



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Higher Education
January 30, 2018 at 1:15 p.m.

By
Donald O. Straney
Vice President of Academic Planning and Policy
University of Hawai'i System

SB 2328 – RELATING TO THE UNIVERSITY OF HAWAII

Chair Kahele, Vice Chair Kim, and members of the committee:

Thank you for the opportunity to submit testimony on SB 2328. The University understands and appreciates the intent of this legislation but cannot support the bill as currently written which, beginning with the 2020-2021 school year, requires all courses at all campuses within the University of Hawai'i system that require the use of instructional materials to exclusively use instructional materials from the open educational resources at the University of Hawai'i.

The University recognizes the financial burden of the high cost of textbooks on students. Beginning in 2015, our ten campuses have been intentionally investing in Open Educational Resources (OER) by providing workshops, grants, trainings, technology support and opportunities for faculty and staff to promote the adoption, adaption and creation of OER.

A mandate for OER use in all courses is not possible due to the wide variety of materials used in thousands of courses, some of which will remain under copyright. Faculty need to be able to choose the instructional content that is most appropriate for their courses and their students, and be encouraged to adopt OER when possible. Faculty have responded well to the outreach, training, and support being provided to them.

Recognizing that there are other alternatives for free resources in addition to OER, the University also has a zero textbook cost initiative. In addition, faculty at our campuses provide other alternatives including placing copies of publisher produced textbooks on reserve at our libraries, using materials available through library subscriptions, and supporting faculty as they create their own instructional materials.

Finally, OER does not fit all teaching and learning situations. In some of our Career and Technical Education (CTE) courses, manufacturer manuals and materials are needed while learning (i.e, student working on brakes for an automotive vehicle or an engine for a particular airplane). For Honolulu Community College, 60% of the students are in CTE programs.

For the above-mentioned reasons, the University of Hawai'i recommends that this bill be deferred, and may we suggest that we work with the committee on drafting a concurrent resolution to look further into OERs and other alternative cost saving measures for textbooks.

Thank you for the opportunity to provide testimony on SB 2328.



The Committee on Higher Education
Tuesday, January 30, 2018
1:15 pm
Room 224

RE: **SB 2328 Relating to the University of Hawai'i**

Attention: Chair Kai Kahele, Vice Chair Donna Mercado Kim and Members of the Committee

The University of Hawaii Professional Assembly (UHPA) **opposes SB 2328** and requests the committee defer passage of the proposed legislation.

College affordability remains a challenge for many Hawai'i students and their families. SB 2328 seeks to require use of open educational resources (OER) as a means to diminish the cost of textbooks and other instructional materials. While increasing access to instruction materials without cost to students is desirable this proposal is not the means nor the method to accomplish that outcome.

The proposal seeks to engage in a major infrastructure project without recognizing the necessary costs attached including issues of obtaining quality resources and academic rigor employed by faculty members in constructing their course content. Not all instructional materials are found in open access and there is cost attached. The University incurs major costs to obtain information and resources to support learning. (Hamilton library has budget challenges and is faced with eliminating the purchase of some educational resources)

The rapidity with which technology hardware and software change are additional challenges to the student and faculty member--you cannot have an online universe of materials without the proper tools; internet access; security; and academic and technology support personnel.

It should also be noted that providing materials that are accessible for disabled students is a major investment for an institution.

Most students must provide their own computers in order to participate in their course work. Simply eliminating the cost of a textbook does not eliminate the other important learning tools.

Even under the best of circumstances OER cannot provide instructional and research materials without a substantial investment in funds to develop materials and purchase academic resources that are not subject to open access. Further the construction of course content and methodology for delivery is no small cost. Depending upon the area of study specialized technology and software based resources are needed.

University of Hawaii
Professional Assembly

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Simply commanding faculty members to turn over their intellectual property is not only offensive to academic practice but it fails to recognize that the content may be subject to peer review. It is one thing to make a syllabus available to students, as is currently required. It is another thing to assert that faculty are required to make their work available to all. Already, many faculty voluntarily share their work among their department and students. It is substantial legislative overreach for the legislature to act as the employer by assigning specific duties to faculty members.

SB 2328 is poorly designed to resolve the high cost of textbooks for students. **UHPA encourages the Committee to reject this approach.**

Respectfully submitted

Kristeen Hanselman
Executive Director

SB-2328

Submitted on: 1/28/2018 7:49:49 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE ON HIGHER EDUCATION

THE HAWAII STATE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Tuesday, January 30, 2018

1:15 p.m.

Hawaii State Capitol, Conference Room 224

RE: **Testimony in Support** of SB 2328, RELATING TO UNIVERSITY OF HAWAII

To the Honorable Kaiali'i Kahele, Chair; the Honorable Donna Mercado Kim, Vice-Chair and Members of the Committee on Higher Education:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. 2328, relating to the University of Hawai'i utilizing open educational resources for its Instructional Materials. The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2328 and support its passage.

Senate Bill No. 2328, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it restricts instructional materials to open source educational materials at no cost to University of Hawaii students. The Platform of the DPH provides that "[c]onsistent with these [educational] goals, we seek to make public college, public university, trade, mentorship and apprenticeship programs available to all seeking further education tuition free." (Platform of DPH, P. 6, Lines 318-319 (2016)). While Senate Bill No. 2328, does not go directly to tuition-free education, it does relate to free instructional materials which is a significant step towards lowered costs of higher education.

Given that Senate Bill No. 2328 requires the University of Hawaii system to utilize open source educational materials thereby reducing the cost of higher education in the State of Hawaii, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

SB-2328

Submitted on: 1/26/2018 10:31:47 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Garrett Apuzen-Ito	University of Hawaii	Oppose	No

Comments:

SB-2328

Submitted on: 1/27/2018 3:21:59 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven A. Singer	Kapiolani Community College	Oppose	No

Comments:

Sirs:

Re: SB2328

I am a professor in Information Technology, one of many CTE (Career and Technical Education) Programs taught in the UH System. We have several short certificates, an AS (Associate in Science) degree, a couple of APC (Advanced Professional Certificates) and a couple of articulation agreements to four year institutions. Our students receive a quality education that is current with industry standards that includes lectures, demonstrations, hands on projects, and a multitude of assessments. Our students not only get instruction in current technology and practices within their field, they also are required to do a 120 hour internship/coop in their field prior to graduation.

Industry advisors have consistently counsled us to include industry certifications along with the degree, so students can exit with a trifecta for CTE: degree, experience, and industry certifications. To that end, we have worked with our students to help them acquire these industry certifications. Recently, we have been the recipients of a Perkins grant to create a "Certification Center" at our college, KapCC. The purpose of this Center is for students who have recently completed a course or set of courses that have helped prepare them for a certification exam, to then take that certification exam at our college. Industry certification exams update on a 2--3 year cycle. To prepare students for current jobs, they need to take current industry certification exams. To prepare for these current industry exams, students need access to current instructional materials. OER materials are notoriously not current nor taylored for industry certifications.

Passage of this bill, SB2328, would be the death knell for CTE Programs within the state. We NEED access to current, industry specific instructional materials to train Hawaii's 21st Century workforce. These are good, needed, high paying, high demand jobs.

While using OER materials might be OK for some courses or programs, they are NOT appropriate for all. Let the professionals in their respective areas decide what is right. Most of us have years of experience both in industry as well as academia. Let us use

this expertise to help train Hawaii's workforce. Do not tie our hands behind our backs and then complain we are not doing our job well. Let us do our job.

Thank you for this opportunity to provide input to this process. Should you have any questions or need any further information, do not hesitate to contact me, singer@hawaii.edu.

Steven A. Singer, EdD.

Professor in Information Technology

Kapiolani Community College

SB-2328

Submitted on: 1/27/2018 4:50:34 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hal Corcoran		Oppose	No

Comments:

I am a supporter of OER materials where appropriate materials are available. As an Assistant Professor of Information Technology, however, I have found the available OER materials to be dated at best and obsolete at worst. IT changes at such a rapid pace that it is a constant challenge to maintain technical currency and find course materials that are current with the state of technology. The OER resources available at UH consistently lag behind the state of the technology. We do a disservice to our students if we teach them old technologies using dated resources.

I suggest a recommendation that OER materials be used where appropriate and current OER resources are available, but to mandate their use would negatively impact our students' hireability, since employers want the most current skills in their new workers.

SB-2328

Submitted on: 1/27/2018 11:29:32 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Tuthill		Oppose	No

Comments:

I am contacting you to oppose the proposed SB 2328 concerning OERs be implemented for all UH courses.

As a former student and instructor within the UH System for over 20 years, I have been on both sides of the class and intimately know what works, and what doesn't for courses. As professors, we choose the best resources for courses, and some of these include OERs, while often times they do not.

I strongly disagree that those not in the classroom or discipline dictate what is best for the course and student. How one teaches and what tools they use have been crafted by examining a multitude of possibilities. I am a professional that works very hard to make the most engaging course for my students, and the STEM student success numbers (of degrees, transfer rates...) at Kapiolani Community College attest that we are achieving and surpassing goals.

OERs can be useful, but often hard copy resources provide more active learning by students... therefore greater success. Numerous studies show that internet/online courses and resources at best equal face-to-face course, but in many cases result in lower student scores. Using OERs is done strategically, but is not the complete answer to many course settings.

More importantly, the UH and the State government should move towards allowing equitable journal access across all of the UH System. Currently an undergraduate student at UH-Manoa has better journal access than a Ph.D. professor at any Community College. VP Morton (and M.R.C. Greenwood before him) are aware of this two-tiered platform and vowed to level the playing field of online resource access. To date though, nothing has changed.

Although the cost of student tuition is stated as a justification of OERs implementation in SB 2328, the reality is that Community College tuition in Hawaii is amongst the cheapest in the nation. These students are just testing the waters of their career and academic lives, and forcing them to use more "passive" methods of OER learning is a disservice to all.

Please consider addressing equitable electronic (journal) access across the UH System, but leave the teaching tools at the instructor level. We do have a driving professional integrity and constantly experiment to find the perfect resources for student teaching and success... and in many cases they are not OERs.

Simply put, I trust you are an expert in your area and discipline, and therefore would not dictate what resources you use to accomplish your work... and neither should elected officials do so professional instructors.

SB-2328

Submitted on: 1/28/2018 10:26:33 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John M Flanigan		Oppose	No

Comments:

In opposition to the bill, I sent these comments to the proposers of the bill:

To: Senator Kaiali'i Kahele <senkkahele@Capitol.hawaii.gov>, Senator Stanley Chang <senchang@capitol.hawaii.gov>, Senator Donovan Cruz <sendelacruz@capitol.hawaii.gov>, Senator Brickwood Galuteria <sengaluteria@capitol.hawaii.gov>, Senator Lorraine Inouye <seninouye@capitol.hawaii.gov>, Senator Michelle Kidani <senkidani@capitol.hawaii.gov>, Senator Maile Shimabukuro <enshimabukuro@capitol.hawaii.gov>

Senate Bill 2328 is an attempt to lessen the cost of higher education in Hawaii. It correctly presents the information that tuition at Hawaii's higher education venues is among the most reasonable in the country, but hopes to correct the problem of expensive textbooks.

Unfortunately it over-does it by requiring that all instructional materials for "all courses at all campuses within the University of Hawaii system" must be obtained either from the open educational materials at the University of Hawaii or must be "creat[ed] by the faculty member or lecturer responsible with providing" the instruction.

UHM offers 99 bachelor's degrees for which there may, in some cases, be appropriate material, but for the 144 higher degrees offered there is unlikely to be much that is useful. One wonders where the faculty of the Medical and Law schools, for example, would find suitable material.

I appreciate the problem of textbook publishers revising their texts primarily for the purpose of obsoleting older volumes (many math texts, for example, go through tri-

yearly revisions with little change in the content). But the requirement that when none is found, the instructor must create the material, placing the burden on instructors *at all levels in all disciplines* to do the job on their own—while teaching—is highly naïve.

Please encourage the use of appropriate free materials, but allow the experts in the various disciplines the freedom to choose the best materials for their courses.

John M. Flanigan

45-546 Kapalai Rd

Kaneohe

235-0433

SB-2328

Submitted on: 1/28/2018 12:10:45 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Duffy		Oppose	No

Comments:

please see attached. Thanks

To: Chair Kaiali'i Kahele and
Members of the Higher Education Committee

Date: January 30, 2018

Time: 1:15 PM

Place: Conference Room 224, State Capitol

From: Debora Halbert, Individual

RE: Opposition to SB 2328 – Relating to the University of Hawai'i

Despite being an advocate for Open Educational Resources (OER) and the author of an OER textbook, I am writing in opposition to SB 2328. I write this testimony as someone who has studied issues of copyright and its impact on access to knowledge for over 20 years. That being said, while I believe the bill is well intended, there are pedagogical and practical reasons why it should not become statutory law.

First, 100% adoption in all classes will not provide the best educational opportunity for students. There are not sufficient textbooks to choose from yet and in some cases they may not be the best textbook to use. Thus, mandating OER without more content to choose from would mean that the quality of the courses would diminish.

Second, many courses cannot be taught only using OER resources. Here I am thinking of advanced seminars that rely upon single authored monographs, novels, or virtually any journal article, since these are covered by copyright and using them can be complicated. Teaching exclusively with OER, or even exclusively with “free” sources will again diminish the quality of education for students.

Third, as a matter of practicality, even with the development of OER resources underway and very exciting texts now available, there is no possible way to have such a system in place in the timeframe required by this law. OER texts are produced for free by faculty, mostly in their spare time, and they can take enormous amounts of time to produce and refine. This work is done on a voluntary scale because unlike for-profit publishers who charge exorbitant fees and provide textbook authors with royalties for their work, OER writers do the work as a labor of intellectual commitment. Thus, the pool of possible authors for OER materials is small and cannot gear up to create the content necessary in the timeframe proscribed.

I believe the goal of affordable class materials for students is an important one and have been writing my own OER undergraduate textbook. At this time, it is only a skeleton of the quality that can be found in the for-profit publishing industry, but that will change as it is edited and developed. I remain committed to developing such resources.

However, the best way to approach access to knowledge for educational materials is twofold. First, a substantive change to federal copyright law needs to be made and until this happens higher education will continue to be held hostage by the publishing industry, not only for the high price of textbooks, but for the high price of all academic publishing. This may be beyond the capacity of the state to fix and one reason I am actively engaged in creating OER materials is to help change the nature of access to knowledge.

Second, if the Hawaii State legislature would like to help enhance the creation of more OER texts, provide funding to the already existing OER staff to help support the creation of new textbooks. However, as much as I would like to support a world where all educational materials are free, this bill is the not the way to get there.

SB-2328

Submitted on: 1/28/2018 10:26:14 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Zuckernick		Oppose	No

Comments:

Dear Senator Kahele,

I am writing you to oppose the proposed SB 2328 requiring mandatory use of Open Educational Resources (OER).

Even though I believe OER does have its place in our education system, mandating this singular form will significantly limit our student's ability to learn. Excluding many valuable training resources will compromise the ability of our EMS students in providing the best patient care possible.

In addition, our statewide Emergency Medical Services training program relies upon a number of different educational tools and resources in providing an effective learning environment. Our packages have resulted in one of the highest pass rates with respect to national certification exam scores. Our program has even been recognized by the national certification agency for having top-performing students.

This is as a result of having motivated students and faculty, a very supportive EMS training community, and varied educational resources that meet the students needs.

It is also critically important to note that currently there are no cognitive, affective, and psychomotor OER resource packages available for our EMT-Students. Furthermore, legislatively restricting the professional educators ability to select the most effective resources could create constitutional challenges.

OER does have its place in select programs, however, this method of delivery is still an infant industry. Mandating programs such as EMS and many other Health Science programs, that rely on many different forms of training aids, to exclusively use OER's will have a negative overall effect. Other than saving a few dollars in a community college system that is regarded as one of the most cost effective in the nation, is just not well-thought-of public policy.

With this I do not support this bill.

Thank you for your time.

Jeff Zuckernick

January 18, 2018

Dear Senators,

I applaud your efforts to reduce costs for students. However, I kindly ask you to please consider a gradual introduction of OER, piloting it on a limited basis, perhaps in one undergraduate course in one department. Gather data not only on the outcomes, but on the obstacles and concerns. After the issues have been resolved, expand to other courses and other departments and again evaluate. It is reckless at best to implement the massive changes suggested in SB2328 on such a grand scale.

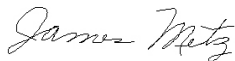
Just one of many of my concerns as a retired mathematics instructor at Kapi'olani Community College is that there are many free materials available that have significant errors. Textbooks with such errors are soon off the market, but such information on the web can last forever.

I also invite you to visit:

<http://policy.lumenlearning.com/resources/OER%20Policy%20Development%20Tool,v1%20master.pdf>

I ask you to please appoint a committee of educators, publishers and other stakeholders to seriously explore the ramifications of implementing SB2328.

Sincerely,



James Metz
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metz@hawaii.edu

SB-2328

Submitted on: 1/29/2018 12:32:44 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Earl Hishinuma		Oppose	No

Comments:

I oppose this bill because it will decrease the quality of teaching to students at the University of Hawaii by restricting the resources that faculty can utilize and the bill infringes on the academic judgment of faculty. While we should be deeply concerned about the overall rising cost of higher education for our youth and young adults, this bill is not the solution. The broader issue is the "starving" of our one and only state university system for the past several years. Reversal of this "starvation" could result in need-based subsidies of required textbooks/materials for students.

SB-2328

Submitted on: 1/29/2018 1:12:09 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Jaworowski		Oppose	No

Comments:

Testimony in Opposition to S.B. No. 2328

To Senator Kahele and the members of the Senate Committee on Higher Education:

I write in strong opposition to S.B. No 2328, Relating to the University of Hawaii. I am Dr. Susan Jaworowski, Professor and Paralegal Program Director at Kapi'olani Community College. S.B. No. 2328 would require all faculty in the University of Hawai'i system to exclusively use instructional materials from the open educational resources, and if none are available, to create them themselves. I speak based on my eleven years experience of leading the Associates of Science degree in Paralegal program, which is an American Bar Association-approved program. We are the only educational program in the State, public or private, providing a degree for Paralegals, who are legal assistants working with attorneys. It is therefore extremely important to the Hawaii legal system that we produce top-notch, quality graduates.

The bill is not workable for the Paralegal program and, I suspect, many of the other Career and Technical Education (CTE) programs throughout the UH System, such as Nursing, IT, Health Sciences, EMT, and Veterinary Technology. There are insufficient OER materials for professional, technical programs such as mine. We are able to run some of our courses with our own instructor-created materials, but there are few OER materials for Paralegals, and what there are are insufficient in coverage and lack the practical assignments that the ABA requires our program to have. We need professional textbooks. We place our graduates directly into law firms, government agencies, banks, and other companies with legal departments. Our students must be competent from day one to get a job and to remain on the job. The publishers' materials that we use in our courses are current, comprehensive, and up to date and help us produce workforce-ready students. The publishers' materials also can include educational materials not available through OER, such as online interactive lessons and videos, which help with student engagement and retention.

The "solution" in the bill for courses that lack OER - to require the faculty member or lecturer responsible with providing instruction for the course shall create the instructional materials - is not feasible due to time and workload limits. This OER-creation clause virtually requires the faculty member or lecturer to create a course textbook, which is typically 300-400 pages or more. I regularly teach four different

courses, and my colleague in the program teaches six different courses. We already supplement our textbooks with Hawaii-centered curriculum, which is extremely time-consuming, but is possible because the students are getting the background material through their textbooks. This bill would require us additionally to create and keep current textbooks for four to six different courses, in addition to our already full workloads. There are just not enough hours in the day to do this. This is also an unreasonable burden on our lecturers, most of whom are attorneys who already have full-time day jobs and who generally teach only one course with us. While these lecturers do supplement their textbooks with Hawaii-centered curriculum, none of them has the extra time to create an OER textbook for their course.

Publishers are reacting positively to the costs of textbooks and at least one is substantially reducing its charges for students. Starting this fall, one major publisher, Cengage, will be offering students a reasonable flat rate of \$119 per semester for digital access to all of their textbooks and all of their materials:

<https://www.cengage.com/unlimited>. The Paralegal program is already reviewing Cengage textbooks to see if we can switch all or a majority of our textbooks to Cengage books, which will substantially decrease textbooks costs for our Paralegal students.

The mission of the Paralegal program is always to provide the students with the best opportunity to prepare for and succeed in the workforce. It is penny wise and pound foolish to provide our students with substandard OER materials that will not provide them with the education and skills that they need and deserve. Please let the faculty be the best judges of the right course materials for our students.

Sincerely yours,

Dr. Susan Jaworowski

SB-2328

Submitted on: 1/29/2018 1:14:15 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mackenzie Manning	Kapi'olani Community College	Oppose	No

Comments:

Hello,

I am a biology professor at Kapi'olani Community College writing in opposition to this bill. While I understand that we should do all we can to keep the cost of higher education down for our students, I can't help but feel like this bill is overreaching in its authority by limiting academic freedom of the faculty. The resources available for OER are scant and unreliable for the courses I teach. I work diligently with my publisher representative to create custom texts for my students in an effort to reduce costs. I also provide these texts for student use in the library reserves. My goal is to serve my students by providing high quality education and reliable materials. I have not been impressed with OER for majors biology courses, which is why I continue to work with my established publisher. Bottom line, this bill will infringe upon my academic freedom and by limiting my ability to educate my students the best way I can, their learning will suffer. It shouldn't be the pervue of the legislature to dictate how faculty can teach their courses and what types of materials should be made available for their students. This bill in essence does just that. Please reconcider support of this bill. Perhaps try talking to students and faculty to garner ideas on how to reduce the cost of higher education in Hawai'i. Thank you, Mackenzie Manning

SB-2328

Submitted on: 1/29/2018 1:27:07 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nadine Wolff	Kapiolani Community College	Oppose	No

Comments:

While well intentioned, SB 2328 will result in University of Hawai'i students losing access to current and comprehensive information and resources which provide them with information vetted by credible academic bodies as well as being reduced to relying only on one person's point of view.

By mandating students use only open educational resources (OER) the breadth and depth of academic information will be severely restricted and handicap our students. OER is still in the infancy of development and of those currently available, not all are appropriate for academic study in all fields. Those academic disciplines where open source materials are unavailable or limited in number would mean students would have no texts and materials to read, review, and learn from.

Additionally, mandating students rely only on instructor-created materials can literally mean students in some academic disciplines will only have access to information in the public domain due to copyright laws. This means students would only be able to learn from information that is minimally 75 years old and older. In a discipline like literature, courses that focus on contemporary literature would be wiped from the catalog. Exploring ideas and hearing voices of contemporary artists would be impossible. Students would be relegated to reading and discussing literature and responses to literature that only exists in the public domain. Students would not be able to further their literary studies through an examination of contemporary issues, a critical component of literary studies.

SB 2328 will severely handicap our students and prevent them from engaging with, reviewing, and learning from carefully vetted, current information as well as reduce their ability to learn from multiple points of view. Limiting students' access to different opinions also reinforces the growing national voice disparaging facts as "false" as well as policies that call for elimination of words from official communication because one group of people find these words objectionable. Students' perceptions, understanding, and knowledge will be limited to the point of view of the individual instructor. This defeats the purpose of obtaining a university education, as students' ability to learn how to think critically will be severely compromised.

SB 2328, however well intentioned, takes our state's public higher education backwards by decades and can result in our students falling significantly behind their peers nationally and globally.

SB-2328

Submitted on: 1/29/2018 8:32:41 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rosiana (Nani) Azman		Oppose	No

Comments:

Aloha. My name is Dr. Rosiana (Nani) Azman, and I am an Associate Professor of Psychology at UH Maui College.

I appreciate the legislature's efforts to help students save money on their path to higher education degrees. It is an admirable charge, one that committees of faculty on every campus in the University of Hawai'i system are researching in great detail every semester. SB2328, while well intentioned, would ultimately hurt that higher education that our students are working so hard to learn.

Open Educational Resources (OER) refer to free, openly licensed material available to everyone. Saving students money is important, but it should not be considered more important than the quality of their education.

By mandating that all faculty in the UH system use OER by 2020-2021, it would limit our ability to assign readings of cutting edge research available in our libraries research databases. Those journals are not openly licensed, but they are free to our students because our campuses subscribe to these databases so that our students and faculty can have access to them at no charge. Mandating the use of OER specifically would prevent our students from learning from these journal articles in our classes.

In some disciplines, the OER material is widely available, especially at the introductory level. Faculty can choose between different OER material in the same way that we used to research traditional textbooks to find what would be most suitable for our courses. However, as the topic areas become more specific, especially in upper level courses, it becomes increasingly challenging to find adequate material available as OER. The quality of OER resources varies greatly, and without the financial incentive to update editions, even good OER resources may quickly become obsolete.

While many faculty would enjoy the opportunity to put together their own OER materials for a course, doing so is greatly time consuming, even for veteran faculty. It can take years to write a textbook, if no adequate OER option exists, and many weeks to curate a collection of existing OER resources for a class. New faculty and lectures would be at a substantial disadvantage if they were required to assemble OER material for their courses, many of whom are assigned to their classes mere days or weeks before the

semesters begin. All this would ultimately result in a lower quality of education for our students.

Certain fields, specifically those requiring licensure such as medicine, dental, and law, must cover specific material as required by their national accrediting bodies. Many of these are published by the governing organization and are not available in OER form. If our students were forced to use only OER while their counterparts in other states had the opportunity to use other material, our students would likely not fair as well on the national board exams. Similarly, many of our liberal arts courses are prerequisites for these highly competitive programs. Again, if limited to using OER, our students may not be adequately prepared to enter these programs.

Additionally, distance education requires particular types of materials to support student learning. Students want the flexibility of online classes, administrators want classes with lower need for physical classrooms, and with students on six islands in the University of Hawai'i system, we are obligated to provide high quality learning opportunities to all. Major publishers have poured hundreds of millions of dollars into developing Online Learning Systems (OLS) that greatly improve learning experiences and retention of information. These systems use video, audio, and interactive content that would take years to develop and cannot reasonably be replaced with OER options.

OER is being treated like the golden ticket to higher education because it is free to the students. To access OER textbooks, students need access to a computer and the internet. I can speak with confidence to the fact that many of our students at the community colleges in rural areas may not have access to a computer at home to be able to read these textbooks. If they do, it is often a single computer for an entire family, most likely located in a family room, probably next to the television and Xbox, which is not conducive to a successful learning scenario. These students would either have to spend all their time trying to read their OER texts in a campus computer lab or need to print out the text, which would once again cost money. Insisting that we save students money by using OER could very well alienate the students from poorer households, once again putting them at a greater disadvantage to their classmates who have their own computers.

One would not walk into a fine dining restaurant and expect the chef to use lower quality material to prepare the meals, just to make the dinner cost less. Similarly, if the chef can find quality material at a lower price, the chef certainly compared suppliers and their goods, just as faculty compare available textbook materials and try to find the best value.

In a different analogy, I would purchase a generic antibiotic as opposed to the brand named antibiotic because it would do the same job for a lower price. However, if a lab culture determined that I had a particular bacteria that are only susceptible to a newer, more expensive brand name antibiotic, I would be willing to pay the higher cost. It makes no sense to save money if I am not going to get well.

Our university is no different. As an institution, our priority should be providing a high quality education to our students. Our students deserve materials that will best serve all of their interests, if we are to educate a competitive and high quality workforce. If we can utilize low- or no-cost textbooks and still provide that high quality education, we can promise you that we do. Each and every campus in the University of Hawai'i has a committee of faculty and staff looking into finding high quality low-and no-cost textbooks for our students. We have no desire to create any added barriers to our students' success.

If the legislature would like to support the use of OER materials for teaching, the most logical step in that direction would be to fund training and support of professors to develop our own resources. Until then, please trust that we faculty are working hard to provide the best education possible for our students, trying to eliminate their barriers for success whenever we can.

Personal Testimony
Presented before the Senate Committee on Higher Education
Tuesday, January 30, 2018 at 1:15 pm
by
Douglas L. Vincent, Ph.D., P.A.S.

SB 2328 Relating to the University of Hawaii

Personal Testimony **opposed** to SB 2328

Chair Kahele and Vice Chair Mercado-Kim and members of the committee

My name is Douglas L. Vincent, and I am a Professor and Animal Scientist in the College of Tropical Agriculture and Human Resources in the Department of Human Nutrition, Food, and Animal Sciences. I am currently a member of the faculty at the University of Hawaii at Manoa and also I serve as the Secretary of the Senate Executive Committee of the Manoa Faculty Senate. My personal testimony does not represent the position of the University of Hawaii, the Manoa Faculty Senate, nor the College of Tropical Agriculture and Human Resources. **I am opposed to SB 2328.**

As a teaching faculty member at the University of Hawaii at Manoa since 1985, I sympathize with the motives of this bill. The cost of higher education has skyrocketed over the last 20 years. I know, I put two children through college. The burden of increasing costs for tuition, fees, and textbooks put stress on a family budget. It is true that one of the increasing expenses is the cost of textbooks and other educational materials. I teach upper division undergraduate courses in the sciences. My textbooks have gotten more expensive, especially over the last ten years or so. But these textbooks provide copyrighted educational materials that I could not easily find in the public domain nor could I produce without a significant expense and a substantial commitment of my time. Time that would be taken away from the other part of my job, doing scholarly work.

In my classes, I do my very best to minimize the costs to my students through the use of educational materials that I put onto my class website. Some of which I purchased using my funds from my textbook publisher. It's a common fallacy that we receive our textbooks from the publisher for free – that's not true. Just like my students, I buy the textbooks I use. I know the costs of the textbook but these textbooks provide important critical content that enables my students to learn the vital material.

To obligate faculty members and lecturers to use or create OER is just wrong. Not everything is available in open access and do so would increase the time to prepare these materials and the costs to obtain the material not available on open access. I urge deferral of this measure.

Thank you for the opportunity to provide testimony.

SB-2328

Submitted on: 1/29/2018 10:13:55 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
wayde oshiro		Oppose	No

Comments:

The aim of SB 2328 to address the high cost of college textbooks by requiring the use of OER in all UH courses by 2020 is commendable but misguided. A blanket mandate as envisioned by SB 2328 is problematic for several reasons:

- The bill restricts faculty to use OER only, even when other zero-cost resources might be available. The bill will not allow faculty to use copyrighted print and electronic resources subscribed to by UH libraries. Such resources are not free for libraries to acquire, but they are provided to students at no additional cost. Mandating OER limits faculty choice.**
- OER is available for an increasing number of subject areas, but some areas are still limited in the variety and depth of materials faculty can choose from. Specialized disciplines may have few, if any, OER at this time. Some programs are required to use teaching materials approved by accrediting bodies which are not typically OER.**
- OER is available free to students, but developing OER requires a significant investment in time by faculty to adapt existing materials, not to mention the additional time and support required to create OER where none exist. No additional funding to support the creation of new OER is provided in this bill.**
- The principle of academic freedom underpins higher education in the U.S. Mandating OER weakens the academic integrity UH as an institution of higher learning.**

Since 2015, a small group of advocates from around the UH system has diligently promoted OER awareness to faculty and students, provided faculty training, and assisted individual faculty members with identifying, adopting, and adapting OER to replace costly commercial textbooks. Collaborating with instructional faculty, OER advocates are successfully convincing faculty on all campuses to consider, evaluate, and eventually adopt OER with more faculty moving away from expensive commercial textbooks each semester.

The UHCC OER initiative is a grassroots effort involving instructional faculty, librarians, and instructional designers. To date, 2,103 class sections with a total enrollment of 36,348 students were taught as zero-cost textbook courses (also know as Textbook Cost: \$0) saving students \$3,267,258. These achievements

were accomplished with existing personnel and a small allocation of funding by the Office of the UHCC-VP. Our success is due to our faculty outreach to raise awareness of OER as an alternative to traditional textbooks and convincing faculty to compare OER side-by-side with traditional publisher textbooks. The decision to adopt OER is a faculty-driven decision; this is where it should remain.

I hope that the introduction of this bill will contribute to the growing awareness of OER in Hawai'i, and along with information shared in this and other testimony, greater recognition of the successful effort already underway at the university to adopt quality zero-cost resources to reduce textbook costs. The creation of OER where none currently exist will take time and money which this bill does not offer. Large-scale OER projects elsewhere receive funding to support OER development, a recognition that faculty will need assistance if they are expected to create their instructional materials.

I humbly suggest that instead of mandating change through legislation, the Senate convey its support of the current UH OER initiative with a resolution. Any funding to assist UH faculty in transitioning to OER will have the effect of spurring faster and more widespread adoptions across the UH system. The return on any investment in support of OER at UH will have a great impact on our students, on higher education, and to the State of Hawai'i.

SB-2328

Submitted on: 1/29/2018 10:35:29 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Junie Hayashi		Oppose	No

Comments:

Testimony opposing SB 2328

Although I believe that SB2328 is a well-intentioned proposal aimed at lowering the cost of textbooks for our students, it is counter to the basic tenets of academic freedom and will have a negative effect on the educational needs of our students.

Open Educational Resources (OER) materials continue to be created and adopted by instructional faculty throughout the nation. As a librarian and OER advocate at Leeward Community College, I assist instructional faculty to find and adopt OER for their courses. Unfortunately, while OER materials are available for many subjects, those resources are not necessarily available or suitable for all subjects and courses. By mandating the use and creation of OER materials, SB2328 would not only be contrary to academic freedom, it would place an undue burden on instructional faculty to comply with this requirement. I support the use of OER, I believe that mandating the use of OER is unrealistic and would cause more unintended problems.

Thank you for the opportunity to provide testimony opposing SB2328.

SB-2328

Submitted on: 1/29/2018 10:49:58 AM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Nishimura	UHWO	Oppose	No

Comments:

At a time when so many scholars are engaged in writing about social justice and look to publish their work in the near future, this bill unintentionally subverts attempts for students to become scholars who offer a critical lens about race, class, and gender. This bill does not consider how disciplines or courses that attempt to teach critical thinking skills in relation to social justice, disciplines such as Anthropology, Sociology, Political Science, Hawaiian Pacific Studies, History, Literature, Philosophy, and many others, ask students to reference and cite the work of Noenoe Silva, Jonathan Osorio, Amy Stillman, Lisa Kanae, Dorothy Fujita, Sara Ahmed, Cornel West, bell hooks, Audre Lorde, and countless others. While I support some facets of OER and look to attend a workshop on our campus this March, by mandating what a faculty member may or may not include for course material, we set back the clock on educational resources for the 21st century learner, and at a time when people of color and women face daily harassment and persecution, cutting edge and recent publications become increasingly crucial for students, teachers, staff, and administrators to engage in dialogue.

SB-2328

Submitted on: 1/29/2018 12:07:30 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kory Uramoto-Wong		Oppose	No

Comments:

Academic professionals have fought over 100 years to protect the entitlement of being able to:

- do research and the publication of their work
- to allow the freedom to teach about their subject however they see fit
- to be able to teach and speak as individuals in a learning institution, free of censorship

Especially being part of a public university system, I would hope that academic freedom would be important to allow teachers to decide what materials they wish to use for their classroom based on what they see fit as well as most effective for their teaching styles and their students needs. But it might have challenges:

- It might be harder to hire teachers that are bound to only using open educational resources. Teachers ultimately would like the freedom to choose their own materials to be used in their courses
- Open education resources are peer reviewed sometimes but anyone can reuse it and also edit information (like Wikipedia). Information can be altered and could become unreliable over time
- On the flip side of resources being altered, open education resources might not be updated often also becoming unreliable and outdated
- Due to the volume of Open educational resources available, the quality of the resources might not be validated for every resource
- Not all subjects have open educational resources available to be adequate for the subject or level of the course. Upper level subjects tend to have less resources to choose from for open educational resources
- It is very time consuming to the teacher to find the appropriate open educational resources to use to apply it to their course
- Open educational resources are dependent on internet connections for the free sharing of resources. Some students might have limitations for these resources

While internet connectivity is sometimes an issue with students, we have been trying to offer other alternatives to expensive textbooks that we call IDAP (Interactive Digital Access Program). Digital textbooks are loaded to our Learning Management System through the partnership of the publishers and a fraction of the cost of a physical book.

we have been able to cut costs of materials down to over half in some instances where a \$300 book is now delivered electronically for \$29. There are still other options that students can choose like getting print versions if they have internet connection challenges but it's alternatives to the growing costs of textbook materials. Students will take advantage of purchasing used textbooks to bringing costs down but whenever they can, they choose to RENT books as this also cuts costs down as well.

I do understand the positive aspects of Open educational resources and I completely understand the good that OER promotes. Who cannot grumble about "free"? However limiting higher education to ONLY using Open educational resources will not promote the uncensored exchange of education from teachers to students at its best quality. Rather I wish to promote the freedom of choice of materials at the discretion of the teacher but at the best interest of the students' financial limitations in mind. Picking the right resources that are most essential but at the cheapest rate possible (if not available free) and also making sure that it is being used adequately throughout the course is equally as important and I think is most beneficial to students in the long run.

SB-2328

Submitted on: 1/29/2018 1:02:40 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Meinke		Oppose	Yes

Comments:

SB 2328 – RELATING TO THE UNIVERSITY OF HAWAI'I.

Chair Kahele, Vice Chair Kim, and members of the committee:

Thank you for the opportunity to submit testimony on SB 2328. As a concerned citizen, I understand and appreciate the intent of this legislation but cannot support the bill as currently written which, beginning with the 2020-2021 school year, requires all courses at all campuses within the University of Hawai'i system that require the use of instructional materials to exclusively use instructional materials from the open educational resources at the University of Hawai'i.

First and foremost, the mandates of this bill violate academic freedom and the individual faculty member's power to choose the instructional materials most appropriate for their courses. It would be nearly impossible to mandate that all materials come from the University of Hawai'i OER, since there is a limited amount of content in the UH OER repository at this time. For this reason, UHM and many UH campuses focus their OER adoption efforts on the highest enrollment, high textbook cost courses which achieve the highest savings for the most students.

I write this testimony as a concerned citizen, but I am also the Open Educational Resources (OER) Technologist for the UH Mānoa campus, and I coordinate efforts on textbook affordability throughout the UH System. My day to day includes actually building OER textbooks with faculty, discussing their challenges as well as new ideas, and supporting them as they work to adopt OER. For someone like myself, such a mandate would hurt my progress.

If the senate would like to support the affordability of instructional materials at the University of Hawai'i, I suggest exploring support and incentives to move faculty towards open, collaborative OER development. Not a mandate that would threaten their role as faculty. This exploration would be best paired with a resolution in support of OER, and funding by which the UH System can establish a complete OER infrastructure and turn the tide towards increasing access to instructional content for all UH students.

Thank you for the opportunity to provide testimony on SB 2328.

LATE

Manoa Faculty Senate Executive Committee Testimony
Presented to the Senate Committee on Higher Education
Christine Sorensen Irvine, Chair
Tuesday, January 30, 2018 at 1:15 pm

SB 2328 relating to the University of Hawaii
Testimony in **opposition**

The Manoa Faculty Senate Executive Committee wishes to express its opposition to SB 2328 relating to the University of Hawaii. The bill would require all courses at all campuses within UH to use exclusively instructional materials from OER at UH and also requires that if OER does not have relevant instructional materials, the faculty member or lecturer responsible for providing instruction for the course **shall** create the instructional materials and offer those free of charge through OER at UH. We see this bill as both short-sighted, an example of overreach into the autonomy of the university, and in direct opposition to academic freedom.

We recognize that textbooks and other instructional materials can be a burden for students. Many of the faculty have already taken steps to lower the costs of instructional materials for students, including adoption of OER. However, OER is not the only approach, nor is it always the appropriate solution for lowering costs of instructional materials.

OERs are any type of instructional materials in the public domain or introduced with an open license. The language of the bill would make use of OER materials the exclusive option for instructional materials. That would prohibit instructors from using materials from the UH library or other resources freely available to students through the university that are not OER.

By restricting instructional materials to OER, there is an assumption that all students have access to computers or tablets and access to the internet to be able to use such OERs, as most are available online. It fails to consider that some students may want books or non-electronic resources that they can mark up and keep as their own. The legislation fails to recognize that use of OER may not be appropriate in every discipline and in fact in some areas with specific content related to licensing (e.g. aviation, cosmetology) adopting OER for all instructional materials is simply not an option. Certain materials may be required by their accrediting agencies and those materials may be copyrighted.

Faculty consider a number of factors when making decisions about instructional materials. Cost is certainly one consideration, but not the only one. OER can be done strategically, but should never be the only option. The bill as written seems short-sighted.

The second mandate in the bill requires faculty to develop OER resources if they are not already available. Academic freedom broadly gives faculty substantial latitude in deciding how to teach their courses, including using the pedagogical approaches and instructional materials they deem best. Such a mandate violates that freedom. In addition, such a mandate has implications

for workload that could reduce faculty time to teach, conduct research, or provide service, and may have contractual implications as well as breach faculty intellectual property rights.

OER is only one part of a larger open access movement. Individual faculty are behind this movement and believe it is supportive of academic freedom, allowing faculty to teach with the resources they wish. Twelve states have had laws supportive of OER, but none have mandated OER use in university classrooms. The point is to encourage universities to reduce costs for students. OER is not the only way to do that. A broader approach is needed, one that recognizes that zero cost may not always be possible, but reducing costs should be the goal. Even publishers are responding to the pressure to reduce costs by providing bundling and other options that reduce the total cost to students.

All UH campuses are currently looking at this issue with most campuses having committees specifically focused on OER or more broadly, reducing costs of learning resources. Some campuses identify courses that are zero cost in their catalogs and have seen increased enrollments in those courses as a result. Many departments have adopted internal policies supporting low or zero textbook costs for all of their courses.

While we understand the intent of the bill is to support student requests for reducing costs of college attendance, we believe a bill such as SB2328 is not the way to accomplish the goal. We urge deferral of this bill.

LATE

SB-2328

Submitted on: 1/29/2018 1:55:50 PM

Testimony for HRE on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Kuntz		Oppose	No

Comments:

Academia should strive to reduce student costs, but the focus on open education resources (OER) as a solution for all disciplines ignores the importance of classroom resources in teaching and learning. Many subjects require constant updates (such as STEM fields). Authoring classroom resources takes a considerable amount of time and talent. As such, there is a place in academia for curated, reviewed and well-authored textbooks.

Reducing student costs is an admirable goal but the mandate to switch to OER will reduce educational opportunities for students, not expand them.