DEPARTMENT OF HUMAN RESOURCES
KA ʻOIHANA HOʻOMOHALA LIMAHANA
CITY AND COUNTY OF HONOLULU

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January 27, 2026

The Honorable Brandon J.C. Elefante, Chair
The Honorable Rachele Lamosao, Vice Chair
and Members of the Committee on Labor and Technology
The Senate
State Capitol, Room 225
415 South Beretania Street
Honolulu, Hawaiʻi 96813

Dear Chair Elefante, Vice Chair Lamosao, and Members of the Committee:

SUBJECT: Senate Bill No. 2122, Relating to Cafeteria Plans

The City and County of Honolulu ("City") respectfully submits comments regarding Senate Bill 2122, which would remove the City's authority to determine the maximum salary reduction contribution and maximum carryover amount for our flexible spending account (FSA) plan and instead require those limits to be set in accordance with the maximum amounts allowed by the Internal Revenue Service ("IRS"). Eliminating the employer's or plan administrator's ability to set these limits could jeopardize the fiscal stability and feasibility of this employee benefit.

Each year, the City carefully analyzes program data to determine the appropriate limits that will ensure the long-term viability of the City's FSA program. Mandating an increase to these limits without any type of analysis would expose the City to increased financial risk for the health flexible spending account in several ways:

1. The City must make an employee's full annual election amount available on the first day of the benefit plan year. Increasing the City's current contribution limit to the maximum amount allowed by the IRS will require the City to maintain a much larger cash reserve to cover these potential payouts that occur at the start of the plan year.

2. If an employee utilizes their full election amount at the beginning of the plan year and subsequently separates from the City before their expenses can be recouped, the City would be unable to recoup this deficit from the separated employee. Higher contribution limits could increase this potential loss and if that loss is not covered by the reserves, it could result in an unbudgeted expense for the City.

3. Increasing the carryover amount will reduce the amount of money forfeited by participants at the end of the plan year, which is typically used to cover our deficit with the remainder, if any, added to the cash reserves.

In order to avoid these potential risks and to continue the offering of a cafeteria plan benefit to its eligible employees, the City believes that the authority to set salary reduction and carryover limits should remain with the employer, who assumes the financial risk and program viability.

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

Sincerely,

Nola N. Miyasaki
Director

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Statement of
BRENNA H. HASHIMOTO
Director, Department of Human Resources Development

Before the
SENATE COMMITTEE ON LABOR AND TECHNOLOGY
Wednesday, January 28, 2026
3:00PM
State Capitol, Conference Room 225

In consideration of
SB2122, Relating to Cafeteria Plans

Chair Elefante, Vice Chair Lamosao, and the members of the committee:

The Department of Human Resources Development (HRD) offers the following comments for SB2122.

The purpose of SB2122 is to specify that the maximum contribution limits and carryover amount for a public service flexible spending account plan shall be set in accordance with the annual limits prescribed by the Internal Revenue Service (IRS) for cafeteria plans.

Since the inception of the flexible spending accounts plan the State has been mindful and conservative in applying the maximum contribution limits and carryover amounts. This is because under section 125 of the Internal Revenue Code, the entire election made towards the medical expense account is available for use from the first day of the plan year. If the employee submits a claim for the entire elected amount and then subsequently terminates employment before the end of the plan year, the employer cannot recoup the funds that were distributed in excess of the amount contributed from the terminated employee. The plan's forfeiture account, consisting of interest earned and forfeited participant balances, is used to cover the excess amount.

Currently the forfeiture account balance is $1.6 million. For the 2025 – 2026 Plan Year there are a total of 5,650 participants of which 1,951 participants are electing the maximum contribution amount of $2,750 in the medical flexible spending account.

The IRS maximum limit for the medical flexible spending account for the 2026 calendar year is $3,400 and the carryover amount is $680. The following outlines some of the statistics regarding forfeitures for the last 3 Plan Years.

	Plan Year		
	2022 – 2023	2023 – 2024	2024 – 2025
Forfeiture for Plan Year	$168,811	$122,627	$196,570
Negative Forfeiture for Overspent Accounts	($98,618)	($144,050)	($65,494)
Number of Participants with Overspent Accounts	254	279	174

The forfeiture account is also used to subsidize the monthly fee to participate in the Plan. It is estimated that the plan will contribute approximately $217,116 for the 2025 – 2026 plan year to offset the cost of administering the plan. In 2021, HRD made amendments to the Flexible Spending Accounts Administrative Rules to increase the maximum contribution amount and carryover limits for the 2022 – 2023 plan year to the maximum allowed by the IRS for the 2022 calendar year. Since the forfeiture account had a sizeable (sustainable) balance at that time which could be used to subsidize the administrative fees for future years and cover the amounts for the overspent accounts, a decision was made to increase the maximum limits. If the forfeiture account should be depleted, the State will be held liable to cover the excess amounts distributed or will have to terminate the program altogether. As such, HRD prefers that it continues to be allowed to set the maximum contribution limits and carryover amount.

If the committee chooses to move the measure forward as drafted, SB2122 would take effect upon its approval. However, the bill presents implementation issues for the Cafeteria Plan's 2026 – 2027 plan year (July 1, 2026 – June 30, 2027), as the applicable open enrollment period is scheduled to occur from March 1, 2026, through April 30, 2026. As such, we urge the Senate to amend the bill's effective date to July 1, 2027, to ensure an orderly and practicable implementation of this bill, including time to amend or repeal the administrative rules governing the Cafeteria Plan's contribution amounts for the open enrollment period for the 2027 – 2028 plan year (July 1, 2027 – June 30, 2028).

HRD appreciates the intent to set the maximum contribution limits and carryover amount for the flexible spending accounts to the annual limits prescribed by the IRS; however, we have concerns regarding the long-term sustainability of the program should the forfeiture account be depleted. Therefore, we prefer that HRD be permitted to continue to periodically adjust the maximum limits through amendments to Title 14, Subtitle 5, Chapter 52, of the Hawaii Administrative Rules, based on the overall health of the forfeiture account and usage trends.

Thank you for the opportunity to provide testimony. We are available to answer any questions or provide further information as needed.

SB-2122
Submitted on: 1/27/2026 1:23:15 PM
Testimony for LBT on 1/28/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Austin Martin	Testifying for Libertarian Party of Hawaii	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Lee, Vice Chair Fevella, and committee members. I am Austin Martin, Chair of the Libertarian Party of Hawaii, testifying in opposition to SB 2122 (Cafeteria Plans/Public Employees).

SB 2122 expands tax-advantaged cafeteria plan options and benefits for public employees, increasing compensation costs borne exclusively by taxpayers without corresponding private-sector equivalents.

This widens the privilege gap between government workers and private citizens. I recommend rejecting the measure and aligning public compensation with market realities.

Mahalo for your kokua to this matter.

Austin Martin

Libertarian Party

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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AFSCME
LOCAL 152, AFL-CIO

The Thirty-Third Legislature, State of Hawaii
The Senate
Committee on Labor and Technology

Testimony by
Hawaii Government Employees Association

January 28, 2026

S.B. 2122 — RELATING TO CAFETERIA PLANS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 2122, which specifies that the maximum contribution and carryover amounts for a public service flexible spending account plan shall be set in accordance with the annual limits prescribed by the Internal Revenue Service for cafeteria plans.

The State allows for eligible employees to direct before-tax money from their paychecks into a Medical Flexible Spending Account (FSA) plan and the Dependent Care FSA plan. The medical FSA allows for employees to pay for many health care expenses with tax free money which includes, but not limited to, co-payments, deductibles, glasses and contacts, and fees to doctors and hospitals. The current maximum amount an employee may contribute to the Medical FSA is $2750 each plan year – the amount is set within the Department of Human Resources and Development (DHRD) administrative rules. The IRS has generally increased its amount based on inflation for each plan year, and for 2026 the maximum contribution amount is $3,400. To note, the maximum contribution amount for plan year 2025 was $3,300 and $2750 for plan year 2020.

Currently there is a $650 difference, and a six-year lag, in the maximum contribution between the amounts prescribed by the IRS and what DHRD has set within administrative rules for the medical FSA. By tying the current maximum contribution and carryover limits for an FSA plan to what the IRS prescribes each plan year would eliminate the states need to change its dollar amount via the administrative rules process and more importantly, it would give employees the immediate opportunity to elect more of their income to cover eligible expense. At a time when our state is struggling to recruit and retain employees, this is just one of many ways we can remain competitive relative to the private and federal sector.

Thank you for the opportunity to provide testimony in strong support of S.B. 2122.

Respectfully submitted,

Randy Perreira
Executive Director

UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

THE SENATE
KA ʻAHA KENEKOA

THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026

COMMITTEE ON LABOR AND TECHNOLOGY
Senator Brandon J.C. Elefante, Chair
Senator Rachele Lamosao, Vice Chair

Wednesday, January 28, 2026, 3:00 PM
Conference Room 225 & Videoconference

Re: Testimony on SB2122 – RELATING TO CAFETERIA PLANS

Chair Elefante, Vice Chair Lamosao, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO ("UPW") is the exclusive bargaining representative for approximately 12,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW **strongly supports** SB2122, which specifies that the maximum contribution and carryover amounts for a public service flexible spending account plan shall be set in accordance with the annual limits prescribed by the Internal Revenue Service for cafeteria plans.

Cafeteria plans, or flexible spending accounts ("FSA"), provide our members with the means to pay for eligible healthcare and dependent care expenses through pre-tax contributions to these types of accounts. Given the rising cost of living in Hawaii, many of our members are faced with putting off unexpected healthcare decisions due to the unbudgeted cost. Additionally, dependent care (e.g., childcare, preschool, after-school) is a significant financial concern for Hawaii's working families, especially single parents, who need to work to support their households. FSAs are a great way to offset out-of-pocket health and dependent care expenses that also result in tax savings and greater spendable income.

The Internal Revenue Service ("IRS") increased the maximum amount employees may contribute to healthcare FSA to $3,400.00 for 2026. Employees may also carry over a maximum of $680.00 in unused funds into 2027.

In comparison, the Island Flex plan ("Island Flex"), which is the FSA program for State employees, has lower contribution maximums than allowed by the IRS. More specifically, the Island Flex healthcare maximum contribution is $2,750.00 with an allowable carry over of $550.00. This bill would require that any cafeteria plan offered to public employees conform to the inflation-adjusted maximum contribution amounts that are set by the IRS annually. For those public employees that utilize this benefit, we believe the proposed adjustment will further help to offset the ever-rising cost of health and dependent care moving forward.

Mahalo for the opportunity to testify in support of this measure.

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