

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on H.B. 1488, HD1
RELATING TO MEDICAL MARIJUANA.**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: Thursday, March 16, 2017 Room Number: 229

1 **Fiscal Implications:** Unknown

2 **Department Testimony:** The Department generally opposes the passage of new laws related to
3 marijuana until the medical marijuana dispensaries open and the Department has the chance to
4 gauge the impact upon the State. However, this bill contains several specific proposals which
5 the Department supports, opposes, or on which comments are warranted, based on the
6 Department's foundational principles of patient safety, product safety, and public safety. In
7 addition, the state should recognize recent statements made by the current federal administration
8 regarding recreational marijuana and take heed to not dilute the state's current robust regulatory
9 system which is aimed to protect the state's medical marijuana patients.

10 Allow me to testify on each proposal:

11 1. Office of Medical Marijuana (MM) Administration: **Position: Oppose.**

12 The Department intends to combine the currently separate Registry and Licensing
13 programs into a combined program but intended to wait to begin the process until after the major
14 work to establish most/all of the dispensaries is better underway and for the biennium since this
15 may require additional resources. To combine both programs before this time will likely take
16 away time and effort to accomplish the more critical and immediate work needs.

1 In addition, the Department emphasizes that it should be allowed to exercise its executive
2 and managerial authority and discretion to identify the best organizational structure for the
3 combined MM Administration and where within the DOH it best fits.

4 As a result, the Department asks that this language be deleted.

5 2. Delay Dates to Require MMJ Products Only from Dispensaries: **Position: Support.**

6 The Department supports the extended time period to allow registered caregivers to
7 continue to cultivate marijuana for their patients. This can work well as a way to cover the gaps
8 in availability of MMJ products as dispensaries continue to prepare for cultivation. Four (4) of
9 the eight (8) licensees have been issued Notices to Proceed by the Department of Health to
10 cultivate and manufacture medical marijuana. In addition, this extended time will provide a
11 continued alternative for low cost access to personal MMJ products.

12 The Department also recommends that the Legislature limit the number of patients to five
13 (5) that can use a single grow site. As the number of caregivers decline, more patients are using
14 a single site. Language to this extent was added to the companion bill (SB1159) and the
15 Department recommends adding the same language here.

16 3. Delays to Award Additional Licenses: **Position: Comments; the Department**
17 **appreciates the intent and offers an alternative to additional licenses.**

18 The Department supports the delay in considering the award of additional licenses while
19 the Department continues major work efforts to ensure the start-up of cultivation and sales of
20 current licensees.

21 However, the Department respectfully asks the Legislature to consider a more practical
22 first step before awarding additional new licenses, namely to allow current licensees the ability

1 to expand their operations by allowing for an increase in plant count, an increase in the number
2 of production centers, and/or an increase in the number of retail locations based on the same or
3 similar criteria for new licenses. This could provide a quicker way of making medical marijuana
4 available to underserved geographic locations, provide an improved return on investment (ROI)
5 for current licensees, avoid for the Department the significant added burden of a license
6 application and award process, and avoid the delays of new licensees getting products to the
7 market place. This would also allow for greater competition among the current licensees and
8 allow for market forces to drive industry growth and efficiencies.

9 More specifically, as a way to address an apparent concern about the availability of
10 medical marijuana in more rural areas of the State, the Legislature could amend current statute to
11 allow current licensees up to two (2) additional retail locations for a total of up to four (4) retail
12 locations as long as the additional retail locations are located in rural areas. However, the
13 Legislature should define what it considers "rural" or "underserved geographic areas".

14 4. Alternate Tracking System: **Position: Oppose.**

15 The current statutory language is very prescriptive and requires a single system to track
16 MMJ inventory and sales. This language could be viewed as diluting the State's robust
17 regulatory oversight of the industry and for the industry to become a target of federal authorities
18 and it would be expensive to implement and maintain.

19 The draft bill does not identify a time period of inoperability of the state's computer
20 tracking system before the Department would be required to authorize the alternative system.

21 Nevertheless, any alternative system, whether electronic or other, will cost money to
22 implement or to enforce which the program does not current have nor will those costs be

1 supported through the current licensure fees. HD-1 would require the Department to monitor the
2 State's tracking system every day from 8 am to 8 pm except for holidays and to take necessary
3 and immediate action to inform all dispensaries of a system outage and of when the outage is
4 resolved. This will require unbudgeted overtime for staff equating to almost a full-time person.
5 However, the MMJ program will experience an annual operating deficit and will run out of cash
6 reserves in 2021 at the latest. The Legislature would be required to provide funding but the
7 Department will likely oppose any funding that takes away from the Governor's budget package.

8 Meanwhile, the Department will ask its vendor, BioTrackTHC™, to provide data on
9 system outages in their other jurisdictions, and to offer alternative or duplicate systems that have
10 been successful elsewhere for the Department to consider.

11 As a result, the Department asks that this language be deleted.

12 5. Retention of Video Security Recordings: **Position: Oppose, based on the need to**
13 **maintain a robust regulatory system especially in light of recent statements by the**
14 **current federal administration regarding recreational marijuana, and based on the**
15 **intended use of security recordings as an inspection and enforcement tool.**

16 The Department testified in opposition to SB0305, the sole purpose of which was aimed
17 at reducing the administrative rule requirement of one (1) year retention of video security
18 recordings.

19 The Department has the ability to change this retention period in rules and opposes
20 statutory changes at this time. The State should retain a robust regulatory system and wait until
21 the Department gains better experience on the use of video recordings.

1 Video recordings will be used by the Department as an inspection tool. The video
2 recordings will be used to verify written records and can be used to investigate past events if or
3 when suspicions of fraud, theft, diversion, or other irregularities come to light after a period of
4 time. This could help to protect dispensary employees or be used as proof of regulatory
5 noncompliance or criminal activity by others and could be used in criminal cases by law
6 enforcement. It could also protect the Department's inspection staff from accusations of
7 impropriety. Otherwise, a decreased retention period could be viewed as diluting the State's
8 robust regulatory oversight of the industry.

9 As a result, the Department asks that this language be deleted.

10 6. Laboratory Testing Standards: **Position: Oppose as unnecessary except for Support**
11 **for allowing lab testing of patient-grown marijuana and manufactured marijuana**
12 **products.**

13 The State Labs Division (SLD) wrote the lab section of the current interim administrative
14 rules using guidance and standards found in other jurisdictions. SLD also participates in a
15 national MMJ laboratory working group through the Association of Public Health Laboratories
16 and was provided specific testing guidance from Oregon, New York and Colorado for
17 prospective laboratories.

18 SLD took guidance from the testing programs and standards for pesticides under the
19 regulations of the United States Environmental Protection Agency (EPA). And as for the testing
20 for microbiological impurities, SLD considered the use of bacteria in lieu of pesticides. The use
21 of bacteria is acceptable as long as the bacterial counts conform to sanitary standards outlined in
22 the administrative rules.

1 The Department's primary concern is patient safety, product safety, and public safety.
2 While cost is an understandable consideration, health and safety have been and should remain
3 the State's main focus.

4 The Department supports lab testing of patients' home-grown marijuana for patient and
5 product safety reasons.

6 7. Extends Interim Rulemaking Authority: **Position: Support.**

7 This will provide greater flexibility to quickly revise interim administrative rules based
8 on input from the Legislative Oversight Working Group, patients and caregivers, licensed
9 dispensaries, other stakeholders, and based on actual operating experiences of licensees and of
10 the Department.

11 This quicker mechanism to revise administrative rules can be used to improve patient
12 safety, product safety and public safety.

13 8. Extend Civil Service Exemptions: **Position: Support. Prefer Admin bill H.B. 1104.**

14 The Department asks the conversion of exempt positions to civil service positions be
15 delayed from July 1, 2017, to July 1, 2020, to preserve the current workforce. This will help to
16 ensure continuity of patient safety, product safety and public safety.

17 The Department has made good progress in implementing the MMJ licensing and registry
18 programs. Much work remains to bring all dispensaries to the point of being allowed to cultivate
19 marijuana, to integrate the patient registry system with the state's computer software tracking
20 system, and to test and allow the sale of manufactured medical marijuana products.

1 The Department would be in jeopardy of losing medical marijuana dispensary licensing
2 staff prior to June 30, 2017, because of the reduction in salary from conversion to civil service.
3 The additional 3 years is necessary to stabilize program operations.

4 Thank you for the opportunity to testify on this bill.

5 **Offered Amendments:** In conjunction with the Department's recommendation to consider
6 limiting the number of patients to five (5) that can use a single grow site, the Department
7 requests that Section 3 of HB1488 be amended to read as follows:

8 SECTION 3. Section 329-130, Hawaii Revised Statutes, is amended by amending
9 subsection (a) to read as follows: "(a) After December 31, [~~2018~~] 2019, a qualifying
10 patient shall obtain medical marijuana or manufactured marijuana products only: (1)
11 From a dispensaries licensed pursuant to chapter 329D; provided that the marijuana shall
12 be purchased and paid for at the time of purchase; or (2) By cultivating marijuana in an
13 amount that does not exceed an adequate supply for the qualifying patient, pursuant to
14 section 329-122[s]; provided that each location used to cultivate marijuana shall be used
15 by no more than five qualifying patients.

16

ON THE FOLLOWING MEASURE:

HB1488 HD1, RELATING TO MEDICAL MARIJUANA
BEFORE THE: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH

DATE: Thursday, March 16, 2017 TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 229

LATE

Honorable Chair Baker and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **STRONG OPPOSITION** to **HB1488 HD1 RELATING TO MEDICAL MARIJUANA**.

I specifically and strongly oppose **Section 2** and **Section 6** for the following reasons:

Section 2 establishes a new "Office of Medical Marijuana Administration" and is a provision that I find to be untimely as well as one that may seriously detract from DOH's standing obligations and commitment to meeting patient needs. In fact, DOH itself has testified that this move is unnecessary. This measure lacks a critical revenue and funding source to appropriately install and manage a new Office of Medical Marijuana Administration - let alone solve the budget woes of the current DOH Registry and Dispensary Programs. Combining these two programs without necessary appropriations for the transition and a mechanism for increasing program revenue should be avoided at all costs. Given the Department of Health's already slow roll-out of the dispensary program under its current budget constraints, any additional strains on that budget will further extend the time that Hawai'i's patient community must wait for consistent and convenient access to safe, cannabis-based medicine across the state.

Section 6 prescribes a year-long delay in assessing additional licenses - from October 2017 to October 2018. The simplicity of this delay is a ruse as the reality is that any additional licensees simply won't be operational for at least another 12 to 24 months *after* the assessment is completed by DOH, leaving stakeholders like myself without access to safe, affordable, and diverse mediums of cannabis-based medicine for the *next 3 to 4 years*. Conversely, the addition of new licensees under the current statute's timeframe will provide affordable access to more diversified and consistent medical products. The availability of more medicine will reduce its cost, undermining the feasibility of a black market economy. Costs for testing products will also decline and patient counts will go up. Public education will grow and the stigma surrounding the industry will erode as more people see a healthy, safe, diverse, and inclusive medical cannabis program in Hawai'i.

For these reasons, I stand in **STRONG OPPOSITION** to **HB1488 HD1** and ask that your committee **DEFER** this measure. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,
Kevin Whitton

CPH Testimony

From: Richard Ha <richard@hamakuasprings.com>
Sent: Wednesday, March 15, 2017 8:45 PM
To: CPH Testimony
Subject: Relating to Medical Cannabis

LATE

Aloha Chair Baker and members of the committee

I very strongly support HB 1488 HD1. This bill is a very good response to things that needed to be done. And, this benefits the medical patients by getting a sufficient supply of Medical Cannabis to them in the most efficient way.

We presented at a cancer support group meeting last night. The folks that had cancer cannot wait any longer. The patients need to be able to go to the labs for testing, so the folks who are on low income can get effective medicine too.

I know this feels challenging. But, it is my opinion that Hawaii is avoiding most of the problems that those states that went before is suffering now. Keep on moving forward.

Mahalo

Richard Ha
CEO
Lau Ola LLC

Cell 808 960 1057

Sent from my iPad

CPH Testimony

From: Brian Murphy <bmurphy420@mail.com>
Sent: Wednesday, March 15, 2017 5:40 PM
To: CPH Testimony
Subject: SUPPORT for HB1488 - RELATING TO MEDICAL MARIJUANA.
Attachments: PWT_Testimony_1488.docx

Aloha Lawmakers,

I SUPPORT HB1488, if an amendment is added to LEGALIZE cannabis.

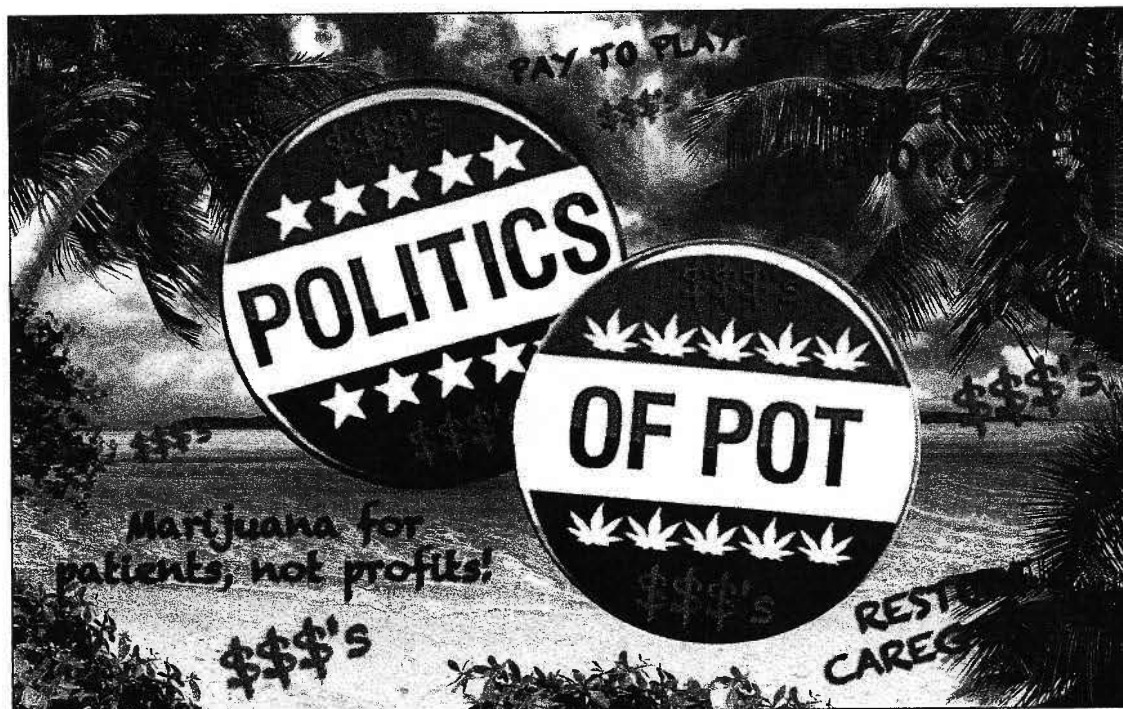
Mahalo,
Brian Murphy
Maui, Hawai'i

LATE

PATIENTS WITHOUT TIME

Aloha
Lawmakers,

PWT believes Hawaii's Dispensary program is designed for big corporations to take control of Hawaii's billion-dollar-a-year marijuana market, denying citizens any opportunity to enter the industry.



A wide majority of Hawaii's citizens believe that Cannabis should be LEGAL, and provide 1,000's of jobs and businesses for Hawaii's citizens, not become a cash cow for million-dollar corporations.

Hawaii sold eight \$75,000 licenses to open commercial "medical" marijuana dispensaries, while Hawaii sent good folks to jail because marijuana has "NO medical" value!!! That's called selective prosecution. Marijuana is medicine, and the prohibition is based on deliberate deception, instigated by corporations more interested in profits than in the public good.

Please, end the double talk, and double standards. Marijuana is ubiquitous in Hawaii, and an important facet of Hawaii's economy. Quoting Hawaii's favorite presidential candidate, Bernie Sanders, "The time is long overdue for us to remove the federal prohibition on marijuana."

NUFF ALREADY! LEGALIZE CANNABIS now!

Brian Murphy, President

Patients Without Time

CPH Testimony

From: Mary Whispering Wind <marywind@mail.com>
Sent: Wednesday, March 15, 2017 5:40 PM
To: CPH Testimony
Subject: SUPPORT for HB1488 - RELATING TO MEDICAL MARIJUANA.

Aloha Legislators,

I SUPPORT HB1488, If an amendment is added to LEGALIZE cannabis.

Mahalo,
Mary Overbay
Maui, Hawaii

LATE

March 16, 2017; 9:30 am Hearing; Conference Room 229

LATE

On the following measure:

Testimony in support of HB1488, regarding Medical Marijuana (Cannabis)

Hawaii State Legislature

Before the Senate Committees on Commerce, Consumer Protection and Public Health;
Ways and Means; Judiciary and Labor

The Honorable Chairs Baker & Nishihara, Tokuda & Delacruz, Keith-Agaran & K.
Rhoads:

My Name is Kristin Wohlschlagel. I am a Registered Nurse, Oncology Nurse Navigator and Certified Hospice and Palliative Nurse living and working on the Big Island for more than 12 years. I am providing testimony in SUPPORT of HB1488.

It is critically important to establish the legal ability for Hawaii Medical Marijuana legal patients to provide their medicine samples to the Hawaii testing labs being readied now. It goes without saying that the ability for a patient (and their healthcare team) to know the strength, composition and purity of any medicine they are using, is of the utmost importance.

Currently patients are left to attempt to guess as to how much THC, CBD or other chemicals are in their medicine. With regard to THC they literally have to "try it to see if it makes you really stoned" and then try to guess it's content. Most of my patients have multiple chronic diseases and/or cancer. This is not something they even will do. So it is left for another patient to try to "guesstimate" what is in their plant medicine.

With high-CBD cannabis plants, there is usually no psychoactivity so they again are left to try to guess the strength of their medicine by trying to see how well it helps their arthritic knee, just as an example. Imagine someone trying to treat their cancer and being forced to navigate this circumstance. This is just unacceptable. Add in concerns about molds and bacteria and the need for testing is even more apparent, especially for those immunocompromised patients who may be most in need of what should be a very safe medicinal option.

As a Registered Nurse who specializes in Oncology, Hospice and Palliative Care, I am deeply concerned that our patients be able to have a Caregiver to help them grow their Medical Marijuana (Cannabis) after 2018. Many of the patients I care for are elderly and

very medically fragile and many are unable to leave their home. Forcing them to travel to a dispensary is an unreasonable requirement and would cause hardship if not eliminate the practical use of Medicinal Cannabis altogether. These patients are also among those least able to financially afford what are certainly going to be higher costs associated with getting their medicine from a dispensary. Many of these patients are also very private individuals and forcing them to go to a dispensary, if unable to grow their own, places an unnecessary emotional burden on them. Allowing patients to have a Caregiver assist them in producing their medicine privately is a very important right to maintain for these and other reasons.

As a nurse working with many patients currently undergoing treatment for cancer, I have learned that many of them are using doses of cannabis much larger than you may have been aware. If a patient is using cannabis for simple pain management they may be consuming only 5 to 20 mg of Delta-9 THC and or 15 to 60 mg of Cannabidiol (CBD) as a dose. On the other end of the spectrum a typical cancer patient may be using, with physician guidance, 500 to 1000 mg of Delta-9 THC and or CBD every day to actually treat their cancer. More patients tell me that this is a treatment that they are interested in considering with their doctor but the costs associated with purchasing that much Cannabis is prohibitive for all but the wealthiest patients. We must continue the caregiver option and make testing available ASAP.

Again, patients urgently need to be able to produce their own medicine, with a caregiver if needed, which allows them to choose what may be unique cultivars selected for their particular health condition. They must be able to access lab testing of their medicine, whether it came from a dispensary or not. Thank you for this opportunity to provide testimony.

Again, I support SB 173.

Sincerely,

Kristin L. Wohlschlagel, RN, CHPN
P.O. Box 616
Honokaa, HI 96727

Phone: 808-747-3507
Email: kristinredux@gmail.com

LATE

Aloha members of the Senate Committee on Commerce, Consumer Protection, and Health. My name is Michelle Tippens, I am the founder and Executive Director of the Hawaii Veteran's Cannabis Alliance and Legislative Liaison for the Libertarian Party of Hawaii. These comments are regarding measure HB1488, heard March 16, 2017 at 9:30am.

As an expert in the field of Criminal Justice (I hold both a BA and MS in the field), specializing in vice and drug crimes, I have a well-documented academic background and demonstrated aptitude in all aspects of the Crime and Justice field, including an extensive knowledge regarding the development of American drug law. Along with this, I am a veteran of the US Army, single mother of 4 and medical marijuana patient. Although I look "healthy" to most people, I not only suffer from PTSD, I also have fibromyalgia, prosthetic neck implants, 5 fractured thoracic vertebrae and several other injuries. I am able to manage all of these conditions with cannabis therapy and was able to discontinue use of a pulmonary walker in 2012, less than two years after beginning cannabis therapy.

When examining HB1488, it is easy to see it is riddled with flaws and does little more than legislate extensions, additional resources and funds to the Department of Health; all to continue to develop a system they have demonstrated is beyond their capacity to establish in a timely manner and which most people in Hawaii feel is unnecessary. Additionally, HB1488 legislates the creation of an Office of Medical Marijuana Administration within the Department of Health, which is a blatant waste of taxpayer money and yet another legislated hurdle and delay to the opening of legitimate dispensaries in the state of Hawaii. The people of Hawaii are not interested in the creation of another ineffective department, justified by the boogeyman mentality of the 80s.

Furthermore, instead of removing the provision in the original statute that eliminates primary caregiver cultivation authority, this legislation reschedules the deadline a year later. The people of Hawaii are not interested in delaying this provision, the people of Hawaii want this provision removed. Furthermore, the removal of the Primary Caregiver affects who may enter a dispensary or production center for a homebound or under-aged patient; as the law is currently written, it is a felony (Class C) to enter a dispensary or production center if an individual is not a state registered patient or caregiver.

HB1488 provides for interisland transportation of medical marijuana, but the restricts its protections to only dispensaries for laboratory testing. This is inappropriate and exclusionary to patients for no reason related to public health or safety. Throughout the creation of the dispensary system, the legislature acknowledged the value and benefit to patient safety laboratory testing provides, yet the laws have been written in a way that impedes and prevents that very demographic from transporting their medicine to or utilizing the testing offered by cannabis testing labs in the state. Removing the language that excludes patients from legally transporting their medicine interisland would help to make this legislation better, but this small correction cannot overcome this bill's many shortcomings.

This legislation also proposes the DOH create an alternative (backup) system for dispensary sale and stock tracking. The first and most obvious flaw in this is that the initial (primary) system hasn't been created or put into use. The second issue is that this does not need to be a legislative requirement for the initiation of dispensary sales; by enacting this bill, dispensaries (AND PATIENTS) would be forced to wait for the secondary systems to be created, put in place and operational before sales could begin. The current reality is that under the primary system dispensaries are required to maintain their own local tracking systems on site that are capable of interfacing with the state system. If the state system goes

down, dispensaries could continue to operate as normal, feeding their data into the local monitoring systems and once the state database is back up, the interfaces at the dispensary locations could simply sync their data; similar to the sync function of thousands of other electronic programs, such as Google Calendar or Quickbooks. Legislating a requirement for backup data systems when the primary isn't even in place is premature, unnecessary and creates an indeterminate delay for the commencement of medical marijuana sales.

The legislature acknowledges in Section 1 of this bill that the regulatory demands of the medical marijuana dispensary system must be weighed against patient need. The reality is that medical marijuana distribution in the state of Hawaii has been conducted in the black market for over 15 years without harm to the over 15,000 patients who currently declare their participation in the system (and the multitudes that do not) without even the availability of laboratory testing, "seed to sale" tracking, backup systems or warning labels. To assert now that these things are necessary for the "safety of the product, patient, and public" (HB1488, Page 2, Lines 7-8) and use these assertions as an excuse to justify further delay of dispensary operation is misleading at best.

HB1488 does not represent the best interest or desire of the Hawaiian people or the US veterans that call these islands home and creates an environment of permissive delay regarding the completion of dispensary regulation and operation. I would like to finish by stating my clear and decisive opposition to this legislation and hope that you will vote no on the passage of this bill.

Mahalo for your time, aloha.