

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 784, S.D. 1, H.D. 1, RELATING TO AIRLINES.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Wednesday, March 22, 2023      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Marjorie A. Lau, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill in its current form and provides the following comments.

The purpose of the bill is to require the Department of Transportation to establish a two-year pilot program to provide subsidies to airlines operating out of Molokai Airport. Section 1 of the bill provides that a subsidy can help the airlines offset the cost of passenger tickets while encouraging other airlines to also provide service at Molokai Airport.

As we have previously discussed, we are concerned that the bill fails to provide standards by which the Department of Transportation is to subsidize airlines that operate out of Molokai airport. Article VII, section 4, of the Hawai'i Constitution provides in part: *No grant of public money or property shall be made except pursuant to standards provided by law.* (Emphasis added.)

To resolve this constitutional infirmity, the bill should be amended to include the standards and qualifications for making the subsidies, as has been enacted for other administrative grant programs. Examples of such statutory standards and qualifications can be found in part II of chapter 9 and sections 10-17, 210D-11, and 383-128, Hawaii Revised Statutes. We have attached draft standards to this testimony as a sample. The suggested draft standards may be inserted on page 2, line 7, after "Molokai airport in offsetting their costs of operation" as part of section 2(a) of the bill. We respectfully

ask that the Committee amend the bill to insert grant standards, so that the bill satisfies the constitutional requirement.

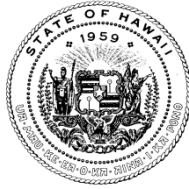
Thank you for the opportunity to testify.

**POSSIBLE STANDARDS FOR THE GRANTS IN THIS BILL**

At a minimum, an applicant shall show that:

- (1) Any grant shall be used exclusively for the purposes of this program.
- (2) The applicant has capability to properly use the grant for the purpose of the grant program.
- (3) The applicant shall comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, disability, or any other characteristic protected under applicable federal or state law.
- (4) The grant shall not be used for purposes of entertainment or perquisites.
- (5) The applicant shall comply with other requirements as the department of transportation may prescribe.
- (6) All activities undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances.
- (7) The applicant shall indemnify and save harmless the State of Hawai'i and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department.
- (8) The applicant shall agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with this section.

JOSH GREEN, M.D.  
GOVERNOR



**TESTIMONY BY:**  
EDWIN H. SNIFFEN  
DIRECTOR

Deputy Directors  
DREANALEE K. KALILI  
TAMMY L. LEE  
ROBIN K. SHISHIDO  
JAMES KUNANE TOKIOKA

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 22, 2023  
2:00 P.M.  
State Capitol, Teleconference

**S.B. 784 SD1 HD1**  
**RELATING TO AIRLINES**

House Committee on Judiciary & Hawaiian Affairs

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The Department of Transportation (DOT) **supports** this bill which establishes a one-year pilot program to provide subsidies to airlines operating out of Molokai Airport and Lanai Airport.

It is our understanding that the needs of the communities on Molokai and Lanai are not being met by the one operating air carrier. This one-year pilot program will encourage increased air carrier operations out of Molokai and Lanai.

Thank you for the opportunity to provide testimony.