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To: [Standards of Conduct](#)
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June 1, 2022

Testimony to the COMMISSION TO IMPROVE STANDARDS OF CONDUCT

Aloha Commission Chair Judge Foley and Members,

Thank you all for being willing to serve on this important commission.

In addition to the items listed on your agenda for today's meeting, my hope is that you will also consider the 3 suggestions offered below.

In my experience gained through serving in the State Senate for 8 years, on the County Council for 8 years, and as a legislative policy advocate on the outside for another 8 years - I believe that the manner in which the peoples work is being conducted today at the State Capitol violates both ethical and legal norms.

Perhaps it has always been bad, but it's worse today than I have ever seen it. Or, it may be that it has taken me years to open my eyes to the political corruption, unethical, and illegal actions. In any case, things are bad.

To greatly improve the legislative environment and consequently the faith and confidence of the public in its government, I strongly encourage the committee to consider the following 3 actions:

1. **Ban the solicitation and acceptance of campaign funds during the legislative session.** This topic has been thoroughly discussed in many venues and it's common knowledge that some legislators solicit campaign contributions from entities who have legislation pending before them. Many other states ban this practice.
2. **Require the legislature to follow the State Constitution Article III Section 12.** This is the 60,000-pound gorilla in the room: Too many decisions are made in the dark, away from sunshine and public oversight - and it's against the law. The Hawaii State Constitution Article III, Section 12 states:

“Every meeting of a committee in either house or of a committee comprised of a member or members of both houses held for the purpose of making a decision on matters referred to the committee shall be open to the public.”

It's common practice now for committee members, certainly the chairs, to meet in private “for the purpose of making a decision on matters referred to the committee.”

They meet in private, negotiate in private, and agree on the outcomes in private, emerging from the closed private meetings to announce the outcome, then formally vote at the public meeting.

This clearly violates the State Constitution and fosters a climate of secret deals being made in secret places. The public's business should be done in public.

3. End the unilateral power of a committee chair by requiring publicly recorded votes by committee members on decisions to hear, kill or pass a bill. Ask any legislator and they will tell you that certain legislators in leadership positions and/or Chairs of influential committee's will kill bills for political and personal reasons, regardless of the public policy impacts.

Some Chairs will kill a bill simply because a friend, colleague, or member of leadership asked them to do so. Now we know that some do it for cash stuffed into envelopes, trips to casinos and fancy dinners.

This conduct is clearly unethical yet it's common knowledge that it's common practice.

Chairs will kill bills simply by not scheduling them for a hearing or if a measure is scheduled, they will kill a bill by simply stating that the bill will be "deferred". In both cases no public votes are cast by the committee affirming the Chair's decision.

If a publicly recorded vote of individual committee members was required to kill a bill, then the unilateral power of the Chair would be greatly diminished, the democratic process greatly enhanced, and the attractiveness of bribery greatly reduced.

Yes, a majority of the members who sit on a committee can request and require a vote or a hearing. However, a legislator making such a request risks retaliation from the Chair. Making public votes to hear, kill or pass bills mandatory removes the very real threat of retaliation.

According to the Brennan Center for Justice at NYU School of Law, approximately 25% of [state legislative chambers](#) across the United States, in both red and blue states, require committees to hold hearings on every bill referred to them or if requested by the sponsor or, in some states, by any legislator. If the volume of bills was such that it makes hearing every bill impractical, the committee members themselves could caucus on and select which bills are to be heard, with their actions and votes tallied for public review.

The above proposals are not overly complicated or difficult to implement. Item #1 is easy. Item's #2 and #3 requires the adoption of a legislative budget and schedule to allow for the extra time and the additional staffing that may be needed.

Item #2 requires that lawmakers follow the law and the COMMISSION TO IMPROVE STANDARDS OF CONDUCT is encouraged to seek guidance from the attorney general's office as to their opinion on whether or not the legislature is in fact currently complying with the State Constitution Article III Section 12.

Mahalo to the Committee for giving the above your positive consideration.

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