



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 124, PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4 AND 6, OF THE HAWAII STATE CONSTITUTION REGARDING REAPPORTIONMENT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, January 28, 2025

TIME: 9:15 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Reese Nakamura, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purpose of the bill is to propose amendments to article IV, sections 4 and 6, of the Hawaii Constitution to specify that reapportionment shall be based on the resident population, as counted in the most recent decennial United States Census for the respective reapportionment year. It also deletes the reference to "permanent" residents from those sections.

We recommend that the bill be amended to base legislative reapportionment on the "decennial census of the United States for the respective reapportionment year" rather than the "most recent decennial census of the United States for the respective reapportionment year." We are concerned that if the Reapportionment Commission is required to use the "most recent" decennial census and there is a delay in the delivery of the census data, then the "most recent" census could be interpreted to be the previous census from ten years earlier. Therefore, we recommend that references to "most recent" census on page 4, line 10, page 5, line 2, and page 6, lines 11-12, be removed.

In order to eliminate any uncertainty as to which federal decennial census is to be used, we recommend that page 4, lines 3-14, of the bill be amended to read as follows:

Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, using the total number of ~~[permanent]~~ residents, as reported by the decennial census of the United States for the respective reapportionment year, in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house.

We further recommend that page 4, line 17, through page 5, line 5, of the bill be amended to read as follows:

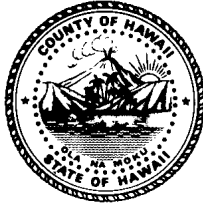
Section 6. Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of ~~[permanent]~~ residents, as reported by the decennial census of the United States for the respective reapportionment year, per member in each district is as nearly equal to the average for the basic island unit as practicable.

We finally recommend that the ballot question in section 4 of the bill on page 6, lines 6-14, be amended to incorporate the above change and read as follows:

"Shall the method of reapportionment, which is the redrawing of electoral district boundaries in the State, be changed so that reapportionment is based on the total number of residents in the State, as reported by the decennial census of the United States for the respective reapportionment year, rather than based on the number of permanent residents in the State?"

Thank you for the opportunity to provide these comments.

Jennifer Kagiwada
Council Member District 2 South Hilo



Office: (808) 961-8272
jennifer.kagiwada@hawaiiicounty.gov

LATE

HAWAI'I COUNTY COUNCIL - DISTRICT 2

25 Aupuni Street • Hilo, Hawai'i 96720

DATE: January 27, 2025

TO: Senate Committee on Judiciary

FROM: Jennifer Kagiwada, Council Member
Council District 2

SUBJECT: SB 124

Aloha Chair Rhoads, Vice Chair Gabbard, and members of the Committee,

I am writing to you in **opposition of SB 124**. This bill proposes a constitutional amendment to specify that reapportionment shall be based on the population, as counted in the most recent decennial United States census for the respective reapportionment year, rather than the permanent resident population. If such a change were to occur, it would result in less representation for our Hawai'i Island residents and a possible loss of one of our State House Representatives.

Hawai'i County has continued to see the fastest growth across our State in permanent long-term residents. While students and military members are valued and important members of our community, it has been shown in prior studies that many of them do not vote or pay taxes in our State. Nothing in our Constitution as currently written is denying them the same access to participation in our legislative process and the ability to engage with the representatives from their respective districts. It is paramount that we provide representation for our long-term permanent residents first and foremost.

Thank you for the opportunity to testify in **opposition to SB 124**.

Mahalo,

A handwritten signature in black ink, appearing to read "Jenn Kagiwada".

Jenn Kagiwada

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY 01-28-25

Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair

ON

S.B. 124 PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4
AND 6, OF THE HAWAII STATE CONSTITUTION REGARDING
REAPPORTIONMENT

by
Scott W. Smart

Chairman Rhoads and members of the Senate Committee on Judiciary:

I am testifying STRONGLY SUPPORTING S.B. 124

As a citizen of Hawaii, I have been following, and supporting changes to, the way reapportionment has been conducted since the 2000 census/reapportionment. During 2000 and subsequently, I have been a resident and citizen of Hawaii, paying Hawaii State Resident Income Tax, holding a Hawaii Driver's License, and owning real property. After the 2000 census during Reapportionment Committee hearings, I was informed that I was not a "permanent resident" because my wife was an active duty service member. Therefore, I would not be counted as a resident of a legislative district during the reapportionment. As a result, my state house and senate representatives must represent many more people than other districts.

The methodology used for removing "non-permanent residents" from census tracts is imprecise, as the Reapportionment Committee is only provided a gross number of persons who may be non-permanent and that number is applied to census tracts in an arbitrary manner.

There is no rational basis for determining "permanent resident". Length of residency is not a factor. "Undocumented immigrants" are considered "permanent residents". A child born in Hawaii to a military family is, by the US Constitution Amendment XIV, included in "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside" and thus a Hawaii Citizen, yet is still "non-permanent". The appearance is that "permanent" resident" is being used to exclude military from representation. While there may have been an argument that the military 100 years ago was primarily transient and living in barracks/onboard ship, the military of 2025 is largely family-oriented and heavily impacted by state and local laws and services.

Hawaii should join the rest of the United States in using the census numbers for reapportionment. This bill, if passed and ratified, would accomplish that.

/s/

Scott W. Smart
94-210 Kakaili Pl
Mililani, HI 96789
(808) 627-1220

SB-124

Submitted on: 1/24/2025 2:59:50 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Shannon Matson	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, and committee members,

I am a resident of Hawai'i Island who followed the last Reapportionment and Redistricting process extremely closely and testified in opposition to this measure when it was brought up in the last few sessions. I am still in strong opposition. There were many frustrating and inequitable issues that occurred during this last redistricting, a quick (but in no way complete) list would be that the census data has many documented and undocumented errors, stemming from difficulties in counting people during COVID, the fact that they do not send census letters to P.O. Boxes, of which a HUGE population in rural areas of Hawai'i are (with even more people being on general delivery and/or not having a post office box at all considering that there is a year or more wait list to get a box in my neighborhood of over 4,000 lots on 75 miles of unpaved roads), the Reapportionment Commission did not do an adequate job of education or outreach during their process, and they failed to follow part of the Constitution that dictates that they are to place representative districts WHOLLY within senatorial districts. There was a supreme court case on this issue, and it was clear that the judges would have directed them to redraw the maps in alignment with the Constitution had there been more time to do so and not held up filing deadlines.

As many of us already feel significantly underrepresented on the neighbor islands, seeking to dilute our permanent, long-term resident representation further in favor of granting additional seats to O'ahu's short-term student or military population is insulting and disheartening. Let's fix the other reapportionment and redistricting issues and once we know we truly have an accurate count of how many residents live in rural areas then we can discuss any remaining equality issues around removing students and military from the count. Based on data provided by the military last reapportionment it was difficult to say how many of them retained their right to vote elsewhere and where they pay their taxes, but without definitive data on that it can be assumed that they follow in keeping with what the majority of students and military personnel do, which is that they continue to vote and pay taxes in their home state.

The first sentence of this bill states that Hawai'i is unique in its reapportionment extraction process, and it fails to note that we are unique for a very important reason. No where else are districts separated by water, with the seat of government located on the island most heavily populated by military and student non-residents and the rest of the islands would lose representation if the count were performed differently. This helps bridge the gap between the inquiry that exists for many of our permanent residents. Almost anyone who lives in Hawai'i,

outside of O'ahu, already feels disenfranchised due to the seat of Government and affairs that occur on O'ahu. Our voices are already significantly diluted. We already must travel to O'ahu for most complex or specialty medical procedures. We suffer greatly from the lack of services, infrastructure, and funding of basic needs that get prioritized for O'ahu first. Do not take away more of our power in getting our voices heard and the representation we deserve for our permanent residents. Please do not support this bill.

Mahalo,

Shannon Matson

Hawai'i Island Resident

SB-124

Submitted on: 1/22/2025 4:42:56 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
David Hunt	Individual	Oppose	Written Testimony Only

Comments:

I strongly OPPOSE SB124.

It is disrespectful to permanent Hawaii Residents to seek to amend our constitution and seek any alleged rights of NON-resident military to be "represented" at the legislature while ignoring the rights of Permanent Hawaii residents - who would have our representation and our votes weakened by having Oahu's population artificially inflated by 100,000 non-residents."

I strongly disagree wiith this attempt to alter the Constitution to redefining the definition of a permanent resident for reapportionment purposes.

You were not elected to represent NON-residents or tourists. Focus on the challenges and issues important to your actual constituents!

SB-124

Submitted on: 1/22/2025 10:07:25 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Cory Harden	Individual	Oppose	Written Testimony Only

Comments:

Aloha legislators,

Do not re-define military personnel as permanent residents.

Military personnel don't pay taxes to Hawai'i, don't vote in Hawai'i, and don't live here long enough to know Hawai'i or see the long-term consequences of elections.

SB 124 would mean Hawai'i Island loses at least one House Representative, and possibly a Senator, giving us even less voice in decisions made by the Legislature.

Mahalo,

Cory Harden, Hilo

SB-124

Submitted on: 1/23/2025 8:41:25 AM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I **STRONGLY OPPOSE** this Bill and I urge all Committee members to **VOTE NO**.

SB-124

Submitted on: 1/23/2025 11:08:29 AM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Darlene Scancella	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB124 for several reasons. The military personnel are not paying state taxes, they are in many cases here temporarily, they do not have a long term invested interest in the state. We would lose at least one house representative and maybe a senator. For those residents that have a long term investment and commitment to the state's future, many for generations, it's a slap in the face. The military has taken away enough from Hawaii, financially and environmentally, to give military personnel more power by giving them permanent residence status without having to pay taxes and taking away voting power from the state is wrong.

SB-124

Submitted on: 1/24/2025 4:11:49 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Mary True	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB124. We have regulations for a reason and people love to cut corners for profit which can be exponentially costly down the road.

Aloha and mahalo, Mary True

Committee on Judiciary

Tuesday, January 28, 2025, 9:15 a.m.

State Capitol, Room 016

TESTIMONY

Chair Rhoads, Vice Chair Gabbard and Members of the Committee:

I am submitting personal testimony in support of SB 124, PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4 AND 6, OF THE HAWAII STATE CONSTITUTION REGARDING REAPPORTIONMENT.

This bill proposes a constitutional amendment to specify that reapportionment of seats for Hawaii's elected officials should be based on the resident population (as counted in the most recent decennial United States census for the respective reapportionment year), rather than extracting "nonpermanent residents" from this United States Census data to derive the permanent resident population.

For Federal House of Representative seats, such decennial U.S. census data is already the basis for allocating Hawaii its two seats. Every state except Hawaii also relies on this published data to conduct their State reapportionment. Hawaii's approach means an extra step is taken to exclude temporary residents from the U.S. census data for Hawaii.

Why exclude temporary residents such as our military, their families and college students living in Hawaii temporarily, from our State reapportionment? All Hawaii residents should be included in Hawaii's reapportionment plan. The "equal protection" clause in the 14th Amendment to the U.S. Constitution guarantees every resident of the United States Federal Congressional representation as well as state representation. But similar protection is not afforded for Hawaii legislative seats because of the apportionment base we persist in using for State elections. Our Attorney General has already submitted testimony supporting this bill and I appreciate this effort to protect Hawaii from potential legal liability.

Since 1992 when the "permanent resident" definition was adopted, it has been difficult for our Reapportionment Commission to determine the count for "permanent" residents. The 2011 Reapportionment Commission recommended use of total resident population in its 2011 Final Report, no doubt in part because this would make for a more efficient process by shortening the time required to complete the full Reapportionment Plan. Eliminating calculation of "nonpermanent residents" would also promote transparency by making it easier to understand the population base.

Then there's the real but less tangible factor. Isn't "extracting" or "excluding" temporary residents counter to our Aloha spirit? Especially when we realize, well, they do live here, are entitled to representation (and in fact already receive representation) from the State officials elected for the district where they live.

Thank you for the opportunity to submit my testimony.

SB-124

Submitted on: 1/26/2025 5:22:28 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Kuzmier	Individual	Support	Written Testimony Only

Comments:

Aloha, I am writing in favor of this amendment proposal, providing that it holds to the stipulation that it remains nonpartisan and avoids any hint of gerrymandering. Because of this concern, which has happened in many of the other states depending on the party in power, I believe the amendment should specify somewhere in the text that the reapportionment commission is to remain nonpartisan in its reallocation, perhaps using some of the text that is in the bill itself that specifies this stipulation so that it is more solidly codified in the constitution that gerrymandering is prohibited. Mahalo.

LATE

SB-124

Submitted on: 1/27/2025 10:12:13 AM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Aria Juliet Castillo	Individual	Oppose	Written Testimony Only

Comments:

As a resident of Kailua, who would likely GAIN more representation because of the increased military presence in our community, I am concerned that this will harm the neighbor islands and their representation at the state legislature. Please OPPOSE this bill.