



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2312, S.D. 1, RELATING TO GOVERNMENT CONTRACTS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 27, 2026

TIME: 10:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Jung Min (Charles) Lee,
Deputy Attorney General, at 808-586-1316)

Chair Rhoads and Members of the Committee:

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

This bill would amend chapter 92F, Hawaii Revised Statutes (the Uniform Information Practices Act, or UIPA), to require every contract for an "agency function" to include provisions requiring contractors to: (1) retain records related to contract performance in accordance with the agency's records retention schedule; and (2) provide the agency access to those records upon request. The bill further provides that the records retained by the contractor are "deemed government records" for UIPA purposes. Although S.D. 1 replaces "government function" with "agency function" and exempts the Employees' Retirement System contracts, those changes do not address the Department's core concerns. The bill still requires contractors to retain records, requires agencies to have access to those records, and treats contractor-retained records as "government records" under UIPA.

The bill is exceptionally broad in scope. "Agency function" is defined to encompass virtually any service, program, or activity an agency is authorized or required by law to perform. In practice, this would include a wide range of state contracts and would significantly expand the scope of contractor-held records treated as government records.

The Department's principal concern is that the bill shifts UIPA compliance obligations and litigation risk to agencies for records they do not possess and do not directly control. By deeming contractor-retained records to be government records, the

bill would make the agency, not the contractor, legally responsible for responding to UIPA requests. Agencies would have to obtain records from contractors, review them for applicable statutory exceptions, redact protected information, and make disclosure determinations. If a contractor refuses or delays production, the requester's remedy would still lie against the agency. The bill does not establish a meaningful enforcement mechanism to compel contractor compliance, nor does it provide a safe harbor for agencies that make reasonable efforts to obtain records.

The bill also does not account for UIPA's ten-working-day response deadline. Agencies may need to request records from contractors and wait for production before beginning any substantive review. Delays outside the agency's direct control could expose agencies to judicial enforcement and potential liability for attorneys' fees.

In addition, this bill is likely to increase the cost of doing business with the State. Contractors may need to change record retention practices, expand storage capacity, and obtain legal review for proprietary, trade secret, and personally identifiable information. Those compliance costs would likely be passed on to the State and could disproportionately affect smaller contractors and nonprofit service providers. The fiscal and litigation impacts of this bill could therefore be significant.

Finally, the Department believes the bill is unnecessary in its current form. Existing law already reaches records related to government-contracted services to the extent they are administratively maintained by the agency, including where the agency has contractual access rights. If the Committee's concern is a specific contracting practice in a narrow context, a targeted solution would be more appropriate than a sweeping statewide mandate.

For these reasons, the Department of the Attorney General strongly opposes this bill and respectfully requests that this Committee hold the bill.

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
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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 24, 2026

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 2312 SD1 – RELATING TO GOVERNMENT CONTRACTS.**

Hearing: February 27, 2026, 10:30 a.m.
Conference Room 016 & 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.

If the measure passes, the Department will require additional human and other 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
KE KIA'ĀINA

SYLVIA LUKE
LT. GOVERNOR
KA HOPE KIA'ĀINA

BRENNA H. HASHIMOTO
DIRECTOR
KA LUNA HO'OKELE

BRIAN K. FURUTO
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
KA 'OIHANA HO'OMŌHALA LIMAHANA
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

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

Before the
SENATE COMMITTEE ON JUDICIARY
Friday, February 27, 2026
10:30AM
State Capitol, Conference Room 016

In consideration of
SB2312 SD1, RELATING TO GOVERNMENT CONTRACTS

Chair Rhoads, Vice Chair Gabbard, and the members of the committee:

The Department of Human Resources Development (HRD) opposes SB2312 SD1.

Hawaii's Uniform Information Practices Act (UIPA), codified in Chapter 92F, HRS, was created to promote transparency in government operations. As stated in section 92F-2, HRS, legislative intent is for government decisions, discussions, and actions to be conducted as openly as possible. The goal is to ensure public accountability within government entities.

SB2312 SD1 would significantly expand the scope of the UIPA by placing new obligations on private organizations and individuals who contract with the State. These private parties would be required to keep records according to government retention rules and disclose internal documents related to their state contracts through UIPA requests. The UIPA was designed to hold government accountable. Applying the same standards to private contractors extends the law beyond its intended purpose.

The bill also places responsibility on government agencies to retrieve records from contractors when responding to UIPA requests. The measure does not account for the additional workload, staffing demands, and resources that agencies would need to meet these expanded requirements. Nor does it shield agencies from legal challenges if they cannot obtain the contractor's records in time to comply with statutory deadlines. An agency could be taken to court for failing to produce documents it does not possess and could be liable for attorneys' fees and costs.

In 2025, the Executive Branch awarded more than 2,400 contracts totaling over \$12 million. Imposing new document handling and legal review obligations on contractors will likely increase their costs—and therefore increase costs to the State and taxpayers.

HRD respectfully asks the committee to hold this measure. We defer any questions to the Department of the Attorney General.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
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TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Vacant
Deputy Director
Correctional Institutions

Sanna Muñoz
Deputy Director
Rehabilitation Services
and
Programs

No. _____

TESTIMONY ON SENATE BILL 2312, SENATE DRAFT 1
RELATING TO GOVERNMENT CONTRACTS

by
Tommy Johnson, Director
Department of Corrections and Rehabilitation

House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Mike Gabbard Vice Chair

Friday, February 27, 2026; 10:30 a.m.
State Capitol, Conference Room 016 & via Videoconference

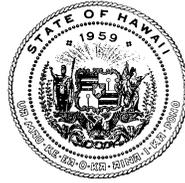
Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) **opposes** Senate Bill (SB) 2312, Senate Draft (HD) 1, which will require contractors performing an agency function to retain records related to the performance of that function and provide agencies with access to those records. Deems the records to be government records under the Uniform Information Practices Act (UIPA).

Requirements outlined in this bill may increase cost, discourage competition and may expose the State to UIPA litigation risks. Additionally, records related to government-contracted services are already subject to UIPA disclosure requirements to the extent they are administratively maintained by DCR, including situations in which DCR has contractual access rights to contractor records.

Thank you for the opportunity to provide testimony in **opposition** to SB 2312 , SD1.

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A., M.P.H.
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY
ONLY

**Testimony in OPPOSITION to SB2312 SD1
RELATING TO GOVERNMENT CONTRACTS.**

SEN. KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: February 27, 2026

Room Number: 016

1 **Department Testimony:** The Department of Health (DOH) respectfully opposes SB2312 SD1
2 due to serious concerns about unintended consequences of unnecessarily increasing the cost of
3 doing business with the State. While DOH appreciates the intent of this measure, the department
4 requests its deferral.

5 Chapter 92F, Hawaii Revised Statutes, codifies the Uniform Information Practices Act (UIPA)
6 for the purpose of ensuring that public participation and scrutiny into government would
7 facilitate transparent government. The Legislature declared that pursuant to section 92F-2, HRS,
8 “the discussions, deliberations, decisions, and action of government agencies – shall be
9 conducted as opening as possible.” The express purpose is to ensure accountability and
10 transparency in government.

11 SB2312 SD1 will increase the burden on the private sector by requiring private entities and
12 individuals who do business with the State to maintain their records according to the State’s
13 record retention laws and to make their internal documents related to the government contract.
14 The purpose of UIPA is to hold the government accountable and it is inappropriate to subject the
15 private sector to the same scrutiny. Moreover, this measure will increase the burden on
16 government agencies that will be responsible for obtaining documents from these contractors
17 when the agency receives a UIPA request.

1 In 2025, the executive branch of the State awarded 2,474 contracts totaling approximately
2 \$12,430,000 in awards. Contractors will need to change document retention policies, potentially
3 store documents for longer periods of time, and spend money on lawyers when a request comes
4 in to determine what records are exempt as proprietary, which contain personal identifying
5 information, which should be disclosed with redactions, and then actually redacting the
6 documents. It is entirely feasible that such costs will be passed on to residents through
7 diminished service provision and lower value.

8 DOH respectfully requests this measure's deferral.

9 Thank you for the opportunity to testify.

10

JOSH GREEN
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
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STEPHEN F. LOGAN
MAJOR GENERAL
ADJUTANT GENERAL
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PHILLIP L. MALLORY
BRIGADIER GENERAL
DEPUTY ADJUTANT GENERAL
KA HOPE 'AKUKANA KENELALA

TESTIMONY ON SENATE BILL 2312 SD1
RELATING TO GOVERNMENT CONTRACTS
BEFORE THE SENATE COMMITTEE ON JUDICIARY

BY

MAJOR GENERAL STEPHEN F. LOGAN
ADJUTANT GENERAL
AND DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY

February 26, 2026

Aloha Chair Rhoads, Vice-Chair Gabbard, and members of the committee:

The Department of Defense provides written testimony in **OPPOSITION** of **SB2312 SD1**. This proposal clarifies 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 (UIPA). While the intent of the bill to provide transparency and public trust has positive intentions, we have concerns about potential cost impacts on our department.

Requiring private entities and individuals (who are contracted to do business with our department) to maintain their records according to the State's record retention laws and to make their internal documents related to the government contract available to the public through a UIPA request will likely require additional resources and result in unbudgeted costs. The Department of Defense currently receives approximately 60 UIPA requests every year. Of these UIPA requests approximately two thirds are re-directed to other state departments or agencies, and the remaining balance is responded to by our department. The associated administrative burden, including staffing requirements, would be difficult for the department to absorb. This is still a significant number and would further increase requirements if contractors were included, particularly for the Hawaii Emergency Management Agency (HIEMA), which relies heavily on contractors in response and recovery operations. While a portion of this issue can and would be addressed for new contracts by incorporating this bill's UIPA requirement in the contractor's scope of work, existing contracts would not and unbudgeted state funds would be required to execute those contract modifications. Furthermore, increases in costs may not be the only concern as the requirements may

potentially be overly burdensome to contractors and discourage them from entering contracts altogether with the state. These impacts would be particularly problematic during disaster response operations, where delays could hinder critical emergency coordination, and/or prevent experienced and qualified contractors from doing business with the state.

Additionally, our legal understanding is that the bill does not prevent our department from being subject to judicial enforcement if the agency is unable to respond to the UIPA request pursuant to statute and Hawai'i Administrative Rules promulgated by the Office of Information Practices. If we are unable to produce records from our private contractor, the requesting entity can legally sue our department requiring state funds to address the lawsuit, as well as potential state funds to pay their attorney's fees and costs.

Given the potential for significant unbudgeted costs, operational delays, and legal exposure, we humbly ask you to defer this measure.

MG Stephen F. Logan, Stephen.f.logan@hawaii.gov; 808-672-1001.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Judiciary
Friday, February 27, 2026
10:30 a.m.

Conference Room 016 & Videoconference State Capitol

On the following measure:
S.B. 2312 S.D.1 RELATING TO GOVERNMENT CONTRACTS

Chair Rhoads and Members of the Committee:

My name is Nadine Ando, and I am the Director of the Department of Commerce and Consumer Affairs (Department). The Department opposes this bill.

The purpose of this bill is to: (1) amend the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request; (2) establish that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA; (3) exempt contracts entered into by the Employees' Retirement System.

While the Department supports transparency and public access to government records, this measure, as drafted, would impose significant and unnecessary burdens on both agencies and contractors.

First, the bill's broad definition of "agency function" and its requirement that contractors follow state records retention schedules could apply to nearly all the Department's contracts, including information technology, licensing, examination, and investigative services. Many contractors already operate under established records systems and legal requirements; compelling them to conform to agency-specific schedules would require costly system changes that are likely to be passed on to the Department and, ultimately, to consumers and regulated entities.

Second, by deeming all contractor-retained records to be government records, the bill would make the Department responsible for responding to UIPA requests for records held in contractors' systems and subject to the UIPA's statutory response deadlines. In many cases, obtaining, reviewing, and redacting voluminous contractor records within ten working days is not feasible, potentially exposing the State to litigation and liability based on factors outside the Department's direct control.

Third, although existing UIPA exemptions provide some protection, the blanket designation of contractor records as government records raises concerns about the treatment of proprietary, confidential, or trade secret information routinely shared with the Department in the performance of contracts. The uncertainty and risk of disclosure could discourage qualified vendors from contracting with the State, reducing competition and increasing costs.

The Department believes that existing law already allows agencies to structure contracts to ensure appropriate access to contractor records for UIPA purposes, without imposing a one-size-fits-all mandate on all contracts involving agency functions.

For these reasons, the Department respectfully opposes S.B. No. 2312, S.D. 1, and requests that this Committee hold this measure.

Thank you for the opportunity to testify on 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: Senate Committee on Judiciary

From: Carlotta Amerino, Director

Date: February 26, 2026, 10:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 2312, S.D. 1
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.

However, OIP acknowledges that some existing contracts to perform an agency function may not require the contractor to retain, and allow the contracting agency to review, records of the contractor's work. OIP therefore defers to the affected agencies regarding the effect on their operations of requiring such a provision in every contract to perform an agency function.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

February 27, 2026

To: The Honorable Karl Rhoads, Chair,
The Honorable Mike Gabbard, Vice Chair, and
Members of the Senate Committee on Judiciary

Date: Friday, February 27, 2026
Time: 10:30 a.m.
Place: Conference Room 016, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 2312 SD1 RELATING TO GOVERNMENT CONTRACTS

The **DLIR opposes** this measure, which seeks to clarify 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 (UIPA).

The bill would require government service contracts to mandate contractors performing a "government function" to follow state records retention schedules and provide access for disclosure under the UIPA. It broadly defines "government function" as any service or activity an agency is legally authorized to perform.

These requirements are overly burdensome and could discourage bidding, reduce competition, and increase costs. For example, subsection (a)(1) forces private vendors to adopt rigid state timelines, regardless of existing systems or industry practices, creating compliance risks and additional expenses.

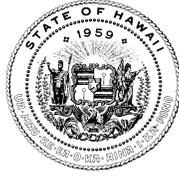
Declaring contractor records as "government records" raises legal and practical issues, including disputes over disclosure and compliance. Agencies would face UIPA deadlines while relying on contractors to supply records, increasing litigation risk.

Finally, the bill is unnecessary because agencies already maintain and disclose relevant records under UIPA when they have contractual access.

Thank you for the opportunity to provide testimony on this important matter.

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawai'i*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIR
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON JUDICIARY
ON FEBRUARY 27, 2026 AT 10:30AM IN CR 016

SB2312, SD1, RELATING TO GOVERNMENT CONTRACTS

February 27, 2026

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

The Department of Hawaiian Home Lands (DHHL) **opposes** this bill which 1) amends the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request, 2) establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA, and 3) exempts contracts entered into by the Employees' Retirement System.

DHHL appreciates the intent of this bill to ensure accountability and transparency in government. However, subjecting the private sector to the noted requirements in this bill is inappropriate. Moreover, this bill requires that government agencies will be responsible for obtaining documents from contractors when the agency receives a UIPA request. The bill does not contemplate the additional time and resources that each agency would have to devote to responding to such UIPA requests. Nor does the bill prevent an agency from being subject to judicial enforcement if the agency is unable to respond to the UIPA request pursuant to statute and Hawaii Administrative Rules promulgated by the Office of Information Practices. These suits not only require resources to oppose, but the agency would be subject to being required to pay the requestor's attorney's fees and costs.

Thank you for your consideration of our testimony.

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
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DAWN N.S. CHANG
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AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
RYAN K.P. KANAKA'OLE
Acting Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Friday, February 27, 2026
10:30 AM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 2312, SENATE DRAFT 1
RELATING TO GOVERNMENT CONTRACTS**

Senate Bill 2312, Senate Draft 1 proposes to amend the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request, establish that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA, and exempt contracts entered into by the Employees' Retirement System. **The Department of Land and Natural Resources (Department) opposes this measure.**

Hawaii Revised Statutes Chapter 92F codifies UIPA for the purpose of ensuring that public participation and scrutiny of government would facilitate transparency. The Legislature declared that the discussions, deliberations, decisions, and actions of government agencies should be conducted as openly as possible. The Legislature's express intent was to ensure accountability and transparency in government.

This measure would broaden UIPA's reach by requiring private entities and individuals who do business with the State to maintain their records according to the State's record retention laws and make their internal documents as they relate to government contracts available to the public through a UIPA request. This goes too far. UIPA's purpose is to ensure government accountability, subjecting the private sector to the same level of accountability and scrutiny is inappropriate.

This measure would also hold government agencies responsible for obtaining documents from these contractors when an agency receives a UIPA request. However, this measure does not account for the additional time and resources that an agency would need to devote to responding

to such UIPA requests. This measure would also subject an agency to judicial enforcement if it were unable to fully respond to the request, meaning that a requestor could sue an agency if it is unable to secure records from a private contractor. Such suits would require significant resources to defend.

If this measure passes, the cost of the State doing business will go up. Contractors will need to change document retention policies, potentially store records for longer periods of time, and absorb legal costs to determine which records may be exempt as proprietary, contain personally identifying information, or should be redacted. These costs will inevitably be passed on to the consumer.

Accordingly, the Department opposes this measure and asks that it be held.

Mahalo for the opportunity to comment on this measure.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Friday, February 27, 2026
10:30 AM
State Capitol, 016

SB2312,SD1
RELATING TO GOVERNMENT CONTRACTS

Senate Committee on Judiciary

The Department of Transportation (DOT) opposes Senate Bill 2312, Session Document 1, relating to government contracts and public records access.

This bill seeks to amend chapter 92F, Hawaii Revised Statutes, to require private contractors performing agency functions to retain records and provide access to those records upon request. While the stated intent is to promote transparency and accountability, the proposed legislation raises significant concerns regarding operational feasibility, administrative burden, and potential unintended consequences for state agencies and contractors.

First, the bill mandates that all records retained by contractors performing “agency functions” be deemed “government records” under the Uniform Information Practices Act (UIPA). However, the definition of “agency function,” as added in §92F-3, is overly broad and lacks clarity. Without precise boundaries, this provision may inadvertently encompass activities that are not traditionally considered core governmental functions, leading to confusion and inconsistent application across departments.

Second, the requirement for contractors to follow the agency’s records retention schedule and provide access upon request places substantial administrative and financial burdens on private vendors. Many contractors operate under strict timelines and budgets, and compliance with such requirements could increase costs and reduce competitiveness in the bidding process. Additionally, the lack of clear guidance on how to implement these obligations may result in disputes between agencies and contractors over record management practices.

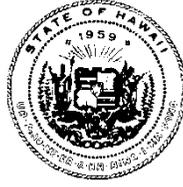
Third, the exemption for contracts entered into by the Employees’ Retirement System (ERS) creates an uneven playing field. If certain state entities are exempt from the provisions of this bill, it undermines the uniformity and fairness of the law. This selective application risks creating loopholes that could be exploited by other agencies seeking to avoid similar obligations.

Moreover, while the intent behind the bill is commendable, the implementation of such sweeping changes without adequate stakeholder consultation or pilot programs may lead to unintended consequences. For example, increased scrutiny of contractor-held records could discourage private sector participation in government contracting, ultimately limiting the availability of specialized services needed by agencies like the DOT.

In conclusion, the DOT opposes this legislation due to its potential to create unnecessary regulatory complexity, impose undue burdens on contractors, and undermine the efficiency of public-private partnerships. We recommend further review and refinement of the language to ensure clarity, consistency, and practicality before moving forward.

Thank you for the opportunity to testify in opposition to this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
HONOLULU, HAWAII 96817

IN REPLY PLEASE REFER TO:

26:OED

Statement of the
Hawaii Public Housing Authority

Before the
Senate Committee on Judiciary

Friday, February 27, 2026
10:30 AM – Room 016, Hawaii State Capitol

In consideration of
SB 2312, SD1
RELATING TO GOVERNMENT CONTRACTS

Honorable Chair Rhoads, Vice Chair Gabbard and members of the Senate Committee on Judiciary:

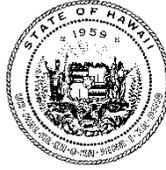
The Hawaii Public Housing Authority (HPHA) opposes Senate Bill (SB) 2312, SD1, which amends the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request. Establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA. Exempts contracts entered into by the Employees' Retirement System.

This measure inappropriately extends UIPA's reach by requiring private contractors to follow state record-retention laws and disclose internal documents. While government accountability is vital, forcing the private sector to meet these standards is a step too far. Additionally, the bill burdens agencies with retrieving these records without providing extra resources. This creates significant legal risk; if a contractor fails to produce documents, the government agency—not the contractor—faces lawsuits and the potential payment of the requester's legal fees. Last year, the HPHA executed 39 new contracts totaling \$48,307,116.06.

The HPHA appreciates the opportunity to provide the Committee with the HPHA's testimony.



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



BONNIE KAHAKUI
ADMINISTRATOR

DAYNA OMIYA
ASSISTANT ADMINISTRATOR

STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state_procurement_office@hawaii.gov
<http://spo.hawaii.gov>

TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
JUDICIARY
FEBRUARY 27, 2026, 10:30 AM

SENATE BILL 2312, SD1
RELATING TO GOVERNMENT CONTRACTS

Chair Rhoads, Vice Chair Gabbard, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2312, SD1, which would amend the Uniform Information Practices Act (UIPA), and require that records created, received, maintained, or used by private contractors performing government functions on behalf of public agencies be subject to Chapter 92F, Hawaii Revised Statutes (HRS). The State Procurement Office (SPO) respectfully opposes this bill and requests that the Committee defer this measure.

Senate Bill 2312, SD1, places the responsibility on government agencies to obtain and provide contract documents in response to a UIPA request, thereby imposing significant administrative and compliance burdens on agencies and contractors. Every contractor performing an "agency function" would be required to fully follow an agency's internal records retention schedule, regardless of scale, scope, or capability. Many vendors, especially small local businesses and nonprofit organizations, lack the systems, staffing, and legal capacity to meet government-level retention and retrieval standards, resulting in increased costs to do business with the State. Furthermore, the bill does not protect agencies from legal risks and litigation if contractors do not provide requested records.

Additional administrative time and resources would be required to ensure UIPA compliance for outsourced functions, as well as potential disclosure liability, if contractors or agencies inadvertently fail to protect sensitive information.

Existing statute, HRS Section 103D-317, already provides the State with the authority to audit contractor and subcontractor records when cost or pricing data is required or when a negotiated contract is not fixed-price. These audit rights ensure transparency, fiscal accountability, and access to documentation directly related to contract performance, and would be subject to UIPA.

For these reasons, the SPO opposes Senate Bill 2312, SD1.

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



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

SETH S. COLBY, Ph.D.
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY SETH S. COLBY, Ph.D.
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON JUDICIARY
ON
SENATE BILL NO. 2312, S.D. 1

**February 27, 2026
10:30 a.m.
Room 016 and Videoconference**

RELATING TO GOVERNMENT CONTRACTS

The Department of Budget and Finance (B&F) opposes this bill. Senate Bill No. 2312, S.D. 1, would broaden the Uniform Information Practices Act (UIPA) to apply to private entities and individuals who do business with the State by requiring them to maintain their records and make their internal documents related to the government contract available to the public through a UIPA request.

If this bill passes, the cost of the State doing business will go up. Contractors will need to change document retention policies, potentially store documents for longer periods of time, and spend money on lawyers when a request comes in to determine what records are exempt as proprietary, which contain personal identifying information, which should be disclosed with redactions, and then actually redacting the documents in order to respond to each UIPA request in a timely fashion. Subjecting private entities and individuals to UIPA in this fashion will discourage them from bidding for State government contracts and ultimately result in increased costs to the taxpayer.

Thank you for your consideration of our comments.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/27/2026

Time: 10:30 AM

Location: CR 016 & Videoconference

Committee: JDC

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB2312, SD1, RELATING TO GOVERNMENT CONTRACTS.

Purpose of Bill: Amends the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request. Establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA. Exempts contracts entered into by the Employees' Retirement System. Effective 1/1/2525. (SD1)

Department's Position:

The Department of Education (Department) opposes SB2312, SD1.

SB2312, SD1 seeks to require private entities and individuals doing business with the State to maintain records according to the State's record retention schedules and make internal documents related to government contracts available to the public via Uniform Information Practices Act (UIPA) requests. The Department believes this bill places a significant burden on private contractors, which may increase costs and potential liability for the Department.

Specifically, the Department is concerned that the bill may discourage contractors from bidding on projects, thereby reducing competition. The proposed subsection (a)(1) to chapter 92F requires private vendors to adopt state-mandated records retention and destruction timelines. Contractors may be unwilling to assume these obligations, or may increase their prices to account for the additional administrative burden and legal risks.

Additionally, the Department is concerned about increased exposure to UIPA litigation and potential liability for attorneys' fees resulting from contractor non-compliance, as the Department does not directly control contractor employees or their internal systems.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWE LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEE ON JUDICIARY

FEBRUARY 27, 2026 10:30 A.M.
CONFERENCE ROOM 016 AND VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 2312, S.D. 1

RELATING TO GOVERNMENT CONTRACTS.

Chair Rhoads, Vice Chair Gabbard, and members of the Committee, thank you for the opportunity to submit testimony on S.B. 2312, S.D. 1.

The Department of Accounting and General Services (DAGS) **opposes** this measure for the following reasons:

1. The requirement for contractors to retain all records related to agency functions and provide access to these records upon request may discourage potential bidders or offerors from engaging in contracts with public agencies.
 - a. Contractors may have concerns about the classification of their records as "government records" under the Uniform Information Practices Act (UIPA). This could lead to potential exposure of proprietary or sensitive information. This additional administrative burden could be perceived as

overly intrusive and may deter private entities from participating in government contracts.

- b. The requirement to follow the agency's records retention schedule and provide access to records upon request may create significant administrative challenges for contractors. This could lead to delays in service delivery and inefficiencies in the execution of agency functions.
2. The proposed measure could lead to increased costs for government operations. Contractors may factor in the additional compliance requirements, such as record retention and access provisions, into their bids, resulting in higher contract prices. This could strain agency budgets and reduce the efficiency of public spending.
3. The measure may reduce competition among contractors, as smaller businesses or entities with limited resources may find it difficult to comply with the stringent record retention and access requirements. This could result in fewer options for public agencies and potentially lower-quality services.
4. The exemption for contracts entered into by the Employees' Retirement System may create an uneven playing field, raising concerns about fairness and consistency in the application of the law.

Operationally, this places tremendous burden on departments and agencies that would be responsible for retrieving contractor records whenever a UIPA request is made. The measure ignores the time, staff, and resources required to obtain, review, and process contractor documents. There is also judicial enforcement which must be

taken into consideration, including lawsuits and the risk of paying requestors' attorneys' fees, if contractors do not provide records in time.

Furthermore, this measure effectively extends UIPA requirements to private contractors performing government functions, requiring them to maintain and disclose records as though they were government agencies. This expansion goes well beyond UIPA's original purpose and inappropriately subjects private entities to public agency standards.

It is for these reasons that we oppose this measure and strongly urge the committee to defer this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau

P.O. BOX 259

HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1540

FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 2312, S.D.1, Relating to Government Contracts

BEFORE THE:

Senate Committee on Judiciary

DATE: Friday, February 27, 2026

TIME: 10:30 a.m.

LOCATION: State Capitol, Room 016

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

The Department of Taxation (DOTAX) opposes S.B. 2312, S.D.1, and offers the following comments for your consideration.

S.B. 2312, S.D.1, creates a new section in chapter 92F, Hawaii Revised Statutes (HRS), that deems all records created, received, maintained, or used by private contractors carrying out functions on behalf of public agencies, as government records, and are subject to the state's Uniform Information Practices Act (UIPA). The bill would require the contractor to abide by the agency's records retention schedule and all records retained by the contractor must be made available upon the agency's request. An exemption is provided to the employees' retirement system.

The bill has a defective effective date of January 1, 2525.

DOTAX is concerned that requiring contractors to comply with these requirements would discourage contractors from bidding on or continuing existing state projects, reducing competition and increasing costs. For example, the proposed 92F-_(a)(1), HRS, would require private vendors to adhere to DOTAX's retention and destruction policies, which may require drastic and costly changes to existing systems, industry practices, or contract provisions. Also, the contractor would have to dedicate

resources for the search, review, and segregate function in response to a UIPA request, likely without adequate compensation and staffing. Contractors may be unwilling to assume these obligations, and those that do may raise prices to cover the added administrative workload, legal risk, and technical demands.

Another consideration is the complexity of DOTAX's tax system, which relies on multiple integrated systems to collect, process, and distribute significant amounts of taxpayer revenue and maintain confidential taxpayer information. As a result, working with specialized contractors is both necessary and beneficial, and because of the sophisticated nature of the systems, the availability of qualified contractors is limited.

Given the intricate nature of these contracted services, safeguarding proprietary tools, methodologies, and processes is essential to retain and attract qualified contractors and to preserve the competitive value of their expertise.

DOTAX therefore requests that the Committee hold this bill.

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

KRISTIN E. IZUMI-NITAO
EXECUTIVE DIRECTOR



LATE

PHONE: (808) 586-0285
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WWW.HAWAII.GOV/CAMPAIGN

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 26, 2026

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

The Honorable Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Members of the Senate Committee on Judiciary

FROM: Kristin Izumi-Nitao, Executive Director
Campaign Spending Commission **KEI**

SUBJECT: **Testimony on S.B. No. 2312, S.D.1, Relating to Government Contracts.**
Senate Committee on Judiciary
Friday, February 27, 2026, at 10:30 a.m.
Conference Room 016 & Videoconference

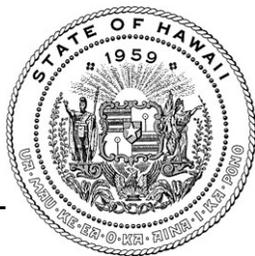
Thank you for the opportunity to testify on this bill. The Campaign Spending Commission (“Commission”) opposes this bill.

Hawaii campaign finance laws exist to provide transparency to the public relating to candidates, candidate committees, and noncandidate committees. The Commission supports legislation that increases government transparency; however, we believe this bill will result in unintended consequences on government agencies by transferring government compliance duties to third party government contractors. Placing the duty on third party government contractors to maintain and comply with a Chapter 92F, Hawaii Revised Statutes request may result in penalizing the government agency if the government contractor fails to comply. The bill does not provide a recourse for government agencies in the event the government contractor fails to comply. In addition, the Commission is concerned that the government contractor may inadvertently disclose private or confidential information that government agencies are more accustomed to protecting. As an example, the Commission is working with a vendor to modernize its electronic filing system for candidates and noncandidate committees. This vendor will have records of all documents required to be filed with the Commission. While the majority of the reports and notices required to be filed with the Commission are available online for the public to view, the Commission does not include bank account information for candidate and noncandidate committees on its website due to privacy concerns. The Commission’s vendor

would also have this information and may inadvertently release this information in a UIPA request. The Commission is concerned it could be held liable for the disclosure by its vendor.

The Commission believes the current UIPA law adequately provides transparency in government while holding each agency responsible for the documents and records it is required by law to maintain and therefore this bill is not needed.

The Commission respectfully requests this bill be held.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKAI

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

JAMES KUNANE TOKIOKA
DIRECTOR

DANE K. WICKER
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
JAMES KUNANE TOKIOKA
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON JUDICIARY

Friday, February 27, 2026
10:30 AM
State Capitol, Conference Room 016

SB2312, SD1
RELATING TO GOVERNMENT CONTRACTS.

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

Thank you for the opportunity to testify in opposition to SB2312, SD1. While the Department of Business, Economic Development & Tourism (DBEDT) fully supports transparency and accountability in government, we have significant concerns regarding the operational, fiscal, and economic development impacts of this measure.

As drafted, SB2312, SD1 amends Chapter 92F, Hawai'i Revised Statutes, to require that any contractor performing an "agency function" retain records pursuant to the agency's retention schedule and provide access to those records upon request, and further deems those records to be "government records" for purposes of the Uniform Information Practices Act (UIPA).

DBEDT works extensively with private-sector partners to advance economic diversification across multiple sectors, including:

- Technology and innovation (HTDC programs, incubators, R&D initiatives)

- Creative industries and film production
- Manufacturing and value-added food production
- Renewable energy and infrastructure projects
- Public-private partnerships and capital development initiatives

Many of these activities rely on contracts with private entities that develop proprietary business models, financial projections, trade secrets, investment strategies, intellectual property, and competitive market analyses.

By broadly defining “agency function” as any service, program, or activity an agency is authorized or required by law to perform, this bill would potentially sweep in a wide range of private-sector economic development activities. As a result:

- Contractors may be required to retain and potentially disclose sensitive proprietary materials.
- Venture capital partners, technology firms, production companies, and manufacturers may reconsider doing business with the State.
- The State’s ability to attract innovative firms and high-growth industries could be materially weakened.

Economic development often requires the State to partner with companies operating in competitive national and global markets. Imposing broad UIPA exposure on private contractors will increase perceived risk and reduce Hawai‘i’s competitiveness relative to other states.

The bill requires contractors to retain all records related to performance of the contract pursuant to the agency’s retention schedule and provide access to those records upon request. This may require contractors to modify internal document retention systems, seek legal counsel to review UIPA applicability and exemptions, redact proprietary and personally identifiable information, and defend against potential disputes regarding

disclosure. These compliance costs will not be absorbed by private entities; they will be incorporated into bid pricing and contract costs. For DBEDT, which administers grants, incentives, innovation programs, and development projects statewide, this will directly increase program costs and reduce funds available for economic growth initiatives.

The bill places responsibility on agencies to obtain contractor records when responding to UIPA requests and deems those records to be government records. However, it does not provide additional staffing or resources to manage expanded UIPA requests, address disputes over contractor compliance, shield agencies from judicial enforcement actions if contractors delay or refuse to provide records. DBEDT already operates with limited administrative capacity across multiple attached agencies. Expanding UIPA obligations into contractor-held records may increase workload for legal and program staff, create delays in responding to requests, heighten litigation risk, and potentially expose the State to attorneys' fees and costs. This risk is especially acute in sectors such as film production, energy infrastructure, and advanced manufacturing, where large-scale private contracts are common and where media and competitor scrutiny is routine.

Modern economic development is increasingly structured through public-private partnerships. The Legislature has encouraged such collaboration to accelerate innovation, infrastructure delivery, workforce development, and diversification of Hawai'i's economy. This measure may unintentionally discourage public-private infrastructure projects, technology commercialization partnerships, venture-backed innovation initiatives, film and media productions, or manufacturing expansion projects. Private firms may determine that the compliance and disclosure exposure outweigh the benefit of partnering with the State.

The bill does not limit its application to situations where a contractor is acting as the functional equivalent of an agency. Instead, it applies broadly to any "service, program, or activity" the agency is authorized to perform. For DBEDT, this could include grant

recipients, innovation challenge participants, workforce training providers, economic research contractors, and incentive program participants. This may lead to legal ambiguity or uncertainty that may ultimately be resolved through litigation rather than clear statutory guidance.

For these reasons, DBEDT respectfully urges the Committee to defer SB2312, SD1. Thank you for the opportunity to provide testimony.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Judiciary
February 27, 2026 at 10:30 a.m.

By

Luis P. Salaveria

Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

SB 2312 SD1 – RELATING TO GOVERNMENT CONTRACTS.

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

The University of Hawai'i (UH) opposes SB 2312 SD1 which among other things, amends the Uniform Information Practices Act (UIPA) to require private entities who contract with any unit of government in the State (an "agency") to be subject to the requirements of the UIPA. Specifically, SB 2312 SD1 requires those contracting with an agency to perform an agency function to retain records following the retention schedule of that agency and to provide the agency access to the records upon request. It also establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA.

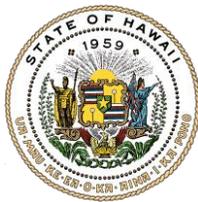
Applying UIPA requirements and record-keeping mandates to private contractors immediately raises legal, administrative, and cost concerns. The definition of "agency function" is limitless, and it is difficult to understand how the public is served by treating private contractors' internal records (including correspondence) as "government records." This bill will increase the cost of government services, as private entities will pass on the costs of administering such a program.

The bill is not clear regarding what protections, exceptions or exemptions would apply, including those existing in HRS Sections 92F-13, 92F-14 and 92F-19. Even if all of these protections are intended to apply to private entities' records, stronger exemptions for trade secrets and confidential commercial information would be needed for the private entities to participate willingly in this program

Existing UIPA laws already cover records for contracted services, provided the agency either manages those records or has the legal right to access them under the contract. For these reasons, UH feels that this bill is unnecessary at this time.

Thank you for the opportunity to submit testimony on this measure

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
Director

ERNEST J. ROBELLO
Deputy Director
Administration

SYLVIA LUKE
LT GOVERNOR
KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'okō Kānāwai
715 South King Street
Honolulu, Hawaii 96813

JARED K. REDULLA
Deputy Director
Law Enforcement

LATE

TESTIMONY ON SENATE BILL 2312, SENATE DRAFT 1
RELATING TO GOVERNMENT CONTRACTS

Before the Senate Committee on
JUDICIARY

Friday, February 27, 2026, 10:30 AM

State Capitol Conference Room 016

WRITTEN TESTIMONY ONLY

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

The Department of Law Enforcement (DLE) opposes Senate Bill 2312, SD 1. This bill amends the Uniform Information Practices Act (UIPA) to require the contracted party under each contract to perform an agency function by retaining records in accordance with the agency's retention schedule and providing the agency with access to the records upon request. It also establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA. Exempts contracts entered into by the Employees' Retirement System.

Although DLE fully supports government accountability, SB2312 SD1 goes beyond ensuring government accountability. The measure amends Chapter 92F to require that private contractors performing an "agency function" retain records in accordance with the State's record retention schedules and provide agencies access to those records, and further deems those records to be government records for purposes of UIPA. In effect, this bill extends UIPA obligations into the private sector.

UIPA's purpose is to ensure that the government is accountable. Subjecting private entities and individuals doing business with the State to the same public disclosure framework is inappropriate and constitutes a significant policy expansion.

Moreover, the bill requires government agencies to obtain records from contractors when responding to a UIPA request. The measure does not account for the additional time, staffing, and administrative resources each agency would need to devote to retrieving records from third parties, reviewing them for applicable exemptions, coordinating redactions, and responding within statutory deadlines and Hawaii Administrative Rules promulgated by the Office of Information Practices (OIP).

The bill also does not shield agencies from judicial enforcement if they are unable to respond in a timely manner. If a requester does not receive records from a private contractor through the agency, whether due to delay, dispute, or noncompliance, the requester may sue the government agency. These lawsuits require significant resources to defend, and agencies may be required to pay the requester's attorneys' fees and costs. This creates substantial litigation exposure for agencies based on records that may not even be within their physical custody.

Thank you for the opportunity to testify in opposition to this bill.



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Senate Committee on Judiciary

Friday, 27, 2026

10:30 a.m.

State Capitol, Conference Room 016 and Videoconference

In Support

Senate Bill No. 2312 SD1, Relating to Government Contracts.

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

The Office of the Governor is in strong opposition to S.B. No. 2312 SD1, Relating to Government Contracts.

This measure would significantly expand the reach of UIPA by requiring private entities and individuals that contract with the State to maintain records in accordance with state record retention laws and to make internal, contract related documents available through a UIPA request. This extension goes beyond UIPA's core purpose. UIPA is intended to ensure government accountability and transparency, a principle I uphold and expect all departments to follow. Imposing the same standards on private sector entities is not appropriate.

Chapter 92F, HRS, codifies the Uniform Information Practices Act to promote public participation and scrutiny of government actions. Section 92F-2, HRS, provides that the discussions, deliberations, decisions, and actions of government agencies should be conducted as openly as possible. The statute is expressly focused on government transparency and accountability.

Although transparency remains a central priority of this Administration, extending government record retention and disclosure requirements to private contractors exceeds the intent of the law. The bill would require contractors to comply with state retention requirements and potentially subject their internal contract related records to public disclosure.

The measure would also impose substantial administrative burdens on state agencies. Agencies would be required to obtain records from contractors in order to respond to UIPA requests, without additional time or resources. They would remain subject to statutory

Testimony of the Office of the Governor
S.B. No. 2312 SD1
February 27, 2026
Page 2

response deadlines and potential court enforcement, including liability for attorneys' fees and costs, even when delays are outside their direct control.

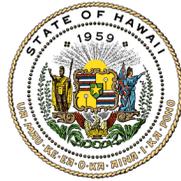
In fiscal year 2025, the executive branch awarded 2,474 contracts totaling \$12,429,503.11. If enacted, this bill would likely increase the cost of doing business with the State. Contractors may need to revise retention policies, store records for longer periods, and incur legal and administrative expenses to review and redact documents. These additional costs would ultimately be passed on to the State and taxpayers. Requiring contractors to follow state mandated retention and destruction schedules, regardless of existing systems or industry practices, would further increase administrative burdens, legal risk, and compliance costs.

Finally, the Office believes the bill is unnecessary, as records relating to contracted services are already subject to UIPA to the extent they are maintained by or accessible to the agency.

For these reasons, the Office respectfully requests that this Committee hold this bill. Mahalo for the opportunity to submit testimony on this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



State of Hawai'i
DEPARTMENT OF AGRICULTURE & BIOSECURITY
KA 'OIHANA MAHI'AI A KIA'I MEAOLA
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SHARON HURD
Chairperson
Board of Agriculture & Biosecurity

DEAN M. MATSUKAWA
Deputy to the Chairperson

LATE

**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON JUDICIARY

**FRIDAY, FEBRUARY 27, 2026
10:30 AM
CONFERENCE ROOM 016**

**SENATE BILL NO. 2312, SD1
RELATING TO GOVERNMENT CONTRACTS**

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

Thank you for the opportunity to testify on Senate Bill No. 2312, SD1 that amends the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request. Establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA. Exempts contracts entered into by the Employees' Retirement System. Effective 1/1/2525. (SD1)

I am writing with respect to the above-reference bill Relating to Government Contracts and requesting that you defer this bill. This bill seeks to have "records created, received, maintained, or used by private contractors performing government functions on behalf of public agencies" subject to chapter 92F, Hawaii Revised Statutes (HRS).

Chapter 92F, HRS, codifies the Uniform Information Practices Act (UIPA) for the purpose of ensuring that public participation and scrutiny into government would facilitate transparent government. The Legislature declared that pursuant to section 92F-2, HRS, "the discussions, deliberations, decisions, and action of government agencies – shall be conducted as opening as possible." The express purpose is to ensure accountability and transparency in government.

SB 2312, SD1 seeks to broaden UIPA's reach by requiring private entities and individuals who do business with the State to maintain their records according to the State's record retention laws and to make their internal documents related to the

government contract available to the public through a UIPA request goes too far. UIPA's purpose is for government to be accountable, a priority that I believe in and practice in my department. Subjecting the private sector to the same accountability is inappropriate.

Moreover, SB 2312, SD1 requires that government agencies will be responsible for obtaining documents from these contractors when the agency receives a UIPA request. The bill does not contemplate the additional time and resources that each agency would have to devote to responding to such UIPA requests. Nor does the bill prevent an agency from being subject to judicial enforcement if the agency is unable to respond to the UIPA request pursuant to statute and Hawaii Administrative Rules promulgated by the Office of Information Practices. This means that if an entity, say Civil Beat, does not get the records from the private contractor, it can sue the government agency. These suits not only require resources to oppose, but the agency is subject to being required to pay the requestor's attorney fees and costs.

In 2025, the executive branch of the State awarded 2,474 contracts totaling 12,429,503.11 in awards. If the bill passes, I believe the cost of the State doing business will go up. Contractors will need to change document retention policies, potentially store documents for longer periods of time, and spend money on lawyers when a request comes in to determine what records are exempt as proprietary, which contain personal identifying information, which should be disclosed with redactions, and then actually redacting the documents. I have no doubt that these costs will be passed on to the taxpayer.

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

**DEPARTMENT OF CUSTOMER SERVICES
KA 'OIHANA LAWELAWE KUPA
CITY AND COUNTY OF HONOLULU**

ADMINISTRATION

925 DILLINGHAM BOULEVARD, SUITE 257 • HONOLULU, HAWAII 96817
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RICK BLANGIARDI
MAYOR
MEIA

KIMBERLY M. HASHIRO
DIRECTOR
PO'O

MEGAN JOHNSON
DEPUTY DIRECTOR
HOPE PO'O



February 25, 2026

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
and Members of the Senate Committee on Judiciary
State Capitol, Conference Room 016
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

SUBJECT: S.B. No. 2312, S.D. 1 - Relating To Government Contracts
HEARING: Friday, February 27, 2026, 10:30 a.m.

The City and County of Honolulu, Department of Customer Services (CSD) respectfully **opposes** this bill and has serious concerns for your committee's consideration. CSD administers all of O'ahu's motor vehicle registration and the legal process of establishing, transferring, and registering official ownership of a vehicle (titling), and driver licensing and state civil identification programs. The department also processes payments and sales for numerous city services, issues business licenses, and administers a call center providing customer support for issues that fall within the jurisdiction of the City and County of Honolulu. CSD also administers the City's abandoned and derelict vehicle towing contract, animal care and control contracts, and the affordable spay and neuter certificate program. This bill would require the contracts for all of the aforementioned government services to include mandatory provisions obligating contractors performing an "agency function" to retain records created, received, maintained, or used in contract performance in accordance with the department's records retention schedule, and provide the department access to those records for potential disclosure under the Uniform Information Practices Act (Modified), chapter 92F, Hawai'i Revised Statutes (UIPA). The bill also defines "agency function" broadly as any service, program, or activity an agency is authorized or required by law to perform.

CSD has **significant concerns** regarding the bill's application and its legal implications.

First, the bill is unnecessary because records related to government-contracted services are already subject to UIPA disclosure requirements pursuant to section 92F-12, Hawai'i Revised Statutes, to the extent they are administratively maintained by the agency, including situations in which the agency has contractual rights to access contractor records.

Second, the bill does not explicitly address the privacy of proprietary or confidential information, including sensitive personal information received, maintained and used in connection with the provision of the various contracted government services described above, trade secrets, and confidential business information.

Third, these requirements, in particular the records retention and provision of access requirements, are burdensome and will likely discourage contractors from bidding on solicited projects, thereby reducing competition and increasing costs to the city.

Finally, the bill provides that all records retained by a contractor pursuant to the new section concerning agency function contracts "shall be deemed government records" for purposes of chapter 92F. This raises significant legal and operational concerns for agencies, including the potential for increased legal disputes as to whether particular records are subject to disclosure, whether a contractor maintains responsive records, and whether records have been properly retained. Operationally, implementation will require new procedures, additional staffing, training, legal review, capacity assessment, and coordination with contracted service providers. These additional responsibilities would significantly increase the workload for agencies without information as to the need for additional funding, staffing and/or time to implement. Of concern, the bill does not include an appropriation to support these expanded responsibilities that would be placed upon the counties.

For these reasons, CSD respectfully **opposes** S.B. 2312, SD1 and encourages the legal, operational, and resource impacts be carefully considered as this measure undergoes further deliberation.

Thank you for this opportunity to provide testimony on S.B. 2312, SD1.

Sincerely,

/s/ Kimberly M. Hashiro
Director



Senate Committee on Judiciary

Friday, February 27, 2026, 10:30 AM Hearing in Conference Room 016 on
SB 2312, SD1 Relating to Government Records

TESTIMONY

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

Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports the intent of SB 2312, SD1. 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. Legislation is required to prevent this from happening again. However, we are uncertain whether agency concerns justify further bill amendments.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

February 27, 2026
10:30AM
Hawaii State Capitol
Room 016 & Via Videoconference

Testimony in Opposition to SB 2312, SD1

Relating to Government Contracts

Amends the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request. Establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA. Exempts contracts entered into by the Employees' Retirement System.

Edward N. Chu
President & Chief Executive Officer
Hawai'i Health Systems Corporation

On behalf of the Hawai'i Health Systems Corporation (HHSC) Corporate Board of Directors, we submit testimony **in opposition to SB2312, SD1**. This bill seeks to have "records created, received, maintained, or used by private contractors performing agency functions on behalf of public agencies" subject to chapter 92F, Hawaii Revised Statutes (HRS).

SB2312, SD1 would broaden UIPA's reach by requiring private entities and individuals who do business with the State to maintain their records according to the State's record retention laws and to make their internal documents related to their government contracts available to the public through a UIPA request.

As the State's safety-net health system primarily serving the neighbor islands, HHSC must externally source a range of complex and highly specialized healthcare services to provide the quality care that the residents of our unique island communities require. Should this measure pass, many entities with needed expertise could choose not to do business with HHSC and thus impact the delivery and access of care to our kupuna, children and residents that use our facilities. This impact would be felt disproportionately on the neighbor islands.

Moreover, SB2312, SD1 does not contemplate the additional time and resources that we would have to devote to responding to UIPA requests directed at contractors, resulting in a greater operational burden on our facilities.

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



Feb. 27, 2026

Sen. Karl Rhoads
Senate Judiciary Committee
State Capitol
Honolulu, HI

Re: Senate Bill 2312, SD1

Chair Rhoads and Committee Members:

We endorse this bill as a way to close a loophole in the Uniform Information Practices Act and to promote transparency in government.

This loophole allows an agency to give away its right to obtain records related to a private company's performance of an agency function. We are not clear why the state Employees Retirement System was exempted from the bill other than it has a lot of business.

The bill says 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. This also does not appear to affect trade secrets.

We feel this bill will promote agency transparency and accountability.

Thank you for your time and attention.

Stirling Morita
President
Hawaii Professional Chapter of the Society of Professional Journalists

JOSH GREEN, M.D.
GOVERNOR



RIKI FUJITANI
EXECUTIVE DIRECTOR



**Hawai'i School
Facilities Authority**

2759 S. KING STREET, ROOM H201
HONOLULU, HAWAII 96826

Senate Committee on Judiciary

Friday, February 27, 2026
10:30 AM
Hawai'i State Capitol, Room 016

Senate Bill 2312, Senate Draft 1, Relating to Government Contracts

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

The Hawai'i School Facilities Authority (SFA) respectfully **opposes** Senate Bill 2312, Senate Draft 1, which would amend the Uniform Information Practices Act (UIPA) to require the contracted party of each contract to perform an agency function to retain records following the retention schedule of the agency and to provide the agency access to the records upon request.

The SFA is committed to transparency and accountability. However, applying UIPA to government contractors does not meaningfully move the needle and will likely result in higher costs to retain contractors. From the SFA's perspective, we are concerned that this measure will make delivering modernized school facilities a more expensive and challenging endeavor than it already is with little public benefit in exchange. We ask you not to pass this measure.

Mahalo for this opportunity to testify.

Sincerely,

Riki Fujitani
Executive Director

Feb. 27, 2026, 10:30 a.m.
Hawaii State Capitol
Conference Room 016 and Videoconference

To: Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice-Chair

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

RE: TESTIMONY IN SUPPORT OF SB2312 SD1 — RELATING TO GOVERNMENT CONTRACTS

Aloha chair, vice chair and other committee members,

The Grassroot Institute of Hawaii **supports** [SB2312 SD1](#), which would clarify state law regarding government contracting. This bill would require that private contractors performing an agency function must retain all records related to that function and provide the agency with access to those records on request. It also states that such records are deemed government records, which would make them 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

SB-2312-SD-1

Submitted on: 2/25/2026 9:01:13 AM

Testimony for JDC on 2/27/2026 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Bianca Isaki	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

SB 2312 does not expand UIPA's reach or diminish existing exemptions. It simply closes a loophole in the law by blocking agencies from contractually giving up the right to obtain records related to work done on the public's behalf. The agency's right to review contractor records is part of the State's standard terms and conditions. There is no reason the State should ever give up that right.

Please support SB2312. Taking this action now is important as our state and county governments increasingly rely on private contractors to perform important government functions.

Yours,

Bianca Isaki, Kane`ohe



Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair

RE: Testimony in Support of S.B. 2312 S.D. 1, Relating to Government Contracts
Hearing: February 27, 2026 at 10:30 a.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 Hawai'i nonprofit organization that promotes open government. Thank you for the opportunity to submit testimony in **strong support** of S.B. 2312 S.D.1, with a **recommended amendment to delete the exemption at page 2, lines 15-16.**

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 gives away its right to obtain records related to a contractor's performance on an agency contract. This only happens when the agency affirmatively modifies the existing standard terms and conditions for all government contracts. There is no good reason to do that.

The loophole is no mere theory. It was prominently used by the UH Board of Regents in 2024 when it outsourced its presidential search function to a private contractor. *E.g., 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 blatant circumvention violates the intent of the UIPA to require "the discussions, deliberations, decisions, and action of government agencies" to be "conducted as openly as possible." HRS § 92F-2.

S.B. 2312 S.D. 1 ensures agencies will preserve their right to access contractor records concerning the performance of agency functions. If the agency has access to the records, that protects the public's right of access – subject to the normal UIPA exemptions. The public's right to know should not be diminished when agency functions are outsourced to private companies. Taking this action now is important as our state and county governments increasingly rely on private contractors to perform important government functions.



It is baffling that agencies would forfeit their right to review and audit contractor records. Even aside from public access, if agencies give up that right, it undermines the contracting agency's ability to enforce the contract. Allowing agencies to waive their own right of access to contractor records opens agencies to potential fraud, waste, and abuse in government contracting.

Despite our good faith efforts, we fail to understand the Attorney General's continued opposition to this bill. In effect, this proposal simply requires that agencies not waive a standard term and condition of government contracting – the agency's right to review contractor records.

The concerns raised by the Employees' Retirement System (ERS) and others misunderstand the bill. This proposal does not change existing protections for contractor records. If records are protected from disclosure today, those records will remain protected if this measure is enacted. The bill does not expand UIPA's reach or diminish existing exemptions. Thus, we respectfully ask the Committee to **delete the ERS exemption at page 2, lines 15-16**. It is unnecessary and overbroad and may be read to make contractor records of ERS *less accessible than existing law*.

Thank you again for the opportunity to testify in strong support of S.B. 2312 S.D. 1.