

# SB 1172

Measure Title:	RELATING TO CHARITABLE ORGANIZATIONS.
Report Title:	Charitable Organizations
Description:	Amends chapter 467B, Hawaii Revised Statutes, to replace the term "gross revenue" with "total revenue" and define the term "total revenue" for purposes of calculating the annual filing fee, clarify when professional solicitors must file financial reports, clarify when commercial co-venturers must provide a charitable organization with an accounting and the benefit, and make other housekeeping amendments.
Companion:	<a href="#">HB945</a>
Package:	Governor
Current Referral:	CPH, JDC
Introducer(s):	KOUCHI (Introduced by request of another party)



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1172, RELATING TO CHARITABLE ORGANIZATIONS.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Monday, February 11, 2019 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Patrick K. Kelly, Deputy Attorney General

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Chair Baker and Members of the Committee:

The Department of the Attorney General (Department) supports this bill. This bill amends Hawaii's charitable solicitation and registration law, chapter 467B, Hawaii Revised Statutes (HRS).

Specifically, this bill will: (1) clarify that the annual filing fees are based on the term "total revenue" as shown and calculated on the Internal Revenue Service (IRS) Form 990; (2) ensure that the public receives timely information about professional solicitation campaigns by clarifying that professional solicitors that conduct solicitation campaigns lasting more than one year must file financial reports annually and file a financial report after the end of the campaign; (3) protect charitable organizations by requiring commercial co-venturers to deliver an accounting and the benefit to the charitable organization for which it is soliciting within ninety days of the end of the promotion, and for promotions lasting more than one year, within ninety days of the anniversary of the promotion; (4) protect audited financial statements from public disclosure for all charitable organizations, not just charities; and (5) make other housekeeping amendments.

This bill will assist the Department in oversight of charitable organizations and fundraising activities, will clarify regulatory procedures for the nonprofit sector, and will provide additional disclosures to the public.

We respectfully request that the Committee pass this bill as drafted.



UNIVERSITY of HAWAII<sup>®</sup>  
FOUNDATION

**TESTIMONY OF THE UNIVERSITY OF HAWAII FOUNDATION  
ON SENATE BILL NO. 1172, RELATING TO CHARITABLE ORGANIZATIONS**

**Hearing Date:** February 11, 2019  
**Committee:** Commerce, Consumer Protection & Health  
**Time:** 9:300 a.m.  
**Location:** Room 229, State Capitol  
**Testifier** Hugh R. Jones, In-House Counsel (956-6378)  
*(Written Testimony Only)*

Chair Baker, Vice Chair Chang and Committee Members

The University of Hawaii Foundation (“UHF”), a private, nonprofit charitable corporation, supports the passage of this bill that would clarify provisions of Hawaii’s charitable solicitation law, chapter 467B, HRS, however the UHF requests that the committee report the bill out with a friendly amendment, that was made in section 3 of the House Companion Bill, H.B. No. 945, H.D. 1 discussed below.

This bill will make clarifying amendments to Hawaii’s charitable solicitation law. Specifically, this bill will (1) replace the term "gross revenue" with "total revenue" to be consistent with the Internal Revenue Service Form 990 "total revenue" amount, (2) ensure that the public receives timely

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information about professional solicitation campaigns by clarifying that professional solicitors that conduct solicitation campaigns lasting more than one year must file financial reports annually, and file a financial report after the end of the campaign, and (3) protect charitable organizations by requiring commercial co-venturers to deliver an accounting and the benefit to the charitable organization for which it is soliciting within ninety days of the end of the promotion, and within ninety days of the anniversary of the promotion lasting greater than one year, nonprofit corporation's law to clarify the role of non-voting directors of nonprofit corporations. UHF, like many Hawaii nonprofits have non-voting directors, or trustees on its board of directors, and this bill would provide greater clarity on this point. These amendments will benefit, and protect the nonprofit sector as well as UHF.

However, UHF requests that this Committee amend the bill to include a provision that was included last session's version of this bill (S.B. No. 2747) that was omitted from this year's version as introduced. Specifically, last year, the Department of the Attorney General proposed to repeal language in section 467B-6.5(b), HRS as follows:

~~"(b) A charitable organization [with contributions in excess of \$500,000 in the year covered by the annual financial report and a charitable organization] required to obtain an audit report by a governmental authority or a third party shall include with its annual financial report, an audit report, prepared in accordance with generally accepted accounting principles, by a certified public accountant.~~

The Department of the Attorney General supported the repeal of this language last year, which if adopted, would relieve registered charities from submitting an audited financial statement, if they are not already required to have such an audit due to externally imposed requirements. The cost of auditing financial statements has increased significantly, and almost

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all of a registered charity's financial and operational data is reported on IRS Form 990 and filed with the Department of the Attorney General and available for public inspection online.

Moreover, "financial" audits don't usually discuss weaknesses in an organization's accounting systems or internal controls—such matters are usually discussed in a "management letter" sent by the auditor to management.

The House of Representatives adopted this amendment in House Draft 1 of H.B. No. 945, and we request that this Committee's favorable consideration of this bill with the amendment noted above.

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**Testimony to the Senate Committee on Commerce, Consumer Protection and Health**  
**Senator Rosalyn Baker, Chair**  
**Senator Stanley Chang, Vice Chair**  
**Monday, February 11, 2019, 9:30 a.m.**  
**Conference Room 229**  
**SB 1172 - Relating to Charitable Organizations**

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Dear Chair Baker, Vice-Chair Chang and members of the CPH Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like express **support of SB 1172**, relating to charitable organizations.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. Our member organizations provide essential services to every community in the state.

HANO supports all changes being made in this bill including changing "gross revenue" to "total revenue," to conform with the Internal Revenue Service Form 990; clarifying when professional solicitors must file financial reports; and clarifying when commercial co-venturers must provide the charitable organization with an accounting and the benefit.

Additionally, we ask that you consider again a provision proposed last year to allow charitable organizations to submit financial audits only when it is already required of them by other external entities (i.e. accrediting bodies, government contracts). The proposed language is as follows:

"(b) A charitable organization [~~with contributions in excess of \$500,000 in the year covered by the annual financial report and a charitable organization~~] required to obtain an audit report by a governmental authority or a third party shall include with its annual financial report, an audit report, prepared in accordance with generally accepted accounting principles, by a certified public accountant.

Professional audits can be very expensive, especially for organizations that *just* meet the existing requirement of having contributions in excess of \$500,000 in a year.

We appreciate your consideration of this request to add this language. This amendment was added in the HD 1 version of the companion bill, HB 945. Thank you for the opportunity to submit testimony.

Mahalo,  
Lisa Maruyama, President and CEO