



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1521, RELATING TO GOVERNMENT CONTRACTS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Tuesday, February 3, 2026 **TIME:** 02:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Jung Min (Charles) Lee, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

This bill would require government services contracts to include mandatory provisions obligating contractors performing a "government function" to retain records created, received, maintained, or used in contract performance in accordance with the contracting agency's records retention schedule, and to provide the agency access to those records for potential disclosure under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (UIPA). The bill also defines "government function" broadly as any service, program, or activity an agency is authorized or required by law to perform.

The Department is concerned that these requirements are overly burdensome and will discourage contractors from bidding on state projects, thereby reducing competition and increasing costs to the State. In particular, subsection (a)(1) of the new section to be added to chapter 92F (page 2, lines 7-9) requires private vendors to adopt rigid, state-mandated retention and destruction timelines regardless of existing records management systems or industry practices. Contractors may be unwilling to assume these compliance obligations, and those that do bid may increase prices to account for the additional administrative burden, legal risk, and technical resources needed to implement and monitor compliance.

The bill further provides that records retained by contractors "shall be deemed government records" for purposes of chapter 92F. This provision raises significant practical and legal concerns for agencies, including increased disputes over whether particular records are subject to disclosure, whether responsive records exist, and whether records have been properly retained. It would also place agencies in the position of responding to UIPA requests and defending the record-keeping practices of private contractors—entities over which the State does not exercise the same level of control as it does over agency personnel and internal systems.

Additionally, the Department is concerned that the UIPA's statutory response deadlines would continue to apply even though agencies would first need to obtain records from contractors and then review, redact, and segregate them as necessary before disclosure. The ten working-day response deadline will often be insufficient where contractor records are voluminous or where contractors delay in providing requested records. As a result, the State may be exposed to UIPA litigation and potential liability for attorneys' fees based on factors outside agencies' direct control.

Finally, the Department believes the bill is unnecessary because records related to government-contracted services are already subject to UIPA disclosure requirements to the extent they are administratively maintained by the agency, including situations in which the agency has contractual access rights to contractor records.

For these reasons, the Department respectfully requests that this Committee hold this bill.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Judiciary & Hawaiian Affairs

From: Carlotta Amerino, Director

Date: February 3, 2026, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 1521
Relating to Government Contracts

Thank you for the opportunity to submit testimony on this bill, which would add a new section to chapter 92F, HRS, the Uniform Information Practices Act (UIPA), requiring (via a mandatory contract provision) every government contractor performing a government function to retain related records and make them accessible to the agency on request, including for the purpose of the UIPA. The Office of Information Practices (OIP) offers **comments** on this proposal.

The UIPA applies not only to records in an agency's direct possession but also to records administratively maintained by the agency, and OIP has long interpreted that to include government contractor records that the agency has a contractual right to access. This bill would make such a contractual right of access a standard feature of government contracts for performance of a government function, and thus promote the public's ability to request records relating to government work even when that work is actually performed by a contractor. OIP therefore considers this bill generally consistent with the UIPA's intent and current provisions.

OIP is concerned, though, that use of the term "government function" in this provision will have unintended consequences on one of the UIPA's exceptions to

disclosure. Section 92F-13(3), HRS, commonly known as the “frustration exception,” allows an agency to withhold records when disclosure would frustrate a legitimate government function. This bill proposes a new definition of “government function” that is limited to things an agency is “authorized or required by law to perform.” In other words, a government function would be limited to programs, services, or activities that are specifically required or authorized by statute, constitution, or other law.

That limitation is appropriate for this bill’s proposal to ensure that government contractors’ records of performing such activities are available under the UIPA. The problem is that since the frustration exception uses the same term, the definition would apply with equal force to the existing frustration exception and could significantly narrow it. For instance, OIP has in the past recognized as a “government function” an agency’s interest in prudently managing public money, or in conducting an internal investigation without interference, or in maintaining a fair marketplace by preventing substantial competitive harm to contractors or regulated businesses through disclosure of their confidential commercial and financial information. These sorts of functions may or may not be reflected in an agency’s specific statutory duties and authorizations, and thus adoption of the proposed definition of a “government function” would throw into doubt the extent to which agencies could withhold records of an ongoing investigation, or detailed financial and commercial information of regulated businesses, or other types of information that would currently fall within the frustration exception.

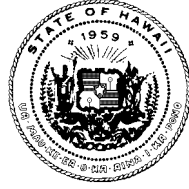
OIP therefore recommends that this Committee **replace the term “government function” in the proposed new section and new definition with “agency function,”** and note in the Committee Report that “government function” and “agency function” are not intended to be synonymous terms.

Senate Committee on Judiciary & Hawaiian Affairs
February 3, 2026
Page 3 of 3

Specifically, **“agency function” should replace “government function” on bill page 2, lines 5 and 18.**

Thank you for considering OIP’s testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



LEANNE GILLESPIE
EXECUTIVE DIRECTOR
LUNA HO'OKELE

Phone: (808) 587-5710
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STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
OFFICE OF YOUTH SERVICES
Ke'ena Lawelawe 'Ōpio
1010 Richards Street, Suite 314
Honolulu, Hawaii 96813

February 2, 2026

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Leanne Gillespie, Executive Director

SUBJECT: HB 1521, RELATING TO GOVERNMENT CONTRACTS

Hearing: Tuesday, February 3, 2026 @ 2:00 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Office of Youth Services (OYS) provides comments.

PURPOSE: The purpose of this bill is to require contractors performing government functions on behalf of public agencies to be subject to the Uniform Information Practices Act (UIPA).

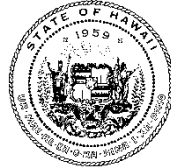
Requiring government contracted agencies to be subject to the Uniform Information Practices Act could create a significant cost and resource burden on contracted agencies, especially those which are smaller. The Office of Youth Services is concerned that, if passed, this will drive up contract costs and may result in agencies cancelling contracts for critical services to at-risk youth. Additional appropriations would be required for rising contract costs, especially for those contracts that have not seen a cost increase for several years. The Office of Youth Services relies heavily on these contracts to provide prevention and intervention services

AN EQUAL OPPORTUNITY AGENCY

to youth and families who are at risk of juvenile justice involvement. OYS would require additional human resources to respond to the expected increase in UIPA requests.

Thank you for the opportunity to provide comments.

JOSH B. GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ADMINISTRATOR

DAYNA OMIYA
ASSISTANT ADMINISTRATOR

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state_procurement.office@hawaii.gov
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**TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE HOUSE COMMITTEE
ON
JUDICIARY & HAWAIIAN AFFAIRS
FEBRUARY 3, 2026, 2:00 PM**

**HOUSE BILL 1521
RELATING TO GOVERNMENT CONTRACTS**

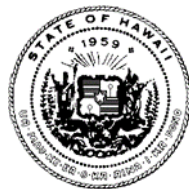
Chair Tarnas, Vice Chair Poepoe, and members of the committee, thank you for the opportunity to submit testimony on House Bill 1521. The State Procurement Office (SPO) acknowledges the intent of this bill to ensure records from outsourced governmental functions continue to promote transparency, oversight, and public access. The SPO respectfully offers the following comments.

Chapter 92F, Hawaii Revised Statutes (HRS), the Uniformed Information Practices Act (UIPA), establishes the governance of public records, including their accessibility, maintenance, and privacy protections. This Act promotes transparency, accountability, and public access to government records while maintaining protection of personal privacy. The SPO acknowledges the intent to enhance public trust; however, House Bill 1521 does not explicitly address the privacy of proprietary or confidential information. Records related to government functions will be considered government records under UIPA. Furthermore, existing exemptions for trade secrets and confidential commercial information should remain applicable.

To ensure compliance with UIPA, implementation of clear procedures is necessary to identify, label, and protect proprietary or confidential information in records created, received, or used during the performance of outsourced governmental functions. Implications include additional administrative resources to ensure UIPA compliance for outsourced functions and potential disclosure liability for contractors or agencies that fail to protect sensitive information.

Thank you for the opportunity to submit testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 2, 2026

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 1521 – RELATING TO GOVERNMENT CONTRACTS**

Hearing: February 3, 2026, 2:00 p.m.
Conference Room 325 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services provides comments.

Requiring government-contracted providers to retain all records related to their performance of the government contract and subjecting contractors to the requirements of the Uniform Information Practices Act (UIPA) would likely require extensive increases in general fund appropriations to include these added responsibilities in the scope of any contract and thereby increase the cost of services across the board.

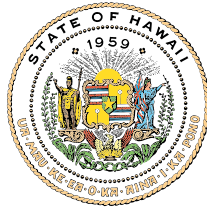
DHS contracts primarily include services for individuals, such as health care coverage for nearly a third of Hawaii's population, and are subject to other federal and state laws that prohibit disclosure except as permitted, as well as sections 92F-13, -14, Hawaii Revised Statutes. DHS expresses concern that re-identifying capabilities are becoming easier to do by leveraging demographic data enabled by large data models and artificial intelligence.

The Department would require additional human resources to prepare for and respond to UIPA requests, which are expected to increase in volume and complexity if this bill becomes law.

Thank you for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



KALBERT K. YOUNG
EXECUTIVE DIRECTOR

GAIL STROHL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

**TESTIMONY BY KALBERT YOUNG
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 1521**

February 3, 2026

2:00 PM

Conference Room 325 and VIA Videoconference

RELATING TO GOVERNMENT CONTRACTS.

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

While the Board of Trustees (BOT) has not had a chance to review the bill, the Employees' Retirement System (ERS) appreciates the intent of HB 1521 and is thankful for the opportunity to offer comments regarding this measure.

HB1521 proposes to amend chapter 92F, Hawaii Revised Statutes (HRS) by adding the requirement that contractors performing the function of a government agency be subject to the same records retention and information disclosure requirements as the agency under the Uniform Information Protection Act (UIPA).

Should this bill progress, we respectfully urge some considerations to keep in mind. The ERS is a complex organization managing multiple strategies and systems to invest, account for, and disburse billions in income and benefits. As such, engagement with specialized and expert contractors is both necessary and valuable.



Employees' Retirement System
of the State of Hawaii

City Financial Tower • 201 Merchant Street, Suite 1400 • Honolulu, Hawaii 96813-2980
Telephone (808) 586-1735 • Fax (808) 586-1677 • <http://ers.ehawaii.gov>

Confidentiality of proprietary information and processes is crucial to both attract and retain the services of partner organizations and maintain competitive market positions. This was recognized by the Legislature in the passage of Act 71 in 2021 which codified rules to maintain the confidentiality of information related to alternative investments of the system which are actively managed by investment partners. We respectfully recommend that this need for certain specific exemptions continue to be recognized so that the system can carry out its fiduciary duty to protect member interest while maintaining transparency through publishing non-confidential aggregate data.

Thank you for the opportunity to provide comments on HB 1521.



House Committee on Judiciary and Hawaiian Affairs

Tuesday, February 3, 2026, 2 PM Hearing in Conference Room 325 on
HB 1521, Relating to Government Records

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The League of Women Voters of Hawaii supports the intent of HB 1521. However, we are uncertain whether the bill needs to be amended so that it does not require inappropriate disclosure of contractor “trade secrets”.

A couple years ago the University of Hawaii (UH) entered into a controversial personnel search contract which deliberately prevented normal disclosure of contractor work products to the UH. Non-disclosure of contractor work products to the UH also shielded contractor work products from public disclosure under UIPA. In effect this UH contract pioneered a new and abusive way for public agencies to frustrate public review and comment on the performance of government contractors.



**TESTIMONY IN OPPOSITION TO HB1521
RELATING TO GOVERNMENT CONTRACTS**

Aloha Chair, Vice Chair, and Members of the Committee,

My name is **Venus Kau‘iokawēkiu Rosete-Medeiros**, and I respectfully submit this testimony in **opposition to HB1521**.

I serve as the President and CEO of **Hale Kipa**, a community-based nonprofit organization that has partnered with the State of Hawai‘i for over 55 years to provide critical services to vulnerable youth and families. While we fully support transparency and accountability in government, HB1521 places an **unreasonable and unintended burden on nonprofit contractors** that will ultimately undermine service delivery and strain already limited resources.

Hale Kipa is a COA accredited organization. COA accreditation standards for private organizations are designed to promote an organization’s capacity to fulfill its mission. The standards address both administrative and service delivery practices to enable the review and accreditation of the entire organization. Which means every other year, we participate in a highly scrutinized process to ensure we are effectively managing our resources, implementing best practices, and incorporating community voice.

HB1521 would subject records created, received, maintained, or used by private contractors performing government functions to the Uniform Information Practices Act (UIPA). For community-based organizations, this represents a significant expansion of administrative, legal, and compliance responsibilities **without additional funding, staffing, or infrastructure to support it**.

Nonprofit service providers are already operating under intense strain. We are navigating rising costs related to labor, insurance, rent, utilities, and compliance, while managing chronic underfunding of government contracts. Requiring nonprofits to respond to public records requests often complex, time-sensitive, and legally nuanced would divert scarce staff time and financial resources away from direct services and toward administrative and legal processes.

More concerning is the potential impact on **client confidentiality and trust**. Community-based organizations work with highly sensitive information involving minors, families in crisis, survivors of abuse, and justice-involved individuals. Even with redaction requirements, the risk of misinterpretation, inadvertent disclosure, or erosion of client trust is real. This could discourage individuals from seeking help or fully engaging in services, undermining the very outcomes the State seeks to achieve.

It is important to note that nonprofit contractors are **already subject to extensive oversight**, including audits, monitoring, reporting requirements, and strict confidentiality laws such as HIPAA and FERPA where applicable. Adding UIPA compliance on top of these existing requirements creates duplication rather than meaningful improvement in accountability.

If the Legislature wishes to strengthen transparency, a more appropriate approach would be to require public agencies, not nonprofit contractors, to remain responsible for responding to public records requests related to contracted services. This preserves transparency while recognizing the operational realities and capacity limits of community-based organizations.

For these reasons, I respectfully oppose HB1521. Passing this measure would place an unfunded mandate on nonprofits, weaken service capacity, and create unnecessary risk at a time when Hawai'i should be focused on stabilizing and strengthening the community-based organizations that serve our most vulnerable residents.

Mahalo nui loa for the opportunity to provide testimony and for your consideration of these concerns.

Me ka ha'aha'a,

A handwritten signature in black ink, appearing to read "Venus Rosete-Medeiros". The signature is fluid and cursive, with a long horizontal stroke at the end.

Venus Kau'iokawēkiu Rosete-Medeiros
President & CEO, Hale Kipa



House Committee on Judiciary and Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Mahina Poepoe, Vice Chair

RE: Testimony in Support of H.B. 1521, Relating to Government Contracts
Hearing: February 3, 2026 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony in **strong support** of H.B. 1521 and **recommending a clarifying amendment**.

The Uniform Information Practices Act (UIPA) is a critical tool for ensuring an open and transparent government. This bill addresses a loophole in the UIPA, where an agency contracts away its right to obtain records related to a private company's performance of a government function.

As a notable illustration, the University of Hawai'i Board of Regents outsourced its presidential search function and agreed to relinquish its rights to "any candidate information." Stewart Yerton, *UH Contract Specifically Hides President Search Details from the Public*, Honolulu Civil Beat (Dec. 6, 2024) (<https://www.civilbeat.org/2024/12/uh-contract-hides-president-search-details-from-public/>); accord Sen. Stand. Comm. Rep. No. 321 (2025) ("Your Committee finds that outsourcing contracts that hire contractors to perform government functions often result in the public losing access to documents that would have otherwise been available for inspection as government records under the [UIPA]."). Such action plainly violates the intent of the UIPA to require "the discussions, deliberations, decisions, and action of government" to be "conducted as openly as possible." HRS § 92F-2.

H.B. 1521 ensures that the public's right to know is not be diminished when agency functions are outsourced to private companies. It closes the loophole by affirmatively establishing that contracts for the performance of an agency function require the contractor to retain and provide the agency with access to records related to performance under the contract. It also addresses concerns raised in response to a similar measure introduced last session – S.B. 1255 (2025) – regarding existing protection for trade secrets. Nothing in this proposal limits or dilutes the disclosure exemptions under HRS § 92F-13, including the protections for trade secrets.



House Committee on Judiciary and Hawaiian Affairs
February 3, 2026
Page 2

In consultation with the Office of Information Practices, we respectfully recommend **replacing** “government function” **with** “agency function” at page 1, lines 5, 9, & 14; and page 2, lines 5 & 18 to avoid potential confusion with the existing “frustration of a legitimate government function” exemption under HRS § 92F-13(3).

Thank you again for the opportunity to testify in strong support of H.B. 1521.



All Hawaii News * P.O. Box 612 * Hilo, HI 96721 * www.allhawaiinews.com

February 1, 2026

**The Honorable Rep. David Tarnas, Chair
The Honorable Rep. Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs**

**From: Nancy Cook Lauer, publisher, All Hawaii News
www.allhawaiinews.com publisher@allhawaiinews.com 808.781.7945**

In SUPPORT of HB 1521 RELATING TO GOVERNMENT CONTRACTS

All Hawaii News, a state government and political news, commentary and aggregate blog covering Hawaii since 2008, supports HB 1521, clarifying that records created, received, maintained or used by private contractors performing government functions on behalf of public agencies shall be subject to the Uniform Information Practices Act.

Contractors performing government functions using taxpayer money should be subject to the same laws and rules as government agencies themselves. The public has the right to know certain details of agency research and actions, whether performed by government agencies themselves or contractors they have retained.

Transparency and accountability should always be the default where the public's money and government powers are at issue. There are plenty of UIPA exceptions for the areas of concern.

This is a good-government bill that should be supported. I am grateful to the bill's introducers and to the committee for hearing this measure.

Mahalo nui for considering HB 1521.

Feb. 3, 2026, 2 p.m.
Hawaii State Capitol
Conference Room 325 and Videoconference

To: House Committee on Judiciary & Hawaiian Affairs
Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF HB1521 — RELATING TO GOVERNMENT CONTRACTS

Aloha chair, vice-chair and other committee members,

The Grassroot Institute of Hawaii would like to offer its **support** for [HB1521](#), which would clarify state law regarding government contracting. It states that any records created, received, maintained or used by contractors performing government functions on behalf of public agencies shall be subject to the Uniform Information Practices Act.

We applaud this effort to eliminate a loophole that could allow an agency to evade transparency requirements for records that are related to work carried out by private entities under a government contract.

The intent of sunshine laws is to provide public access to government decision-making and actions, especially when those actions involve the use of public funds. Allowing agencies to avoid disclosure of records related to contract work would frustrate this intent.

Furthermore, transparency laws help discourage government corruption and self-dealing — concerns that are often heightened in the case of government contracting.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



Adult Friends for Youth

"Redirecting lives to stop Violence"

PRESIDENT AND CEO
Deborah L.K. Spencer-Chun,
M.S.W.

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**Past Chair of the Board*

Testimony on HB1521

Submitted to: Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

From: Debbie Spencer-Chun, President and CEO of Adult Friends for Youth (AFY).

Adult Friends for Youth respectfully **opposes HB 1521.**

Mahalo nui loa for allowing me to testify.

As the President & CEO of Adult Friends for Youth (AFY) for the past 18 years and having worked directly with high-risk youth for over 20 years, this nonprofit organization is dedicated to support the safety, stability, and well-being of high risk youth through community-based services and responsible use of public resources.

While we appreciate the intent to ensure transparency and accountability in the use of public funds, HB 1521 would create additional administrative and reporting requirements that are particularly challenging for smaller nonprofit organizations. AFY operates with limited staff and financial capacity, and our priority is to direct those resources toward services that directly benefit youth and families.

State agencies already require extensive documentation and reporting through existing contracts. HB 1521 appears to duplicate those requirements without clearly demonstrating how additional reporting would improve oversight or outcomes. Instead, it risks increasing operational costs and diverting staff time away from direct services.

When administrative burdens increase without corresponding resources, nonprofits may be forced to limit programming or reduce capacity. Ultimately, this can affect the availability and quality of services for children and youth who depend on timely, community-based support.

For these reasons, Adult Friends for Youth respectfully opposes HB 1521. We encourage thoughtful consideration of how this bill may impact smaller service providers and the communities they serve, and we welcome continued dialogue on approaches that strengthen accountability without undermining service delivery.

Mahalo for your time. I appreciate you allowing me to share my mana'o.

Respectfully submitted, Deborah Spencer-Chun