium Authority—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
 - State Parking Control/State Motor Pool Revolving Funds—Egami & Ichikawa CPAs, Inc.
- Department of the Attorney General—Akamine, Oyadomari & Kosaki CPAs
- Department of Budget & Finance:
 - Employees' Retirement System, Comprehensive Annual Financial Report—KPMG LLP
 - Hawai'i Employer Union Health Benefits Trust Fund—Macias, Gini & O'Connell LLP
- Department of Business, Economic Development, & Tourism:
 - Hawai'i Housing, Finance, & Development Corporation—Accuity LLP
 - Hawai'i Community Development Authority—Ohata, Chun & Yuen CPAs, Inc.
 - Hawai'i Tourism Authority & Hawai'i Convention Center—KPMG LLP
- Department of Education—KPMG LLP
- Department of Hawaiian Home Lands—Accuity LLP
- Department of Health, Water Pollution Control Revolving Fund, and Drinking Water Treatment Revolving Loan Fund—Accuity LLP
- Department of Human Services—N&K CPAs, Inc.
 - Hawai'i Public Housing Authority—KMH LLP

- Department of Transportation Administration—CW Associates
- Department of Transportation Airports—KPMG LLP
- Department of Transportation Harbors—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
- Department of Transportation Highways—KMH LLP
- Oahu Metropolitan Planning Office—Gilford Sato & Associates CPAs

Other Reports – None

Proposed Funds Review

- We expect to perform up to 90 reviews of proposed special and revolving funds during the 2013 legislative session.

**Office of the Auditor
Work to the 2012 and 2013 Legislatures
By Categories of Work**

Performance Audits and Special Studies

Report on the Implementation of State Auditor's 2008 Recommendations (Report No. 12-01)

Investigation of the Stadium Authority's Swap Meet Operations (Report No. 12-02)

Management Audit of the Natural Energy Laboratory of Hawai'i Authority (Report No. 12-02)

Study of the Transfer of Non-general Funds to the General Fund (Report No. 12-04)

Audit of the Department of Taxation's Administrative Oversight of High-Technology Business Investment and Research Activities Tax Credits (Report No. 12-05)

Report on the Implementation of State Auditor's 2009 Recommendations (Report No. 12-06)

Management Audit of the Department of Education's School Bus Transportation Services (Report No. 12-07)

Sunrise Analysis: Regulation of Ziplines and Canopy Tours (Report No. 12-08)

Mandatory Health Insurance Coverage for Fertility Preservation Procedures for People of Reproductive age Diagnosed With Cancer (Report No. 12-09)

State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2008 (Unnumbered)

State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2010 (Unnumbered)

Study of the Higher Education Act (Report No. 12-11)

Management Audit of the Measurement Standards Branch of the Department of Agriculture (SCR89, SD1, 2012)

Management and Financial Audit of the Department of Hawaiian Home Lands' Homestead Services Division (Act 106, SLH 2012)

Fiscal Audit of the Kaho'olawe Rehabilitation Trust Fund (SCR63, SD1, 2012)

State of Hawai'i Deposit Beverage Container Deposit Special Fund Financial and Program Audit, June 30, 2012 (Sect. 342G-107, Hawai'i Revised Statutes)

Management Audit of the Office of Hawaiian Affairs (Sect. 10-14.55, Hawai'i Revised Statutes)

Report on the Implementation of State Auditor's 2010 Recommendations (Sect. 23-7.5, Hawai'i Revised Statutes)

Department of Labor and Industrial Relations IT Security Audit

Audit of the Administration of the Child Protective Services Program

Pending Work

- Study on Removing Amateur Boxing From the State Boxing Commission (HCR171; 2009)
- Health Care Summit Membership, Report, and Strategic Plan 2010 and 2011 (SCR170, SD2; 2009)
- 2050 Branding Report
- Nursing Joint Advisory Committee (SCR167, SD 2; HR98, HD1; 2010)

Financial Audits

- Department of Transportation Procurement Examination

Existing Fund Reviews

- Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation (Report No. 12-10)

Act 4 Financial Statement Audits—FY2011

- State of Hawai'i, Comprehensive Annual Financial Report and Statewide Single Audit—Deloitte & Touche LLP
- Department of Accounting and General Services:
 - Stadium Authority—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
 - State Parking Control/State Motor Pool Revolving Funds—Egami & Ichikawa CPAs, Inc.

- Department of the Attorney General—Akamine, Oyadomari & Kosaki CPAs
- Department of Budget & Finance, Hawai'i Employer Union Health Benefits Trust Fund—Macias, Gini & O'Connell LLP
- Department of Business, Economic Development, & Tourism:
 - Hawai'i Housing, Finance, & Development Corporation—Accuity LLP
 - Hawai'i Community Development Authority—Ohata, Chun & Yuen CPAs, Inc.
 - Hawai'i Tourism Authority & Hawai'i Convention Center—KPMG LLP
- Department of Education—KPMG LLP
- Department of Hawaiian Home Lands—Accuity LLP
- Department of Health, Water Pollution Control Revolving Fund, and Drinking Water Treatment Revolving Loan Fund—Accuity LLP
- Department of Human Services—N&K CPAs, Inc.
 - Hawai'i Public Housing Authority—KMH LLP
- Department of Transportation Administration—CW Associates
- Department of Transportation Airports—KPMG LLP
- Department of Transportation Harbors—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
- Department of Transportation Highways—KMH LLP
- Oahu Metropolitan Planning Office—Gilford Sato & Associates CPAs

Act 4 Financial Statement Audits—FY2012

- State of Hawai'i, Comprehensive Annual Financial Report and Statewide Single Audit—Deloitte & Touche LLP
- Department of Accounting and General Services:
 - Stadium Authority—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
 - State Parking Control/State Motor Pool Revolving Funds—Egami & Ichikawa CPAs, Inc.
- Department of the Attorney General—Akamine, Oyadomari & Kosaki CPAs
- Department of Budget & Finance:
 - Employees' Retirement System, Comprehensive Annual Financial Report—KPMG LLP
 - Hawai'i Employer Union Health Benefits Trust Fund—Macias, Gini & O'Connell LLP
- Department of Business, Economic Development, & Tourism:
 - Hawai'i Housing, Finance, & Development Corporation—Accuity LLP
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- Department of Health, Water Pollution Control Revolving Fund, and Drinking Water Treatment Revolving Loan Fund—Accuity LLP
- Department of Human Services—N&K CPAs, Inc.
 - Hawai'i Public Housing Authority—KMH LLP
- Department of Transportation Administration—CW Associates

- Department of Transportation Airports—KPMG LLP
- Department of Transportation Harbors—Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs
- Department of Transportation Highways—KMH LLP
- Oahu Metropolitan Planning Office—Gilford Sato & Associates CPAs

Other Reports

- 2011 Annual Report
- 2012 Annual Report

Proposed Funds Review

We expect to perform up to 90 reviews of proposed special and revolving funds during the 2012 legislative session.

OFFICE OF THE AUDITOR
 AUDIT REVOLVING FUND
 FY2014 - BUDGET REQUEST

Exhibit 6

# of Contracts	Department - Agency Financial Statement (and Single Audits, as applicable) Audits	Expenditure Ceiling Request Projected FY2014 Fees	Funding Source Breakdown			General Fund Request (General Fund portion of fees)
			General Fund	Non-GF (Reimbursement)		
	Department of Accounting and General Services					
1	CAFR-Combined Single Audits	\$ 1,560,600	100.0%	0.0%	n/a	\$ 1,560,600
	ICSD - SSAE 16: IT Controls					
2	DAGS - Stadium Authority (& agreed upon procedures)	\$ 82,000	0.0%	100.0%	Special	\$ -
	Schedule of gross receipts & percentage rent reported and paid by the Concessionaire					
	Agreed-upon proc: Reserve acct of Concessionaire & F&B operations of the Concessionaire					
	Schedule of gross receipts & percentage commission paid by the Swap Meet Mgt Co.					
3	DAGS - State Parking Revolving Fund	\$ 49,440	0.0%	100.0%	Special	\$ -
	DAGS - State Motor Pool Revolving Fund					\$ -
4	Department of the Attorney General	\$ 100,940	55.0%	45.0%	Federal	\$ 55,517
	Department of Budget and Finance					
5	Hawaii Employer - Union Health Benefits Trust Fund	\$ 128,750	0.0%	100.0%	Trust	\$ -
6	Employees' Retirement System	\$ 165,240	0.0%	100.0%	Other Non-GF	\$ -
	Department of Business, Economic Development & Tourism					
7	Hawaii Housing Finance & Development Corporation	\$ 246,170	0.0%	100.0%	Special	\$ -
8	HTA - Hawaii Tourism Authority	\$ 113,300	0.0%	100.0%	Special	\$ -
	Hawaii Convention Center - Special Purpose F/S					\$ -
9	Hawaii Community Development Authority	\$ 39,140	0.0%	100.0%		\$ -
10	Department of Education	\$ 375,950	90.0%	10.0%	Federal	\$ 338,355
11	Department of Hawaiian Home Lands	\$ 156,560	0.0%	100.0%	Trust	\$ -
	Department of Health					
12	Water Pollution Control Revolving Fund	\$ 370,800	70.0%	30.0%	Federal	\$ 259,560
	Drinking Water Treatment Revolving Loan Fund					
	Deposit Beverage Container Program	\$ 20,000	Charge back 100% to DBC program			\$ -
13	Department of Human Services	\$ 417,150	50.344%	49.656%	Federal	\$ 210,010
14	Hawaii Public Housing Authority	\$ 373,890	0.0%	100.0%	Various	\$ -
	Department of Transportation					
15	Administration	\$ 35,020	0.0%	100.0%	Special	\$ -
16	Airports	\$ 434,660	0.0%	100.0%	Special	\$ -
17	Harbors	\$ 203,638	0.0%	100.0%	Special	\$ -
18	Highways	\$ 297,670	0.0%	100.0%	Special	\$ -
19	Oahu Metropolitan Planning Organization	\$ 19,570	0.0%	100.0%	Special	\$ -

TOTAL Managed 19 Contracts:	\$ 5,190,488	\$ 2,424,042
Reserve for Estimated Adjustments/Overages:	\$ 809,512	\$ 126,786
TOTAL Requested Budget Amounts:	<u>\$ 6,000,000</u>	<u>\$ 2,550,828</u>

Charlotte A. Carter-Yamauchi
Acting Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
415 S. Beretania Street, Room 446
Honolulu, Hawaii 96813

HB26 HD1

MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Ways and Means

Monday, February 4, 2013, 10:00 a.m.
Conference Room 211

Chair Ige and Members of the Committee:

I am Charlotte Carter-Yamauchi, Acting Director of the Legislative Reference Bureau (LRB). Thank you for this opportunity to comment on the Bureau's budget request for fiscal year 2013-2014.

The LRB provides comprehensive, impartial research and reference services on legislative matters, primarily for the Legislature, but occasionally also for other governmental agencies, other entities, and the general public.

The Bureau's major functions include:

- Providing research and drafting, including drafting bills and other legislative documents, such as bill reviews and committee reports, at the request of the Legislature, legislative committees, and individual legislators. We prepare studies and reports and issue memoranda on various issues. We strive to maintain a standard of being objective, impartial, nonpartisan, and fair in all of our research.
- Engaging in statutory revision, including the publication of the Session Laws of Hawaii, the Hawaii Revised Statutes and all cumulative Supplements thereto, and annual Replacement Volumes to the Hawaii Revised Statutes. We also establish the format for administrative agency rules and compile and publish a table indicating those rules that implement or interpret state laws.

- Maintaining a reference library as an information resource primarily for the Legislature and legislative staff, but which is also used by other government agencies and the general public. Our library provides outstanding services, including online information services, and maintains the Bureau's website designed to facilitate legislative research by providing links to other important websites.
- Maintaining a legislative systems office that purchases, maintains, and provides technical support for the computer hardware, software, and other equipment for the Bureau and coordinates the integration of the Bureau's computer system with the House and Senate information systems. The systems office also maintains the Bureau's data management system, which is critical to our internal operations, such as workload tracking, and is used by Bureau staff to access information and research on the subject matter and status of legislative documents on a continuous basis during legislative sessions.
- Maintaining the Public Access Room, which was established by the Legislature to ensure public participation in the legislative process. Our Public Access Room staff, working with librarians and others on the neighbor islands, have expanded the availability of legislative information, materials, and services far beyond Oahu. In addition, although no moneys are contained in the Bureau's budget to fulfill the responsibility, our Public Access Room staff is tasked with coordinating the Legislative Broadcasting Project for the House of Representatives and the Senate.

We note that cuts to our budget in fiscal years 2009-2010 and 2010-2011 resulted in a 10 percent and 8.08 percent reduction, respectively, for a total budget reduction of 18.08 percent. These budget reductions necessitated: salary reductions for all permanent staff, printing fewer copies of the Hawaii Revised Statutes Supplements and other publications, reducing subscriptions by our library, deferring equipment purchases, and eliminating interstate travel unless paid by other sources.

The 2011-2012 budget for the Bureau was \$2,905,790, which represents a restoration of 4.04 percent of the Bureau's budget for fiscal year 2009-2010 (see Act 1, Session Laws of Hawaii 2009). The Bureau's budget for 2012-2013 was unchanged from 2011-2012 levels. (We note that the actual appropriation made to the Bureau each year is slightly higher than the amount of the Bureau's budget. This additional amount reflects the Legislature's appropriation for the CSG annual dues, which is typically added to the Bureau's budget to pay on behalf of the Legislature. For example, see section 9 of Act 5, Session Laws of Hawaii 2012, which appropriated \$2,983,970 to the Bureau. Of this amount, \$78,180 was a pass-through appropriation for CSG dues, leaving a flat budget for the Bureau of \$2,905,790.) Overall, the Bureau has operated over the past two fiscal years with an operating budget that is approximately 14 percent lower than in fiscal year 2008-2009.

While the Bureau has a highly competent, dedicated staff, we have had to contend with the loss of experienced staff over the past several years, as a number of staff members have retired or moved on to better opportunities elsewhere. Especially in view of an improving economy, our budget restrictions have made it challenging to offer market-competitive

salaries to recruit and retain highly qualified staff. We are extremely pleased with, and proud of, our present staff and are hopeful for a long and stable employment relationship with all of them so that we can better serve the Legislature. In this regard I look forward, as I am sure we all do, to an improving economy for the State and better days ahead. I would like to note that the reinstatement of 4 percent of the Bureau's 2010-2011 budget in 2011-2012 was helpful, and we deeply appreciate the support of this Committee and the entire Legislature. However, increasing costs (e.g., supplies, printing, freight, etc.) have diminished the value of that increase.

While our proposed budget for 2013-2014 reflects 2012-2013 levels for most divisions of the Bureau,¹ we requested, and the House Draft 1 included, additional funds over 2012-2013 levels in two areas:

- (1) \$65,213 for the Statute Revision Division to fund the cost of the annual Replacement Volume of the Hawaii Revised Statutes and to cover dramatically increasing costs of freight and postage incurred in the course of our publication functions; and
- (2) \$47,156 for the Research Division to cover employment costs associated with the sunset of Act 48, Session Laws of Hawaii 2012.

These increases amount to a 3.9 percent increase overall from the Bureau's 2012-2013 budget, for a total of \$3,018,159 for fiscal year 2013-2014. Of this total, the following amounts are allocated for the respective functions: \$1,379,652 for drafting, research, and general support functions; \$389,101 for library operations; \$657,524 for statute revision; \$450,730 for systems office operations; and \$141,152 for the public access room. We note that the present appropriation amount of \$3,116,038 in section 9 of H.B. No. 26, H.D. 1 (2013) appears to include \$97,879 for payment of CSG dues on behalf of the Legislature.

We have attached a series of exhibits that provide more detailed information on Bureau operations.

- Exhibit A Details of the systems office budget
- Exhibit B Details of the library budget
- Exhibit C Details of the Public Access Room budget
- Exhibit D Details of the statute revision budget
- Exhibit E Functions and services provided by LRB

Thank you.

¹ The increase to the Library's Online Information Services Westlaw line item reflects funds moved from Other Current Expenses under General Support, to consolidate funds for payment of Westlaw services under the Library.

**LEGISLATIVE REFERENCE BUREAU
BUDGET REQUEST FOR FY 2013-2014**

	<u>2012-2013</u> <u>APPROPRIATION</u>	<u>2013-2014</u> <u>BUDGET REQUEST</u>
<u>BILL DRAFTING & RESEARCH</u>		
Personal Services:		
Staff	\$ 917,413 (12)	\$ 964,569 (12)
TOTAL BILL DRAFTING & RESEARCH	\$ 917,413	\$ 964,569
 <u>SYSTEMS OFFICE</u>		
Personal Services:		
Staff	315,864 (6)	315,864 (6)
Session Staff	70,000	70,000
Other Current Expenses	<u>64,866</u>	<u>64,866</u>
TOTAL SYSTEMS OFFICE	450,730	450,730
 <u>LIBRARY</u>		
Personal Services:		
Staff	324,900 (6)	324,900 (6)
Other Current Expenses	<u>55,728</u>	<u>64,201</u>
TOTAL LIBRARY	380,628	389,101
 <u>PUBLIC ACCESS ROOM</u>		
Personal Services:		
Staff	99,936 (2)	99,936 (2)
Session Staff	25,000	25,000
Other Current Expenses	<u>16,216</u>	<u>16,216</u>
TOTAL PUBLIC ACCESS ROOM	141,152	141,152
 <u>GENERAL SUPPORT</u>		
Personal Services:		
Staff	296,148 (5.5)	296,148 (5.5)
Student Staff	30,000	30,000
Overtime	25,000	25,000
Other Current Expenses	<u>72,408</u>	<u>63,935</u>
TOTAL GENERAL SUPPORT	423,556	415,083
 <u>REVISOR OF STATUTES</u>		
Personal Services:		
Staff	388,063 (6.5)	388,063 (6.5)
Other Current Expenses	<u>204,248</u>	<u>269,461</u>
TOTAL REVISOR OF STATUTES	592,311	657,524
TOTAL LRB	\$2,905,790*	\$3,018,159*
<u>CSG Dues</u>	78,180	97,879
TOTAL LRB + CSG DUES	\$2,983,970	\$3,116,038

*Amount does not include CSG Dues

EXHIBIT A

SYSTEMS OFFICE
BUDGET REQUEST FOR FISCAL YEAR 2013-2014

OTHER CURRENT EXPENSES

	<u>2012-2013</u> <u>APPROPRIATION</u>	<u>2013-2014</u> <u>BUDGET REQUEST</u>
Software/Hardware Maintenance	\$20,978	\$10,978
Acquisition of Software/Hardware	16,026	9,626
Equipment Rental	4,320	4,320
Data Communication	2,520	2,520
Telephone	1,440	1,440
General Supplies	4,102	4,102
Staff Training Programs, etc.	8,640	8,640
Publication, Training Manuals, etc.	1,800	1,800
Services on Fee	1,440	1,440
Other Current Expenses	<u>3,600</u>	<u>20,000</u>
Total	\$64,866	\$64,866

EXHIBIT B

LIBRARY DIVISION
BUDGET REQUEST FOR FISCAL YEAR 2013-2014

OTHER CURRENT EXPENSES

	<u>2012-2013</u> <u>APPROPRIATION</u>	<u>2013-2014</u> <u>BUDGET REQUEST</u>
Books	17,585	17,585
Online Information Services		
Westlaw	19,000	27,473
Print Subscriptions and Dues	11,243	11,243
Web Catalog		
Maintenance	3,000	3,000
Upgrades	700	700
Computer Hardware, Software, Maintenance and Supplies	500	500
Copier Maintenance and Supplies	3,000	3,000
Office and Library Supplies	400	400
Staff Development and Training	<u>300</u>	<u>300</u>
TOTAL	\$55,728	\$64,201

EXHIBIT C

PUBLIC ACCESS ROOM
BUDGET REQUEST FOR FISCAL YEAR 2013-2014

OTHER CURRENT EXPENSES

<u>REQUEST</u>	<u>2012-2013</u> <u>APPROPRIATION</u>	<u>2013-2014</u> <u>BUDGET</u>
Office supplies	\$ 800	\$ 800
Equipment maintenance	7,068	7,068
Subscriptions	240	240
Neighbor island workshops	6,480	6,480
Postage	80	80
Staff development and training	1,440	1,440
Other	<u>108</u>	<u>108</u>
TOTAL:	\$16,216	\$16,216

EXHIBIT D

REVISOR OF STATUTES DIVISION
 BUDGET REQUEST FOR FISCAL YEAR 2013-2014

The requested appropriation by the Division includes \$268,251 in 2013-2014 for the production and printing of the Session Laws, the Hawaii Revised Statutes Supplement, and the Hawaii Revised Statutes Replacement Volume.

2013 Session Laws	\$ 31,500
2,500 volumes; 1,200 pages each volume.	
2013 HRS Supplement	\$181,751
2,650 sets; 5,000 pages each set.	
2013 HRS Replacement volume	\$ 55,000
2,700 volumes; 650 pages each volume	
	<u>\$268,251</u>

OTHER CURRENT EXPENSES

	<u>2012-2013</u> <u>APPROPRIATION</u>	<u>2013-2014</u> <u>BUDGET REQUEST</u>
Office Supplies	\$ 360	\$ 378
Postage	720	756
Notices, Publication of	72	76
Printing	<u>203,096</u>	<u>268,251</u>
Total	<u>\$204,248</u>	<u>\$269,461</u>

THE LEGISLATIVE REFERENCE BUREAU

The Legislative Reference Bureau is a nonpartisan legislative service agency that provides a wide variety of comprehensive impartial research and reference services to the Legislature as a whole and to individual legislators and legislative committees. In some cases, the Bureau also provides nonpartisan services for other government agencies, other entities, and the general public. The Bureau consists of five separate and distinct divisions: Research, Statute Revision, Systems Office, Library, and the Public Access Room. By law, the services provided by the Bureau to legislators are confidential, unless the confidentiality is waived by the requestor.¹

It is important to note that the Bureau as a whole, and the Research Division in particular, has no control over the amount of work assigned to it from either house of the Legislature. The decision to utilize the services of the Bureau is left entirely to the discretion of the members. The preference of members to use a particular research/drafting agency may fluctuate over time based upon any number of factors. Further, many members often use the services of more than one research/drafting agency.

What follows is a detailed description of the work of each division of the Bureau. Recognizing that workloads fluctuate from session to session for a variety of reasons, an effort has been made to present detailed workload statistics for a five-year period, to the extent available, to provide a more comprehensive picture of the LRB's operations.

Research Division

The Research Division assists the Legislature through comprehensive, nonpartisan research memoranda and reports and drafting of various legislative documents. The Research Division's work includes drafting bills, resolutions, bill reviews and legal checks, committee reports, floor amendments, draft language, letters and memoranda, and published reports and studies. In addition, Research Division staff members are sometimes tasked with supporting legislative task forces and working groups and preparing operational documents such as Requests for Proposals and procurement contracts for the Legislature.²

Between fiscal years 2007-2008 and 2011-2012, the Research Division responded to 24,634 requests for services. In each year, the Research Division responded to an average of 4,927 requests for services. (See Table 1 for year-by-year totals.)

(Note: The totals and averages provided here and in Table 1 through Table 5 reflect the number of original requests responded to by the Research Division. They do not reflect requests for revisions to original documents, i.e., documents that are returned to the Research Division by a legislator for changes, alternate versions of legislation, or additional research related to a prior request for services. If treated as original requests, these revisions would add over 500 additional requests to the Research Division's total requests each year.)³

Table 1. Research Division Requests (FY 2007-2008 - FY 2011-2012)

	FY 07-08				FY 08-09				FY 09-10				FY 10-11				FY 11-12			
	House		Senate		House		Senate		House		Senate		House		Senate		House		Senate	
	Number of Requests	Percent by Chamber	Number of Request	Percent by Chamber	Number of Request	Percent by Chamber	Number of Request	Percent by Chamber	Number of Request	Percent by Chamber	Number of Request	Percent by Chamber	Number of Requests	Percent by Chamber	Number of Requests	Percent by Chamber	Number of Requests	Percent by Chamber	Number of Requests	Percent by Chamber
Bills for Introduction	1099	62%	664	38%	1649	62%	1005	38%	1150	65%	610	35%	1306	62%	786	38%	843	64%	466	36%
Bill Drafts (HDs, SDs, CDs)	159	34%	315	66%	163	32%	346	68%	114	33%	231	67%	144	28%	377	72%	127	26%	361	74%
Committee Reports	95	19%	410	81%	94	21%	349	79%	28	10%	253	90%	46	10%	405	90%	41	8%	468	92%
Resolutions	491	72%	194	28%	427	69%	196	31%	446	72%	170	28%	357	66%	183	34%	254	71%	106	29%
Certificates	32	54%	27	46%	23	79%	6	21%	21	64%	12	36%	17	89%	2	11%	1	100%	0	0%
Bill/Resolution Language	2	67%	1	33%	6	86%	1	14%	3	100%	0	0%	1	100%	0	0%	n/a	n/a	n/a	n/a
Bill Reviews	635	63%	374	37%	671	69%	307	31%	481	66%	251	34%	607	63%	358	37%	578	57%	431	43%
Research Memos	74	81%	17	19%	102	80%	26	20%	94	79%	25	21%	96	71%	39	29%	68	69%	30	30%
Total House & Senate Requests	2587	56%	2002	44%	3135	58%	2236	42%	2337	60%	1552	40%	2574	54%	2150	46%	1912	51%	1862	49%
Administration Bills (formatting and proofing; preparation for Legislature's website) ⁴	182		168		146		108		203											
Formatting Acts (preparation for publisher--session laws and supplements) ⁵	342		285		250		329													
Miscellaneous (projects, studies, task force reports, RFPs, etc.)	3		4		7		4													
TOTAL ALL REQUESTS	5116		5828		4292		5088		4310											

This table shows the distribution of the various types of requests for services completed by the Research Division. Requests completed for the House appear in the orange column, along with the corresponding percentage of the total. Requests for the Senate appear in the blue column, along with the corresponding percentage of the total. Administration bills (which are assigned by legislative leadership to the Bureau for formatting), formatting acts, and miscellaneous requests are not allocated to either house, but appear in the overall total of requests handled by the Research Division.

Over the course of a two-year legislative biennium, the Research Division historically handles approximately 25% more requests in the first year of the biennium than in the second year of the biennium. As to be expected, the volume of requests is highest immediately before and during the legislative session (November to May).

Over the past five fiscal years, the Research Division has completed an average of 2,509 requests for services for the House and 1,960 requests for services for the Senate each year. Of the requests received by the Research Division, five-year average of 50% come from the House and 39% come from the Senate (other requests such as formatting Administration bills and other task comprise the remaining 11%). Although the overall majority of requests for service have come from the House, the Senate typically requests the greater number of bill drafts and committee reports. To offer another perspective on the breakdown of requests for services completed for each house, if the foregoing figures are divided by each member of each respective house of the Legislature (per capita) over the five-year period, they would equate to the Research Division completing an average of 49 requests for each Representative and 78 requests for each Senator each year.

Statute Revision Division

Chapter 23G, part II, Hawaii Revised Statutes (HRS), addresses the Bureau's statute revision and publication functions.⁶ Under section 23G-11, HRS, the Director, or a member of the staff of the Bureau designated by the Director, serves as the Revisor of Statutes of the State. The Statute Revision Division reviews the laws enacted each session and is responsible for several publications that are published annually during the interim:

- The Session Laws of Hawaii, containing all the laws enacted and any constitutional amendments proposed during a legislative session, along with a suitable index and tables showing what statutes have been affected;
- The Hawaii Revised Statutes (HRS), containing all of Hawaii's laws that are of a general and permanent nature;
- The annual cumulative supplements to the HRS,⁷ containing all subsequent amendments or repeals made to those statutory sections appearing in the most recent hardbound volumes and any new statutory sections that have been enacted into law;
- Hardbound replacement volumes to the HRS.⁸

The Statute Revision Division also engages in the continuous review of existing law to identify errors or inconsistencies in the HRS and session laws. As necessary, staff prepare a statutory revision bill that is "housekeeping" in nature to correct the technical nonsubstantive errors found in the HRS or session laws. The Division also is statutorily charged with: prescribing and distributing a uniform format for all state agencies for the compiling and publication of their rules;⁹ and compiling and publishing an index to all rules, with annual supplements, that includes an annual table indicating administrative agency rules that implement or interpret state laws.¹⁰ To facilitate the perceived intent of the Legislature and to assist the agencies in meeting the mandated rules format, Statute Revision staff, upon request, review governmental agencies' administrative rules for conformance with a mandated format. Finally,

during the legislative session, staff members from the Statute Revision Division frequently assist Research Division researchers with requests for legislative drafting.

Systems Office

The LRB's Systems Office purchases and maintains the computer hardware, software, and peripheral devices for all divisions of the Legislative Reference Bureau and coordinates the integration of the Bureau's computer systems with the House and Senate information systems. Pursuant to statute,¹¹ the Systems Office is also responsible for maintaining the Bureau's data management system, which is used by the Bureau staff to electronically access information relating to legislative documents, legislators, and the Legislature and for critical internal operations such as managing internal documents and workload tracking.

Using the data management software Concordance,¹² the Systems Office creates and maintains searchable databases of information on measures considered each session by the Legislature (since 1983) and builds and maintains databases of the Hawaii Revised Statutes, the Session Laws of Hawaii (since 1991), and the street addresses within each member's district. Using these databases, the Systems Office is able to provide information on the subject matter, status, and history of legislation for the past thirty years. The Systems Office also produces and disseminates bill status information via various annual publications (Crossover Bills, Bills Passed, Resolutions Adopted, etc.), which are also made available on the LRB's website. A significant portion of the work performed by the Systems Office, in creating and maintaining databases, tracking legislation, and customizing bill status reports, supports the work of legislators, their staff, and research offices, as well as the other divisions of the Bureau, particularly the Research Division. In addition, the Systems Office assists others in the use of Concordance and the databases. For example, research offices of the House of Representatives and the Senate use Concordance to access information on current and past legislation as well as in the Hawaii Revised Statutes and the Session Laws of Hawaii databases.

Requests for services of the Systems Office are captured according to four broad categories: information from computer, technical assistance, printouts, and general information. Requests for information from computer are requests for information maintained in the Concordance databases that may include bill status or bill tracking. These requests are generally handled over the phone or by email. Requests for technical assistance require Systems Office staff to assist with either hardware or software issues. Requests for printouts are requests for more extensive information for which a report is generated and provided to the requestor. Finally, general information requests involve Systems Office staff responding to inquiries that do not require access to the Concordance database. Over the past five fiscal years, the Systems Office has responded to an average of 1,124 requests each year. Requests for information from the computer and technical assistance make up the majority of the Systems Office's requests in any given year. (See Table 2.)

Request Type	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Average per year
Information from Computer	389	329	323	260	246	307.2
Technical Assistance	782	602	461	412	444	538.0
Printouts	188	220	170	138	90	161.2
General Information	124	158	118	103	86	117.8
TOTALS	1483	1309	1072	913	844	1124.2

Of the types of requests that it handles, the Systems Office only maintains requestor data for printouts. However, this sample may be seen as illustrative of the overall makeup of the Systems Office's requests. Over the past five years, an average of 37% of printout reports generated by the Systems Office have been at the request of members of the Senate. House members requested an average of 46% of report requests, and the remainder was provided to other governmental agencies. (See Table 3.)

Year	Total Printouts	House (%)	For Senate (%)	Other
FY07-08	188	89 (47%)	70 (37%)	29 (15%)
FY08-09	220	119 (54%)	68 (31%)	33 (15%)
FY09-10	170	95 (56%)	79 (46%)	21 (12%)
FY10-11	138	50 (36%)	50 (36%)	38 (28%)
FY11-12	90	32 (36%)	32 (35%)	19 (21%)

Library

The Legislative Reference Bureau is statutorily charged with maintaining a reference library as an information resource to serve and support the Legislature and legislative staff, including the other divisions within the Legislative Reference Bureau.¹³ In addition, the Library is available for use by other government agencies and the general public.¹⁴ Furthermore, the Bureau's Library is a major repository for government reports to the Legislature.¹⁵ We note that with the closure of the DBEDT's reference library some years ago and the limited availability of materials from the Honolulu Municipal Reference Center, the Bureau's Library provides one of the few available resources of this nature. The Library's collection consists of over 123,000 volumes, including Hawaii statutes and case law, reports, and other state documents, a ten-year archive of bills and resolutions, House and Senate journals dating back to 1901, Session Laws of Hawaii back to 1848, statute collections from the federal government and other states, and numerous other reference volumes and reports. In addition, the collection contains thousands of volumes of law reviews, scholarly journals, magazines, and other periodicals. The Library staff

includes four research librarians who provide reference and research assistance, as well as assistance with Westlaw.

The Library card catalog (a/k/a CARD) is available on the Internet and is a network with the Supreme Court Law Library and the Honolulu Municipal Reference Center. The Library maintains the Legislative Reference Bureau's website and the Bureau's information intranet site, "lrb Capnet," which is designed specifically for the Legislature on the capitol network. The Library also provides an electronic news headline service called *iClips* that is emailed to legislators and legislative staff every weekday morning. This news service differs from others, such as Google News, in that the articles are read, selected, and sorted with Hawaii's legislative community in mind. In addition, the Library also distributes all LRB publications with the exception of the Hawaii Revised Statutes, its supplements, and the Session Laws of Hawaii, which, by law, are required to be distributed or sold by the Lieutenant Governor.¹⁶

The Library maintains records on several types of service requests: reference and research assistance, online database research (this involves more extensive research, including Westlaw searches, and is done only for legislators or legislative staff), legislative staff orientation and training, distribution of publications, and documents borrowed. In addition, the Library keeps records of photocopying and printouts that it prepares in response to the various requests. Over the past five years, the Library has responded to an average of over 3,800 informational and research requests each year, not including requests for photocopying or computer printouts. (See Table 4.)

Table 4. LRB Library Requests for Services						
Requests for:	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Average per Year
Reference/Research	1605	1655	1533	1553	1714	1612.0
Online Database Research	113	60	91	67	65	79.2
Orientation/Training	24	50	68	54	65	52.2
Publications Distributed ¹⁷	3408	2511	956	1023	987	1777.0
Documents Borrowed	373	387	287	256	256	311.8
TOTALS	5523	4663	2935	2953	3087	3832.2
Photocopying (pages)	5015	4590	4775	2678	3989	4209.4
Comp. printouts (pages)	90	173	112	225	40	128.0
TOTALS	5105	4763	4887	2903	4029	4337.4

A review of the Library's requests for services reveals that its resources are heavily used by both houses of the Legislature, legislative agencies, other agencies, and the public.¹⁸ Relative use among requestors varies depending on the type of request. One pattern is clear however: the Library provides services to both the Senate and House in similar percentages across all categories of service requests in most years. (See Table 5.)

Table 5. LRB Library Requests by Requestor										
	FY07-08	%	FY08-09	%	FY09-10	%	FY10-11	%	FY11-12	%
Documents Borrowed										
Senate	54	14%	43	11%	58	20%	40	16%	37	15%
House	65	17%	59	15%	46	16%	35	14%	53	21%
Legislative Agencies	90	24%	132	34%	72	25%	34	13%	52	20%
Other Gov't. Agencies	27	7%	54	14%	40	14%	48	19%	46	18%
Public	137	37%	99	26%	71	25%	99	39%	68	27%
TOTAL	373		387		287		256		256	
Reference /Research¹⁹										
Senate	n/a	--	n/a	--	n/a	--	92	6%	115	7%
House	n/a	--	n/a	--	n/a	--	148	10%	182	11%
Legislative Agencies	n/a	--	n/a	--	n/a	--	40	3%	29	2%
Other Gov't. Agencies	n/a	--	n/a	--	n/a	--	201	13%	267	16%
Public	n/a	--	n/a	--	n/a	--	1052	69%	1121	65%
TOTAL	1605		1655		1655		1533		1714	
Publications Distributed										
Senate	257	8%	227	9%	106	11%	115	11%	81	8%
House	551	16%	462	18%	153	16%	192	19%	181	18%
Legislative Agencies	164	5%	119	5%	62	7%	69	7%	105	11%
Other Gov't. Agencies	2273	67%	1590	63%	596	62%	621	61%	592	60%
Public	163	5%	113	5%	39	4%	26	3%	28	3%
TOTAL	3408		2511		956		1023		987	
Online Database Research										
Senate	34	30%	15	25%	24	26%	24	36%	12	19%
House	25	22%	10	17%	28	31%	17	25%	7	11%
Legislative Agencies	54	48%	35	58%	39	43%	26	39%	45	71%
TOTAL	113		60		91		67		65	

This table illustrates the total number of each type of request responded to by the library in each of the past five years. The table also breaks the data down by the type of request for service provided to a requesting entity and the percentage of the total.

Public Access Room

The Public Access Room (PAR) was established by the Legislature twenty-three years ago to improve public access to the legislative process. Originally staffed by community volunteers, it has grown into part of a permanent public access program to enhance the ability of the public to participate in the legislative process and was made part of the Legislative Reference Bureau in 1996.²⁰ It is the only one of its kind in the country. Like all parts of the Bureau, it is nonpartisan and provides members of the public with access to:

- Computers for drafting testimony on legislative issues;
- Workspace for individual and/or small groups;
- The Internet for research on legislative issues and state government information;
- Legislative documents and reference materials;
- Photocopying services for testimony; and
- Television for viewing legislative broadcasts.

The Public Access Room is staffed year-round by two full-time specialists who provide research assistance, training, and outreach to members of the public who wish to understand the legislative process and to participate more effectively in their own governance. Two temporary full-time staff members are added during legislative sessions.

PAR staff members conduct numerous workshops and tutorials throughout the year, both in-house and in Hawaii's various communities (both on Oahu and on all neighbor islands except Niihau). Staff members respond to email, telephone, and walk-in inquiries regarding specific aspects of legislative process; teach people how to use various websites relevant to legislative matters; and photocopy testimony for walk-in citizens, as necessary. Staff also produce and distribute four to six newsletters annually, each designed around whichever aspect of the legislative calendar is relevant at the time of publication (current circulation @ 3000/issue). Additional in-house publications (manuals that provide in-depth explanation of the legislative process and various one-page handouts) are written and produced by the PAR staff members.

Request Type	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12
Email Inquiries	667	898	842	659	571
Photocopying (pages)	131,766	167,208	103,335	89,605	60,902
Workshop Participants <i>(Participants on Neighbor Islands)</i>	707 <i>(60)</i>	1161 <i>(224)</i>	783 <i>(155)</i>	806 <i>(116)</i>	626 <i>(116)</i>
Email Testimony Received	7,841	n/a	n/a	n/a	n/a
Telephone Inquiries	n/a	n/a	n/a	n/a	1,245 ²¹
PAR walk-in patrons ²²	n/a	n/a	n/a	2,660	3,243
TOTALS	140,981	169,267	104,960	93,730	66,587

Like many legislative agencies, the Public Access Room sees its number of requests peak during the legislative session. As shown in Table 10, PAR receives a variety of service requests, and the type and quantity of those requests have changed in recent years. In 2000, PAR began processing and distributing email testimony, the nation's first legislative program designed to encourage electronic participation among a state's citizenry. This very successful program was heavily used; eight years later, when documents received exceeded 10,000 per session, individual House and Senate committees assumed responsibility for testimony processing. As a result of this transfer of responsibility, the Public Access Room has experienced a sharp decline in the quantity of photocopying requests. This has enabled the PAR staff to focus more

resources on its educational mission by working with walk-in patrons and conducting educational workshops, including an increasing number of workshops on neighbor islands.

Endnotes

¹ See section 23G-4, Hawaii Revised Statutes (HRS).

² Recent examples of these include the Request for Proposals for Competitive Sealed Proposals to Furnish Services to Plan, Execute, and Evaluate the Legislative Broadcast Project; Invitation for Bid to Conduct Financial Audits of the Senate and the House of Representatives; and Invitation to Bid to Install, Provide, and Maintain High-Speed Wireless Internet Service in Selected Areas of the Hawaii State Capitol Building.

³ The Research Division's statistics that accompany the Bureau's yearly budget proposal to the Legislature include revisions to original requests and other types of requests that are not categorized in these tables. This would account for the difference between the request statistics provided in LRB's testimony to the Legislature and the request statistics provided in this memo for the corresponding year.

⁴ The executive departments have always been responsible for drafting their own bills and have never had access to the Legislature's computer bill drafting system. The departments submit identical bills and resolutions (measures) via the governor's legislative liaison office to both the Senate President and the Speaker of the House of Representatives for signature and introduction. The measures are sent to the respective clerk's office for numbering and these documents become the "official" measures. Every session, there can be anywhere from one hundred fifty to over two hundred measures submitted by the executive branch.

In the late 1970s, Leadership tasked the Bureau with duplicating magnetic cards (magcards) containing measures the administration submitted for introduction. Duplicate sets of the magcards were sent to both the Senate and House clerks. The Bureau was not required to format or proofread measures stored on magcards.

In the 1980s, the executive departments began using word processing software, such as IBM Display Writer, IBM OS6, Wang, Shadow, and Word Perfect, and supplied the Bureau with diskettes containing their measures. The Bureau continued its procedure of duplicating and reformatting the departments' measures, but was then also required to print and proofread them against the official measures before submitting the documents on floppy or 3-1/2" diskettes to the Senate and House clerks.

In the mid-1990s to present, the Legislature and administration switched to Word software. The governor's liaison office supplies the Bureau with diskettes or CDs containing the measures after they are submitted for introduction. Time and accuracy are very critical since measures are now posted on the Legislature's website. The Bureau continues its procedure of converting the data from the diskettes or CDs to electronic format by cutting and pasting the departments' measures into the legislature's drafting templates. Copies are printed and, thereafter, professional and administrative staff must proofread the copies against the official measures and ensure completion in a timely manner. Often, measures are not included on the CDs or do not match the official measures. In those instances, the Bureau contacts the department and requests submission of a corrected CD.

⁵ These statistics appear under the Research Division because the work is done by Research Division Administrative staff for the Statute Revision Division, which has only one and one-half administrative staff persons assigned to it.

⁶ While the Bureau is responsible for publication functions, the Lieutenant Governor is responsible for all facets of the sale and distribution of the Session Laws of Hawaii, Hawaii Revised Statutes replacement volumes, and HRS supplements, including pricing. See section 23G-18, HRS.

⁷ The Hawaii Revised Statutes is a compilation of all of Hawaii's laws that are of a general and permanent nature.

⁸ The entire HRS, comprised of volumes 1 through 14 was replaced in 1993; the index in 1996. Since 2001, individual HRS volumes have been periodically replaced.

⁹ See sections 23G-12(7) and 91-4.2, HRS.

¹⁰ See sections 23G-12(6), 91-4.2(2), and 91-4.4, HRS.

¹¹ See section 23G-3(8), HRS.

¹² Concordance is a data management software offered by LexisNexis and used, according to LexisNexis, by over 65,000 litigation professionals to manage high volumes of documents in a cost-efficient manner. Besides managing data, Concordance provides access to the data through full-text searching, use of Boolean logic, print and report creation, and importing and exporting capabilities.

¹³ See section 23G-3(6), HRS.

¹⁴ *Id.*

¹⁵ Section 93-16, HRS, mandates that all government agency reports required to be submitted to the Legislature also be submitted to the LRB's library. Further, section 23G-5, HRS, requires the LRB to develop and maintain a report tracking system for reports by executive agencies and the judiciary that, by law, are required to be submitted to the Legislature.

¹⁶ See section 23G-18, HRS.

¹⁷ In an effort to reduce postage costs due to budget cuts in FY 09-10 and FY 10-11, the Bureau was forced to reduce the number of hard copies of printed reports. However, electronic copies of all Bureau publications are available online on the Bureau's website.

¹⁸ It is not clear what percentage of research requests are made by the Research Division of LRB; however, the volume and complexity of research conducted by that division would suggest that a significant percentage of research and online research requests completed by the Library are in support of the Research Division.

¹⁹ The breakdown of these requests were no longer available for FY 06-07, FY 07-08, and FY 08-09. Only the total figures, as reported in the Library's statistics that accompany the Bureau's yearly budget proposal to the Legislature, are shown for these years.

²⁰ See sections 21G-2 and 23G-3(12), HRS.

²¹ Estimated telephone inquiries for FY2011-12 is 1,488 (an additional 24 inquiries estimated using monthly averages when no daily data was collected).

²² The Public Access Room began to record data on the number of walk-in users only during the past year. This number represents a daily count of visits to Room 401 during the 2010-2011 legislative session. This count does not include multiple visits during a day, telephone inquiries, or tutorials.



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

TESTIMONY OF THE HAWAII STATE ETHICS COMMISSION

BILL NO: H.B. 26, H.D. 1, MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION

TO: The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Vice Chair
Honorable Members
Senate Committee on Ways and Means
State Capitol, Room 208
415 South Beretania Street
Honolulu, Hawaii 96813

FROM: Hawaii State Ethics Commission

TESTIFYING: Leslie H. Kondo, Executive Director
Hawaii State Ethics Commission

EXHIBITS: Nos. 1 - 3

DATE: Monday, February 4, 2013

TIME: 10:00 a.m.

ROOM: Conference Room 211

The Commission supports H.B. 26, H.D. 1, as it relates to the Commission's appropriation of \$909,531 for Fiscal Year 2013-2014.

The Commission appreciates the Legislature's support of the Commission and its education, advisory and enforcement efforts. The Commission believes that it is critically important for the Legislature to foster public confidence in State government by supporting appropriate ethics legislation and adequately funding the Commission's operations. The Commission is mindful of the State's economic situation and the competing requests for state funds; however, to continue effectively administering the State Ethics Code and the State Lobbyists Law, the Commission respectfully requests an appropriation for FY 2013-2014 of \$909,531, which is \$60,000 more than the appropriation of \$849,531 for the current fiscal year, to allow the Commission to maintain its current level of operations.

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The Commission's fixed expenses continue to increase, the most significant of which is the Commission's rent obligation and travel-related expenses for the Commissioners who reside on Molokai and Maui. Neither the additional rent obligation nor the additional travel-related expenses were included in the Commission's appropriation for FY 2012-2013 (in fact, since FY 2009-2010, the amount appropriated to fund the Commission's operations has decreased). As explained in more detail below, without a reasonable increase in its appropriation for FY 2013-2014 to cover the increased operating expenses, it is unlikely that the Commission will be able to maintain its current staffing of 10 employees and its ongoing efforts to incorporate and use technology more effectively.

A. Duties of the Hawaii State Ethics Commission

The Commission is responsible for the administration and enforcement of Chapters 84 and 97, Hawaii Revised Statutes ("HRS"), the State Ethics Code and the State Lobbyists Law, respectively. The State Ethics Code includes laws relating to the acceptance and reporting of gifts, confidential information, "fair treatment" or the prohibited misuse of official position, conflicts of interests, state contracts, and post-employment restrictions. The State Ethics Code also includes a provision requiring the reporting of certain financial interests by state legislators, state employees, and candidates for state elective office. The State Lobbyists Law, which applies to lobbying activities at the state level, requires lobbyists to register with the Commission, and requires lobbyists and organizations that lobby to report lobbying expenditures and contributions on forms filed with the Commission.

The Commission has five members, who are nominated by the State Judicial Council and appointed by the Governor for four year terms. The current members of the Commission are Maria J. Sullivan (Chairperson), Cassandra J. Leolani Abdul (Vice Chairperson), and Susan DeGuzman. The Commission currently has two vacancies.

The Commission currently employs a staff of nine full-time employees: an executive director and an associate director; three staff attorneys; a computer specialist; and three secretarial/clerical staff. The Commission also employs a part-time analyst.

Despite the relatively small size of the agency, the Commission's responsibilities are extensive. For purposes of the State Ethics Code, the Commission has jurisdiction over all appointed and elected state government officials and employees, including all state legislators, state employees in the legislative, executive, and judicial branches of government (with the exception of judges), and members of all state boards and

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commissions. The State Ethics Code also applies to all candidates for state elective office, who are subject to the financial disclosure law in Chapter 84, HRS. For purposes of Chapter 97, HRS, the Commission has jurisdiction over all lobbyists and organizations who lobby the state legislature or executive branch.

The Commission's duties include providing guidance and advice relating to questions involving the State Ethics Code and the State Lobbyists Law and issuing legal opinions in response to requests for advice about those laws. In 2012, the Commission received and responded to over 1,110 requests for advice. With its current level of staffing, the Commission is generally able to respond to and offer guidance and advice to state legislators, state employees, lobbyists and members of the public on the same day on which the Commission is asked for guidance and advice. The Commission considers its ability to provide timely and meaningful guidance and advice to be one of its most important functions.

The Commission is mandated by law to educate state officials and employees about ethics in government.¹ To fulfill this mandate, the Commission conducts ethics presentations and workshops throughout the year. In 2012, the Commission conducted ethics presentations and workshops for almost 2,000 state officials and employees, including at the 10th Annual Hawaii Charter Schools Conference; for OIA Athletic Directors; for employees of the University of Hawaii at Manoa's athletic department; mandatory continuing legal education training for over 130 government attorneys; and sessions for almost 500 state employees at the Hawaii Convention Center and State Capitol Auditorium. In 2011, for the first time in a number of years, the Commission held widely-attended ethics training on Maui, Kauai, and Hawaii island (Hilo and Kona). In 2012, the Commission received numerous requests for training on the neighbor islands; however, the Commission was unable to fulfill those requests because of its limited funding and staffing. Budget permitting, the Commission believes that it is important to offer ethics workshops to state employees working on the neighbor islands and intends to schedule sessions on Maui, Kauai, and Hawaii island in FY 2013-2014.

The Commission is also responsible for enforcing the State Ethics Code and the State Lobbyists Law.² The Commission receives and reviews complaints and conducts investigations concerning alleged violations of the law. When appropriate, the

¹ HRS §84-31(a)(7) requires the Commission to maintain programs to educate legislators and employees on ethics in government.

² HRS §84-31(a)(3) requires the Commission to initiate and consider charges, conduct investigations, and hold hearings concerning alleged violations of the State Ethics Code.

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Commission initiates formal charges for violations of the State Ethics Code and the State Lobbyists Law.³ In 2012, the Commission handled 40 complaints, initiated 12 investigations, and filed 7 formal charges alleging violations of the State Ethics Code or the State Lobbyists Law. The Commission held a contested case hearing involving an ethics charge against an employee of a charter school on Hawaii island.

The Commission also administers the filing requirements of the financial disclosure law, the gifts disclosure law, and the lobbying registration and reporting laws. These filing requirements help provide accountability and transparency in government. In 2012, the Commission received approximately 1,600 financial interests disclosure statements from state officials and employees, 210 financial interests disclosure statements from candidates for state elective office, and approximately 150 gifts disclosure statements. The Commission also received approximately 370 lobbyist registrations and over 2,000 lobbying expenditures and contributions reports in 2012.

Additional information about the Commission's activities in 2012 is attached to this testimony.

B. Budget Proposal for FY 2013-2014

H.B. 26, H.D. 1 provides an appropriation for FY 2013-2014 of \$909,531 to fund the operations of the Commission, which is \$60,000 more than its appropriation for the current fiscal year. Because of a number of fixed expenses, including the Commission's increasing rent obligation, airfare and other costs associated with Commissioners who reside on Molokai and Maui,⁴ the anticipated restoration of the Executive Director's statutorily-established salary (i.e., restoring the 5% which was reduced in FY 2009-2010), and costs associated with the Commission's on-going efforts to transition to an electronic work environment and to develop a web-based education option, the Commission respectfully requests that the Committee support H.B. 26, H.D. 1, as it relates to the appropriation for the Commission's operations.

From FY 2010-2011 through the current fiscal year, the Commission has been able to cover the increasing fixed lease rent, the unanticipated travel-related costs

³ A "charge" is a formal complaint alleging a violation of one or more provisions of the State Ethics Code or the Lobbyists Law. Charges may be filed by an individual or organization or by the Commission.

⁴ Maria Sullivan, the Commission's Chairperson, resides on Molokai and Cassandra J. Leolani Abdul, the Commission's Vice Chairperson, resides on Maui.

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associated with three neighbor island Commissioners⁵, and certain office technology-related upgrades without the need of any additional appropriation because of significant “savings” that the Commission accrued as a result of relatively lengthy vacancies in the executive director and senior secretary positions. More specifically, the Commission was able to use the “savings” to pre-pay certain fixed future expenses, such as office rent and equipment leases, allowing the Commission to cover the additional fixed costs and expenses with the funds it was appropriated in FY 2010-2011 to present. The “savings” from the position vacancies, however, have been exhausted. For the current fiscal year, the Commission does not anticipate any significant funds being available to pre-pay future fixed expenses. For that reason, the increased fixed costs and other anticipated expenses incurred during FY 2013-2014 will be paid with funds appropriated for FY 2013-2014 and, therefore, must be included in the amount appropriated for Commission’s operations.

In contrast to most state agencies, including the other Legislative service agencies, the Commission is located in a private building (i.e., a non-state facility) and, therefore, must allocate funds within its budget for office rent. The Commission’s lease provides for annual increases in rent as well as increases for common area maintenance (or CAM) and storage costs. For FY 2013-2014, the Commission anticipates its rent and other lease-related expenses to be approximately \$96,000. Because of the state’s financial situation, the Commission’s appropriation, like that of most agencies, was reduced and continues to be less than the amount appropriated in FY 2009-2010; the Commission’s lease rent, however, has continued to increase annually. Specifically, for FY 2009-2010, the Commission received an appropriation of \$885,292 (or approximately 4.04% more than its current appropriation); yet, at that time, the Commission’s rent and other related expenses were less than \$75,000.

The Commission’s proposed appropriation in HB 26, HD 1, minus the anticipated amount of lease rent obligation, is \$753,531. In comparison, the appropriations of the other Legislative service agencies in H.B. 26 are \$1,130,728 for the Office of the Ombudsman (an increase of \$112,853 from FY 2012-2013), \$3,116,038 for the Legislative Reference Bureau (an increase of \$132,068 from FY 2012-2013), and \$2,673,849 for the Office of the Auditor (an increase of \$160,000 from FY 2012-2013). The Commission strongly supports the operations and missions of the other Legislative service agencies; however, recognizing that those agencies have different duties, staffing, and expenses, the Commission suggests that its operation and mission are equally important and should be funded accordingly.

⁵ Commissioner Les Knudsen, who resided on Kauai, resigned from the Commission effective November 30, 2012.

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Of the Commission's appropriation, approximately \$724,204 is budgeted for staff salaries and contractual services in FY 2013-2014,⁶ leaving, after the lease rent expense, approximately \$89,327 to cover the Commission's operating expenses, including office supplies and other expenses, intrastate travel⁷, printing, equipment leases and maintenance, Commission meetings, investigations and hearings, and office furniture and equipment. In comparison, for the current fiscal year, the Commission's budget includes almost \$100,000 for those expenses.

Without the additional funds, to cover the increases in certain fixed costs, such as office rent and Commissioner travel-related expenses, the Commission will be required to significantly cut certain activities, including ethics training for State employees working on the neighbor islands and certain investigative and enforcement activities on the neighbor islands. The Commission has also embarked on an effort, which is ongoing, to upgrade its old (and, in some cases, non-existent) technology. More specifically, through a private computer consultant, the Commission is currently working to file and flow both in-coming and out-going material in an electronic format. The Commission is exploring means to allow financial disclosure statements, gifts disclosure forms, and other lobbying reporting to be filed electronically, which will greatly benefit both the filers and the Commission's internal efficiency (the Commission currently receives almost 2,000 filings and reports annually). Without additional funds, the successful implementation of those computer-related projects will be in jeopardy.

Most significantly, the additional funds are necessary and essential to support the Commission's payroll obligation. As noted above, the Commission employs a staff of 10, which includes an executive director, an associate director, three staff attorneys, an analyst (part-time), a computer specialist, and three secretary/clerical employees. The current size of the staff is the minimum necessary for the Commission to effectively and meaningfully administer the State Ethics Code and the State Lobbying Law. It is absolutely critical for the Commission to continue to be able to fund the current positions. Without the additional funds, it is unlikely that the Commission will be able to retain all

⁶ The Commission's budget for salaries anticipates restoration of the 5% cut in the executive director's salary (or \$5,736).

⁷ As an example, for FY 2013-2014, the Commission anticipates significant travel-related expenses associated with its two Commissioners who reside on the islands of Molokai and Maui. As noted above, the Commission has been able to cover those expenses (and the travel-related expenses of another neighbor island Commissioner who resigned effective November 30, 2012) through the "savings" accrued because of the position vacancies.

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of its current employees, and any reduction to staff size will negatively impact the Commission's ability to effectively fulfill its statutory duties.

The Commission has successfully managed its resources during the state's economic downturn and has creatively used savings in certain areas to fund and improve its operations despite a number of increasing fixed costs. However, for the reasons explained above, for FY 2013-2014, the Commission does not anticipate a similar ability to save sufficient costs in certain areas to operate within the same appropriation. The Commission is very aware and mindful of the state's financial situation as well as the many deserving programs seeking additional funding. Accordingly, the Commission does not make its request for additional funds without much consideration and deliberation. The Commission has thoroughly reviewed and considered its budget for FY 2013-2014. Based upon that review, the Commission believes that an appropriation for FY 2013-2014 of \$909,531 is necessary to maintain its current level of staffing and operations.

Thank you for considering the Hawaii State Ethics Commission's testimony in support of H.B. 26, H.D. 1.

HAWAII STATE ETHICS COMMISSION
Statement Showing Budget Appropriation for FY 2012-13
and Estimated Expenditures for FY 2013-14

	2012-2013 Approved <u>Budget</u>	2013-2014 Estimated <u>Expenditures</u>	<u>Variance</u>
PERSONAL SERVICES:			
Staff salaries	\$630,168.00	\$717,204.00	\$87,036.00
Contractual services	<u>9,558.00</u>	<u>0.00</u>	<u>-9,558.00</u>
Total Personal Services	639,726.00	717,204.00	77,478.00
OTHER CURRENT EXPENSES:			
Office expenses	21,950.00	15,524.00	-6,426.00
Out-of-state travel	7,000.00	6,490.00	-510.00
Intrastate transportation and travel	21,800.00	10,000.00	-11,800.00
Printing	7,300.00	0.00	-7,300.00
Equipment rental and maintenance	13,985.00	10,985.00	-3,000.00
Dues, subscriptions, training	14,670.00	13,670.00	-1,000.00
Newspaper advertisements	1,600.00	1,600.00	0.00
Commission meetings, investigations, and hearings	25,500.00	25,500.00	0.00
Consulting Services	0.00	9,558.00	9,558.00
Office rent	<u>93,000.00</u>	<u>96,000.00</u>	<u>3,000.00</u>
Total Other Expenses	206,805.00	189,327.00	-17,478.00
CAPITAL OUTLAY:			
Office furniture and equipment	<u>3,000.00</u>	<u>3,000.00</u>	<u>0.00</u>
Total Capital Outlay	3,000.00	3,000.00	0.00
GRAND TOTAL	<u>\$849,531.00</u>	<u>\$909,531.00</u>	<u>\$60,000.00</u>

Hawaii State Ethics Commission Major Functions

I STATE'S ETHICS LAW	II STATE'S LOBBYISTS LAW	III FINANCIAL DISCLOSURE LAW	IV GIFTS DISCLOSURE LAW	V CANDIDATES FINANCIAL DISCLOSURE LAW	VI EDUCATION RE: LAWS	VII LEGISLATION	VIII WEBSITE
Duties: • Administration • Legal Opinions • Enforcement • Rules	Duties: • Administration • Legal Opinions • Enforcement • Filings Per Year • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Filings Per Year • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Filings Per Year • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Filings Per Election • Auditing • Rules	Duties: • Mandatory Sessions • Sessions Developed by Office • Publications	Duties: • State Ethics Code • State Lobbying Law • Financial Disclosure Law • Gifts Disclosure Law • Candidates Financial Disclosure Law	Duties: • Development • Updating • Maintenance • Technology

IX DISCLOSURE FILINGS	Disclosure Filing Date	Approximate Number of Disclosures
Annual Financial Interests Disclosures Statements	May 31	1700
Candidates Financial Interests Disclosures Statements	20 days before primary*	210
Gifts Disclosure Statements	June 30	150
Lobbyist Registration Statements	January**	370
Lobbying Organizations Expenditure Reports	March 31	320
Lobbying Organizations Expenditure Reports	May 31	350
Lobbying Organizations Expenditure Reports	January 31	340
Lobbyists Expenditure Reports	March 31	320
Lobbyists Expenditure Reports	May 31	350
Lobbyists Expenditure Reports	January 31	360
Other Filings	January 1 - December 31	10

X ADMINISTRATION
Duties: • Management • Supervision • Fiscal • Personnel • Procurement • Technology • Planning

Note: State's Ethics Laws: Chapter 84, Hawaii Revised Statutes
State's Lobbyists Law: Chapter 97, Hawaii Revised Statutes

ANNUAL TOTAL (even-numbered years) 4,480
ANNUAL TOTAL (odd-numbered years) *4,270**

* Filed every even-numbered year only. OHA candidates file 20 days before the general election.

** Renewed every odd-numbered year for registered lobbyists.

*** Candidate's Financial Interests Disclosure Statements not filed in odd-numbered years.

FULL-TIME STAFF: 10 Individuals

Hawaii State Ethics Commission

Statistics for Calendar Year 2012

TABLE 1

HAWAII STATE ETHICS COMMISSION NUMBER OF REQUESTS FOR ADVICE AND COMPLAINTS RECEIVED BY ATTORNEYS IN 2012		
MONTH	REQUESTS FOR ADVICE	COMPLAINTS
January 2012	109	7
February 2012	106	2
March 2012	102	4
April 2012	78	2
May 2012	112	2
June 2012	108	2
July 2012	99	10
August 2012	97	3
September 2012	73	2
October 2012	107	1
November 2012	63	2
December 2012	49	3
TOTAL	1,103	40
Total Number of Requests for Advice and Complaints Received in 2012		1,143

TABLE 2

<p style="text-align: center;">HAWAII STATE ETHICS COMMISSION ATTORNEY OPINION LETTERS ISSUED IN 2012</p>	
MONTH	NUMBER OF LETTERS
January 2012	9
February 2012	9
March 2012	8
April 2012	9
May 2012	9
June 2012	8
July 2012	5
August 2012	4
September 2012	1
October 2012	6
November 2012	3
December 2012	6
TOTAL	77

TABLE 3

HAWAII STATE ETHICS COMMISSION FORMAL CHARGES* FILED IN 2012			
FILE NO.	ETHICS CHARGE	LOBBYING CHARGE	COMPLAINANT
CHAR-12-00009	X		Hawaii State Ethics Commission-CLOSED
CHAR-12-00010	X		Hawaii State Ethics Commission
CHAR-12-00011	X		Hawaii State Ethics Commission-CLOSED
CHAR-12-00012	X		Hawaii State Ethics Commission
12-Cg-5	X		Hawaii State Ethics Commission
CHAR-12-00013	X		Individual or Organization
CHAR-12-00018		X	Hawaii State Ethics Commission-CLOSED
TOTAL: 7			

* A "charge" is a formal complaint alleging a violation of one or more provisions of the State Ethics Code, chapter 84, HRS, or the Lobbyists Law, chapter 97, HRS. Charges may be filed by an individual or organization or by the Hawaii State Ethics Commission. Charges that are filed by an individual or organization must be in writing and signed by the person making the charge under oath. Charges initiated by the Commission must be signed by three or more members of the Commission.

TABLE 4

HAWAII STATE ETHICS COMMISSION CONTESTED CASE HEARINGS IN 2012		
FILE NO.	COMPLAINANT	RESPONDENT
10-Cg-4	Hawaii State Ethics Commission	William Eric Boyd
TOTAL: 1		

TABLE 5

HAWAII STATE ETHICS COMMISSION FINANCIAL INTERESTS DISCLOSURE STATEMENTS FILED BY LEGISLATORS, EMPLOYEES, AND BOARD AND COMMISSION MEMBERS IN 2012	
Month	NUMBER FILED
January 2012	55
February 2012	352
March 2012	176
April 2012	166
May 2012	654
June 2012	98
July 2012	51
August 2012	20
September 2012	20
October 2012	25
November 2012	6
December 2012	16
TOTAL	1,639

TABLE 6

HAWAII STATE ETHICS COMMISSION FINANCIAL INTERESTS DISCLOSURE STATEMENTS FILED BY CANDIDATES FOR STATE ELECTIVE OFFICE IN 2012	
FILING DEADLINE	NUMBER FILED
07/23/2012	181
10/17/2010 (OHA)	28
TOTAL	209

TABLE 7

HAWAII STATE ETHICS COMMISSION GIFTS DISCLOSURE STATEMENTS FILED IN 2012	
STATE POSITION	NUMBER FILED
Governor, Lt. Governor	2
Legislators	56
Employees	69
Board / Commission Members	24
TOTAL	151

TABLE 8

HAWAII STATE ETHICS COMMISSION TOTAL NUMBER OF REGISTERED LOBBYISTS IN 2012 AND NUMBER OF CLIENTS REPRESENTED*		
YEAR	NUMBER OF LOBBYISTS	NUMBER OF CLIENTS REPRESENTED
2012	371	350

* Some clients are represented by more than one lobbyist. Each lobbyist must file a separate registration form for each client represented.

TABLE 9

HAWAII STATE ETHICS COMMISSION LOBBYING EXPENDITURES AND CONTRIBUTIONS REPORTS FILED IN 2012			
FILERS	REPORTING PERIODS		
	05/01/11-12/31/11 (Jan. 31, 2012 Report)	01/01/12-02/28/12 (Mar. 31, 2012 Report)	03/01/12-04/30/12 (May 31, 2012 Report)
LOBBYISTS	311	348	362
LOBBYISTS' CLIENTS	313	349	337
TOTAL REPORTS FILED	624	697	699
GRAND TOTAL	2,020		

TABLE 10

HAWAII STATE ETHICS COMMISSION TOTAL NUMBER OF DISCLOSURE FILINGS FOR 2012	
Financial Interests Disclosure Statements filed by Legislators, Employees, and Board and Commission Members	1,639
Financial Interests Disclosure Statements filed by Candidates for State Elective Office	209
Gifts Disclosure Statements	151
Lobbying Expenditures and Contributions Reports	2,020
Lobbyist Registrations (Two-year period 2011-2012)	371
Notice of Intent to Award Contract Pursuant to HRS §84-15(a)	9
TOTAL	4,399

TABLE 11

HAWAII STATE ETHICS COMMISSION 2012 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NO. OF PARTICIPANTS
01/09/12	Ethics Briefing for House Majority Caucus	40
01/10/12	Ethics Training for Department of Education (10 th Annual Charter Schools Conference)	60
01/11/12	Ethics Briefing Co-Sponsored by Common Cause Hawaii, Kanu Hawaii, and League of Women Voters of Hawaii	50
01/17/12	Ethics Briefing for House Minority Caucus	13
01/20/12	Mandatory Ethics Training*	5
01/26/12	Mandatory Ethics Training*	3
03/27/12	Ethics Briefing for Pharmaceutical Manufacturers Association (PhRMA)	20
04/04/12	Ethics Workshop for Department of Health (Behavioral Health)	8
04/20/12	Ethics Workshop for University of Hawaii at Manoa (Faculty, staff, civil service employees from various departments and offices)	50

* HRS §84-42 requires newly elected and appointed high-ranking state officers and employees to complete a mandatory ethics training course administered by the Hawaii State Ethics Commission.

DATE	PRESENTATIONS	NO. OF PARTICIPANTS
05/23/12	Pre-Retirement Seminar	150
05/24/12	Pre-Retirement Seminar	175
06/08/12	Ethics Workshop for Department of Health (Hawaii Health Systems Corporation Compliance Officers)	9
06/15/12	Ethics Workshop for State Employees (Oahu–State Capitol Auditorium)	182
08/23/12	Ethics Briefing for Office of the Governor (New Staff)	40
09/04/12	Ethics Workshop for Department of Health (Environmental Health Administration)	100
09/19/12	Pre-Retirement Seminar	80
09/20/12	Pre-Retirement Seminar	100
09/21/12	Ethics Training for State Government Attorneys	134
10/01/12	Ethics Workshop for University of Hawaii at Manoa (Athletics Staff)	100
10/03/12	Ethical Lobbying Workshop	30
10/11/12	Ethics Training for Department of Education (Public Charter School Commission)	14

DATE	PRESENTATIONS	NO. OF PARTICIPANTS
10/16/12	Ethics Workshop for Department of Education (Oahu Public High School Athletic Directors)	22
10/24/12	Ethics Training for Department of Commerce and Consumer Affairs (Board/Commission Orientation)	150
10/25/12	Ethics Workshop for State Employees (Oahu-Hawaii Convention Center)	305
11/29/12	Ethics Training for Department of Health Environmental Health Services)	80
TOTAL	25 PRESENTATIONS	1,920 Participants

TABLE 12

INFORMATION POSTED ON HAWAII STATE ETHICS COMMISSION WEBSITE	
WEBSITE INTERNET URL:	http://www.hawaii.gov/ethics
YEAR ESTABLISHED:	1998
<ul style="list-style-type: none">• Search Engine (ENHANCED)• News Releases• Who We Are and What We Do<ul style="list-style-type: none">○ General Information about the Hawaii State Ethics Commission○ Major Functions of the Hawaii State Ethics Commission• Constitution, Statutes, and Rules<ul style="list-style-type: none">○ Article XIV, Constitution of the State of Hawaii○ State Ethics Code, Chapter 84, HRS○ State Lobbyists Law, Chapter 97, HRS○ Title 21, Administrative Rules of the Hawaii State Ethics Commission• Advisory Opinions, Informal Advisory Opinions, Decisions, and Public Resolutions• Public Financial Disclosure Filings, Including Filings for Candidates for Public Office• Gifts Disclosure Filings• Lobbying Filings<ul style="list-style-type: none">○ Lobbyist Registration Statements○ Lists of Registered Lobbyists○ Lists of Organizations Represented by Registered Lobbyists○ Organizations' Lobbying Expenditure Statements○ Lists of Total Lobbying Expenditures Reported by Organizations• Contract Notice Filings (Pursuant to HRS §84-15(a)) <p style="text-align: center;">(continued)</p>	

TABLE 12 (continued)

- Publications and Guidelines
 - *The High Road* Newsletter
 - Ethics Guide
 - Ethics Checklist
 - Gifts
 - Campaigning
 - Fund Raising
 - For Teachers
 - Post Employment Restrictions
 - For Legislators
 - Lobbying
 - For State Board and Commission Members
- Forms and Instructions:
 - Financial Disclosure Forms and Instructions
 - Gifts Disclosure Forms and Instructions
 - Lobbying Forms and Instructions
- Related Links to State, County Ethics, and Federal Ethics Agencies
- News
- Testimony on Legislation Relating to Ethics and Lobbying
- Filing Deadlines
- Meeting Notices for Meetings of the Hawaii State Ethics Commission
- Hawaii State Ethics Commission Contact Information
 - Office Location
 - Mailing Address
 - Phone/Fax
- Follow us on Twitter (link to follow Hawaii State Ethics Commission's Tweets)

TABLE 13

HAWAII STATE ETHICS COMMISSION RECORDS CHECK OF APPLICANTS FOR JUDICIAL OFFICE PERFORMED AT THE REQUEST OF THE STATE JUDICIAL SELECTION COMMISSION IN 2012						
MONTH	NUMBER OF APPLICANTS					
	Supreme Court	First Circuit Court	Second Circuit Court	Third Circuit Court	Fifth Circuit Court	Total Applicants Per Month
January	1					1
February	12					12
March	8				2	10
April	6					6
May						
June						
July				1		1
August		2				2
September		12				12
October	25					25
November		2				2
December	3					3
TOTAL Per Court:	55	16		1	2	Grand Total: 74

TABLE 14

HAWAII STATE ETHICS COMMISSION DISCLOSURE RECORDS AVAILABLE FOR PUBLIC INSPECTION*	
1	Public Financial Disclosure Statements (Legislators, Other Elected State Officials, Appointed State Officials, and Candidates for State Elective Office)
2	Gifts Disclosure Statements
3	Lists of Registered Lobbyists
4	Lobbyist Registration Statements
5	Lobbying Expenditure Statements of Registered Lobbyists
6	Lists of Organizations Represented by Registered Lobbyists
7	Lobbying Expenditure Statements of Organizations
8	Total Amounts of Lobbying Expenditures Reported by Organizations
9	Notices of Intent to Award Contracts to a Legislator or Employee, or Business in Which a Legislator or Employee Has a Controlling Interest (filed pursuant to HRS Section 84-15(a))

* Most records also available on the Hawaii State Ethics Commission website:
<http://www.hawaii.gov/ethics>.

TABLE 15
HAWAII STATE ETHICS COMMISSION
2012 PUBLICATIONS*

Constitution

Article XIV, Hawaii State Constitution

Ethics Statutes, Administrative Rules, General Information

Chapter 84, Hawaii Revised Statutes, Standards of Conduct
Hawaii State Ethics Commission Administrative Rules
Ethics Guide for State Elected Officials, State Employees, State Board and
Commission Members
Ethics Checklist
Outline of Substantive Areas of the State Ethics Code

Ethics Newsletter

The High Road Newsletter

Gifts and Gifts Disclosure

Holiday Gifts Reminder
Guidelines for Gifts Under the State Ethics Code
Gifts and the State Ethics Code
Questions and Answers on the Gifts Disclosure Law

Campaigning

Campaign Restrictions for State Officials and State Employees
Prohibition on Candidate Campaign Walk-Throughs in State Agencies
Prohibited Use of State E-Mail for Campaign Purposes

Fundraising

Fundraising in State Offices
Ethics Guidelines for AUW Fund Raiser Activities Conducted by State Agencies

Continuation of Table 15:

For Legislators

Informational or Educational Trips Solicited or Accepted by Legislators
Attendance at "Appreciation" Receptions, Dinners, Meals, or Parties, etc.,
Offered by Lobbyists
Legislative Interns

For Teachers

The Application of the State Ethics Code to Furloughed Teachers
The Application of the State Ethics Code to DOE Teachers Regarding Private
Instruction for Pay

For State Board and Commission Members

Overview of the State Ethics Code for State Board and Commission Members

Post Employment

Post Employment Restrictions

Lobbying

Chapter 97, Hawaii Revised Statutes, Lobbyists
Lobbying Registration and Reporting Manual
Informational or Educational Trips as Lobbying Expenditures
"Goodwill" Lobbying as Lobbying Expenditure
Accrued or Incurred Lobbying Expenditures; Company Employee Lobbying
Expenditures
Public Statement Regarding Lobbying Charge and Requirements of the
Lobbyists Law, Hawaii Revised Statutes, Chapter 97

* All publications are available on the Hawaii State Ethics Commission website: <http://hawaii.gov/ethics>.



Robin K. Matsunaga
Ombudsman

Mark G.S. Au
First Assistant

**OFFICE OF THE OMBUDSMAN
STATE OF HAWAII**

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**TESTIMONY OF ROBIN K. MATSUNAGA, OMBUDSMAN,
ON H.B. NO. 26, H.D. 1, A BILL FOR AN ACT
MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES
OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE
BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION**

SENATE COMMITTEE ON WAYS AND MEANS

FEBRUARY 4, 2013

Chair Ige and Members of the Committee on Ways and Means:

Thank you for the opportunity to present testimony in strong support of H.B. No. 26, H.D. 1. The purpose of this bill is to provide appropriations for the legislative branch, including the Office of the Ombudsman. Section 10 of this bill appropriates \$1,130,728 for the operations of the Office of the Ombudsman for FY 2013-2014.

As you know, the function of the Ombudsman is to receive and investigate complaints from citizens about administrative acts of state and county government agencies and employees. I believe that we have been able to timely address the large majority of the complaints we have received and have successfully persuaded agencies to take corrective action when necessary. In doing so, I think we have been able to alleviate at least some of the impact and stress the poor economy is causing Hawaii's citizens, and at the same time helped improve their confidence in government.

Of the total appropriation being requested, \$1,060,728 would fund the normal operating budget of the Ombudsman and represents a restoration of the office's budget to the level that was funded in FY 2009-2010. As you may know, the budget of the Ombudsman is unique among the legislative agencies in that personal services costs account for the large majority of the Ombudsman's expenses. In FY 2009-2010, 94.4 percent of the budget was for personal services, 5.3 percent was for current expenses, and 0.3 percent was for equipment and books. For the current fiscal year, 96.5 percent of the operating budget of the Ombudsman is for personal services and only 3.5 percent is for current expenses (there have been no funds budgeted for equipment since FY 2009-2010) and while I have been able to restore a portion of the salary cuts previously imposed on July 1, 2010, staff of my office continue to receive salaries that are lower than what they received in FY 2009-2010, with no reduction in work hours. (It is my understanding that since as early as July 2011, at least one of the other

legislative agencies has fully restored the salary cuts that may have been imposed on their staff.) Returning our appropriation to the FY 2009-2010 level would allow me to fully restore staff salaries that have been cut since July 2010 and also restore funding for continuing education and training for my analyst staff. The additional funding would also help address continuing increases in our basic operating expenses, including telephone, postage, automated case management system licensing, and equipment and software maintenance fees. In addition, it will provide the necessary budget flexibility to cover equipment purchases that have been deferred during the past three years and allow the office to conduct inspections of agency facilities on the neighbor islands.

In addition to the normal operating budget of the office, the appropriation in Section 10 of this bill includes a one-time appropriation of \$70,000 for renovations to my office to increase security for my staff. Basically, the requested funding will allow me to (1) secure the reception area of my office to prevent visitors, in particular complainants, from having free access to the operational areas of my office and (2) construct an interview room. The amount requested is based on the following estimates provided to me by the Department of Accounting and General Services:

Reception area walls with reception window and door, \$13,000
Interview room walls with glass, \$10,000 - \$15,000
Electrical work, \$8,000 - \$10,000
AC duct work, \$15,000 - \$20,000
Consultant's cost, \$15,000 - \$20,000

Please allow me to explain the reasons for the improvements. First, with regard to securing the reception area, the Office of the Ombudsman has always tried to be as open and welcoming to complainants as possible. Consequently, the office is designed with no physical barriers to prevent complainants or other visitors from simply walking into the operational areas of the office. I believe the physical design conveys to complainants that the Ombudsman is available to receive complaints.

However, because the law requires that my office keep information relating to a complaint confidential, it is important that visitors not have free access to the work areas of my staff. Of greater concern is that in recent years, a higher percentage of individuals who have visited the office to file or follow up on a complaint have exhibited behavior that has raised significant concern for the safety of my staff. While most individuals do not display any unreasonable or threatening behavior when they first enter the office, there have been more frequent occasions where, while relating their complaint to my staff, the complainant has shown increasingly agitated behavior, sometimes to the point where additional male staff have had to be placed in stand-by position in case the complainant became physically violent. In addition, we are also visited by individuals who are former or current residents of the correctional system who are not always pleased with the results of our investigations of their complaints. The securing of the reception area will significantly help to address this concern, while still maintaining an open and welcoming environment for complainants.

With regard to the construction of an interview room, it is important to understand the current practice of the office when a complainant visits our office. To help ensure confidentiality and privacy, complainants currently meet with my analyst staff in the individual analyst's private office, which has a single door for entry and exit. This practice, unfortunately, also creates the possibility of an analyst being trapped in their own office by a complainant who becomes unacceptably verbally abusive or worse, physically violent. As noted above, an increasing number of the complainants who visit our office have been exhibiting behaviors that raise significant concern for the safety of my staff.

The construction of a designated interview room with two doors, one on each end, will provide an escape route for my analyst staff should a complainant pose a threat. In addition, the interview room that I would like to have constructed would have glass walls to allow my other staff to observe, but not hear, what is occurring during the interview of the complainant. I believe that such a design will serve as a deterrent against escalating behavior by complainants and would be the best alternative to protect the confidentiality of the complainants as they relate their complaint while addressing the safety concerns of my staff. I hope you will agree that the safety improvements to my office are needed.

Your support of this bill and the appropriation in Section 10 will allow my office to continue to timely, independently, and impartially investigate citizen complaints about the administrative acts of State and County agencies and their employees, as well as help to improve the safety of my staff. Attached for your information is a breakdown and comparison of my office's proposed budget for FY 2013-2014, the current fiscal year, and FY 2009-2010.

Thank you for your consideration of this testimony.

Attachment

OFFICE OF THE OMBUDSMAN
OPERATING BUDGET
FY 2013-2014 vs. FY 2012-2013 vs. FY 2009-2010

	<u>Proposed FY 2013-2014</u>	<u>Act 5, SLH 2012 FY 2012-2013</u>	<u>Act 1, SLH 2009 FY 2009-2010</u>
A. PERSONAL SERVICES			
Staff Salaries	1,001,328 (15)	982,575 (15)	1,001,328 (15)
SUBTOTAL PERSONAL SERVICES	1,001,328	982,575	1,001,328
B. OTHER CURRENT EXPENSES			
Office Supplies & Postage	6,600	3,600	6,600
Telephone	6,000	5,500	3,850
Intra-state Transportation & Subsistence	2,000	500	220
Out-of-state Transportation & Subsistence	6,000	0	5,500
Printing, Advertising & Publications	5,000	2,550	7,700
Maintenance - Office Equipment	4,000	2,500	5,500
Equipment Rental	4,500	3,950	4,950
Training/Subscriptions/Dues	6,000	800	5,830
Other Miscellaneous Current Expense	1,100	1,000	1,100
Computer Services	15,000	14,900	14,950
Risk Management	(included w/Other)	(included w/Other)	(included w/Other)
SUBTOTAL OTHER CURRENT EXPENSES	56,200	35,300	56,200
C. EQUIPMENT, FURNISHINGS, & BOOKS			
Equipment	2,100	0	2,100
Furnishings	550	0	550
Books	550	0	550
SUBTOTAL EQUIP, FURNISHINGS, BOOKS	3,200	0	3,200
TOTAL OPERATING BUDGET	<u>1,060,728</u>	<u>1,017,875</u>	<u>1,060,728</u>
OFFICE SAFETY IMPROVEMENTS	70,000		
TOTAL BUDGET REQUEST	<u>1,130,728</u>		

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB26 on Feb 4, 2013 10:00AM*
Date: Wednesday, January 30, 2013 11:35:09 AM

HB26

Submitted on: 1/30/2013

Testimony for WAM on Feb 4, 2013 10:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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