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**TESTIMONY OF ROBIN K. MATSUNAGA, OMBUDSMAN,
ON H.B. NO. 2005, A BILL FOR AN ACT
RELATING TO A WHISTLEBLOWER HOTLINE**

**HOUSE COMMITTEE ON GOVERNMENT REFORM
HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT**

FEBRUARY 4, 2022

Chair McKelvey, Chair Kobayashi, and Members of the Committees on Government Reform and Legislative Management:

Thank you for the opportunity to present testimony on H.B. No. 2500. The purpose of this bill is to require the Ombudsman to establish and manage a hotline for whistleblowers. The bill also specifically authorizes the Ombudsman to receive and investigate whistleblower reports of violations or suspected violation of any law, rule, ordinance, or regulation adopted by the State, a county of Hawaii, or the United States government, as well as any contract executed by the aforementioned government jurisdictions.

It appears that the primary intent of this bill is to create a whistleblower hotline to serve as a single receiving point in the State where employees can file reports of wrongdoings or suspected wrongdoings within their workplace. I believe the proposed whistleblower hotline has merit because it will provide whistleblowers an alternative to where they can report the wrongdoing or suspected wrongdoing.

However, I am concerned that the bill also proposes to expand the jurisdiction of my office to include entities such as the agencies and employees of the State legislative and judicial branches and the federal government, as well as private individuals or companies that may be the subject of the reported wrongdoing, but does not provide funding to support the broadened jurisdiction. Without additional funding and positions, it will be extremely difficult, if not

impossible, for my office to effectively serve the parties who seek our assistance. Even if the bill does not require the Ombudsman to investigate every complaint reported via the proposed hotline, additional funding and staff will still be needed to effectively establish and manage the proposed hotline.

To summarize, the proposal to establish a whistleblower hotline has merit, but unless sufficient funding is provided to my office to handle the added workload, the services my office currently provides the public will be significantly impacted and I would not be able to support this bill.

I would be remiss not to note that even if sufficient funding can be provided, the extent to which my office can remedy whistleblower complaints that are found to be substantiated will be limited by other provisions of Chapter 96, HRS. Typically, whistleblower complaints involve actions that may constitute a criminal offense, a non-criminal violation of a law or rule, or a breach of a legal obligation; pose a danger to health and safety; involve risk of or actual environmental damage; or attempt to hide one or more of the previous actions. However, Chapter 96, HRS, requires my office to maintain the confidentiality of our investigations, does not provide my office authority to compel corrective action, and prohibits my office from testifying in court. These provisions allow my office to act as an impartial critic of government, in line with the classical ombudsman model of practice recognized by the American Bar Association and the United States Ombudsman Association. These same provisions prevent my office from acting as an enforcement agency, and for this reason my office in almost all case will decline to investigate complaints that involve suspected criminal violations, and generally will decline to investigate complaints involving matters for which any remedy would require enforcement action by my office.

Thank you for your consideration of this testimony.