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**TESTIMONY OF THE**  
**CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS**  
**TO THE SENATE COMMITTEE ON JUDICIARY**  
**ON SENATE BILL NO. 2139**  
**RELATING TO VACANCIES**

February 24, 2020

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to testify in support of Senate Bill No. 2139. The purpose of this bill is to amend filing deadlines for candidates attempting to fill vacant state senate seats.

In 2010, our election laws were amended to comply with the federal requirement to transmit ballots to military and overseas voters at least forty-five days prior to an election. 52 USC § 20302 & HRS § 15D-9. This included changing the date of our Primary Election from the second to the last Saturday in September to the second Saturday in August, and the filing deadline from sixty days prior to the Primary Election to the first Tuesday in June. HRS §§ 12-2 & 12-6. As a result, this bill proposes amending HRS § 17-3 to address these changes as a candidate may find themselves in a situation where they could not withdraw and file to fill a vacancy in the office of State Senator occurring shortly prior to the regular close of candidate filing.

Specifically, the existing language of HRS § 17-3(b)(2) refers to a vacancy occurring not later than on the tenth day prior to the close of candidate filing up to the sixtieth day prior to the Primary Election. Additionally, the ability to withdraw for any reason is limited to the following: "the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the fiftieth day prior to an election for reasons of ill health." HRS § 11-117(a). The result of this is that a vacancy occurring on the sixty-fifth day through to the sixtieth day prior to the Primary Election would be just outside of the time frame

to permit a current candidate for a different office to withdraw and file for the new office caused by the vacancy.

In order to address this situation as well as ensure compliance with the federal requirements, we would propose that this bill amend HRS § 17-3(b)(2), as follows, rather than the present language of Senate Bill No. 2139 that makes significant changes to the law regarding the filling of vacancies.

(2) If it occurs later than on the tenth day prior to the close of filing for the next succeeding primary election but not later than ~~on the sixtieth day~~ the close of filing prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the ~~[fiftieth day prior to the next succeeding primary election.]~~ tenth day following the proclamation by ~~[—The]~~ the chief election officer ~~[shall issue a proclamation]~~ designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person appointed shall serve until the election of the person duly elected to fill the vacancy. The governor shall make the appointment from a list of three prospective appointees submitted by the same political party as the prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party;

Thank you for the opportunity to testify in support of Senate Bill No. 2139.