

NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI' I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE  
ON ENERGY AND ENVIRONMENTAL PROTECTION

THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

THURSDAY, MARCH 21, 2013  
8:30 A.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS, TO THE HONORABLE CHRIS LEE, CHAIR,  
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 1045, S.D. 1 - RELATING TO ELECTRIC COOPERATIVES

DESCRIPTION:

This measure proposes to direct the Public Utilities Commission ("PUC") and the Division of Consumer Advocacy ("DCA") to specifically consider the ownership structure and interests of an electric cooperative; and authorizes the PUC to waive or exempt an electric cooperative operating in the State from compliance with the provisions of Chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

POSITION:

The Division of Consumer Advocacy (Consumer Advocate) supports S.B. No. 1045, S.D. 1.

Senate Bill No. 1045, S.D. 1  
House Committee on Energy and Environmental Protection  
Thursday, March 21, 2013, 8:30 a.m.  
Page 2

COMMENTS:

Electric utility cooperatives are required to act in the best interest of their member/owners. Unlike investor owner utilities (IOU), cooperatives are not profit-driven.

In various dockets involving Kauai Island Utility Cooperative (KIUC), the Consumer Advocate took the position that the Consumer Advocate would apply the same level of scrutiny to KIUC, in spite of its cooperative ownership model, because Hawaii Revised Statutes Chapter 269, did not provide for any exceptions for electric utility cooperatives. S.B. No. 1045, S.D. 1 would provide the necessary exception, but at the same time provide adequate protection to the cooperative's member/owners by requiring the cooperative to apply for a waiver or exemption to the Public Utilities Commission.

Thank you for this opportunity to testify.

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
Mel Rapozo  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

Ricky Watanabe, County Clerk  
Jade K. Fountain-Tanigawa, Deputy County Clerk

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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

March 20, 2013

**TESTIMONY OF GARY L. HOOSER**  
**COUNCILMEMBER, KAUA'I COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**  
**Committee on Energy & Environmental Protection**  
**March 21, 2013**  
**8:30 a.m.**  
**Conference Room 325**

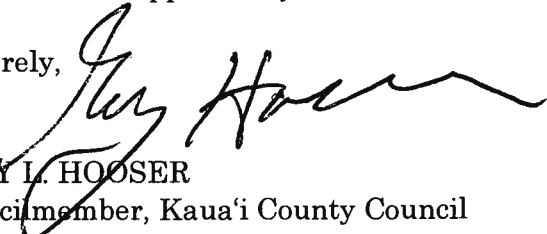
Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

  
GARY L. HOOSER  
Councilmember, Kaua'i County Council

AB:lc

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
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March 20, 2013

**TESTIMONY OF JAY FURFARO**  
**COUNCIL CHAIR, KAUAI COUNTY COUNCIL**

**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**

**Committee on Energy & Environmental Protection**

**March 21, 2013**

**8:30 a.m.**

**Conference Room 325**

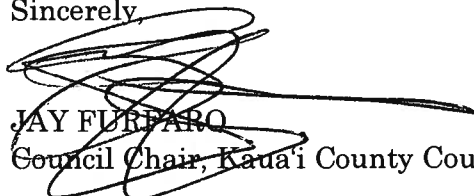
Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Council Chair of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,



JAY FURFARO  
Council Chair, Kaua'i County Council

AB:lc

**COUNTY COUNCIL**

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March 20, 2013

**TESTIMONY OF JOANN A. YUKIMURA  
COUNCILMEMBER, KAUA'I COUNTY COUNCIL**

**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES  
Committee on Energy & Environmental Protection**

March 21, 2013

8:30 a.m.

Conference Room 325


Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

  
JOANN A. YUKIMURA  
Councilmember, Kaua'i County Council

AB:lc

**COUNTY COUNCIL**

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March 20, 2013

**TESTIMONY OF MEL RAPOZO**  
**COUNCILMEMBER, KAUA'I COUNTY COUNCIL**

**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**  
**Committee on Energy & Environmental Protection**

**March 21, 2013**

**8:30 a.m.**

**Conference Room 325**

Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

MEL RAPOZO

Councilmember, Kaua'i County Council

AB:lc

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
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March 20, 2013

**TESTIMONY OF NADINE K. NAKAMURA  
COUNCIL VICE CHAIR, KAUA'I COUNTY COUNCIL**

**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**

**Committee on Energy & Environmental Protection**

**March 21, 2013**

**8:30 a.m.**

**Conference Room 325**

Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Council Vice Chair of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

NADINE K. NAKAMURA

Council Vice Chair, Kaua'i County Council

AB:lc

**COUNTY COUNCIL**

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March 20, 2013

**TESTIMONY OF ROSS KAGAWA  
COUNCILMEMBER, KAUA'I COUNTY COUNCIL**

**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**

**Committee on Energy & Environmental Protection**

**March 21, 2013**

**8:30 a.m.**

**Conference Room 325**

Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

**ROSS KAGAWA**  
Councilmember, Kaua'i County Council

AB:lc



**COUNTY COUNCIL**  
Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
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March 20, 2013

**TESTIMONY OF TIM BYNUM**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1 RELATING TO ELECTRIC COOPERATIVES**  
**Committee on Energy & Environmental Protection**

March 21, 2013

8:30 a.m.

Conference Room 325

Dear Chair Lee and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kauai County Council.

I am in full support of S.B. No. 1045, S.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kauai Island Utility Cooperative (KIUC) here on Kauai based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawaii Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawaii and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

TIM BYNUM  
Councilmember, Kauai County Council

AB:lc

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON  
ENERGY & ENVIRONMENTAL PROTECTION

MARCH 21, 2013  
8:30 a.m.

**MEASURE:** S.B. No. 1045, S.D. 1  
**TITLE:** Relating to Electric Cooperatives

Chair Lee and Members of the Committee:

**DESCRIPTION:**

This bill would direct both the Public Utilities Commission (“Commission”) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate”) to take into consideration the ownership structure and interests of electric utility cooperatives (“Cooperative”) when dealing with relevant matters. Further, the Commission is authorized to waive or exempt Cooperatives from having to comply with certain regulatory laws when such compliance is determined by the Commission to be unjust, unreasonable, or not in the public interest. It is made clear in S.B. No. 1045, S.D. 1 that the intent of this measure is not to exempt Cooperatives from the State’s statutorily-mandated clean energy policies.

**POSITION:**

The Commission strongly supports this measure and would also like to offer the following comments for the Committee’s consideration.

**COMMENTS:**

Chapter 269, Hawaii Revised Statutes, is structured to provide regulatory oversight of investor-owned electric utilities. Cooperatives are member-owned and operate on a not-for-profit basis. Therefore, the Commission believes it would be appropriate to review laws and administrative rules for their applicability to the Cooperative model.

An application for a waiver or exemption must go through a proceeding, which includes the Consumer Advocate as a party, and may, at the discretion of the Commission, include other qualified intervenors or participants. The Commission believes this is a safeguard to protect the Cooperative member/ratepayer's and the public interest.

The Commission appreciates the amendment made by the Senate Committee on Commerce & Consumer Protection to clarify it is not the intent of the Commission to utilize its discretionary authority to circumvent statewide clean energy policy mandates. Rather, it is the intent of the Commission to apply its discretionary authority judiciously where, for example, existing laws such as methodologies in the regulation of utility rates or ratemaking procedures may not directly apply to the Cooperative structure.

Thank you for the opportunity to testify on this measure.



Testimony Before the House Committee on  
Energy & Environmental Protection

By Michael Yamane, P.E.  
Chief of Operations  
Kauai Island Utility Cooperative  
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Thursday, March 21, 2013, 8:30 a.m.  
Conference Room #325

**Senate Bill No. 1045, SD1 – Relating to Electric Cooperatives**

To the Honorable Chris Lee, Chair; Cynthia Thielen, Vice-Chair,  
and Members of the Committee:

Thank you for the opportunity to testify on this measure. I am Michael Yamane, Chief of Operations at Kauai Island Utility Cooperative ("KIUC"). I am testifying on behalf of KIUC, and in strong support of Senate Bill No. 1045, SD1.

As you know, KIUC is a member-owned electric cooperative. This means that KIUC is essentially owned by the very customers it serves. Every customer of KIUC has the right to be a member (i.e., owner) of the cooperative, and currently, over 99.5% of KIUC's customers are members. Electric cooperatives such as KIUC are also not-for-profit and are member-run. KIUC has 9 Board of Directors who are elected by its members through a democratic process.

Without the need to provide profits and dividends to shareholders, cooperatives utilize what would normally be profits (cooperatives call them "margins") and invest them back for the benefit of the cooperative – by either funding new capital projects and initiatives; allocating margins to the members as capital credits; making patronage capital refunds to the members; and otherwise for the general welfare of the membership. In other words, these profits stay on the island of Kauai for the benefit of Kauai. In fact, in KIUC's first ten years as a cooperative, KIUC has returned over \$20 million in patronage capital refunds back to its members. These are all monies that would not have been returned back to KIUC's customers, and would have instead gone to shareholders, if KIUC was instead an investor-owned utility.

The above underscores that, as a cooperative, KIUC is inherently structured and committed to do what is in the overall best interests of its members. One of those commitments is to reduce the island's dependency on imported fossil fuels. This has been formalized in KIUC's Strategic Plan, which calls for 50% renewable generation by 2023.

*The power of human connections®*  
4463 Pahe`e Street, Suite 1 • Lihue, Kaua`i, HI 96766-2000 • (808)246-4300 • [www.kiuc.coop](http://www.kiuc.coop)

KIUC is an equal opportunity provider and employer.

Senate Bill No. 1045, SD1 will authorize and direct the Hawaii Public Utilities Commission to specifically consider the ownership structure and interests of not-for-profit, consumer-owned electric cooperatives, and to take actions and grant waivers and exemptions to HRS Chapter 269 and other applicable requirements consistent with how best to regulate and oversee an electric cooperative. This is especially important given that HRS Chapter 269 was created to provide regulatory oversight over investor-owned utilities, and decades before the State's first electric cooperative came into existence back in November of 2002. As such, it is important for the Commission to have the power and flexibility to consider an electric cooperative's ownership structure and non-profit status, and to correspondingly establish an appropriate regulatory structure for an electric cooperative in the State.

It is also important to recognize, however, that this measure does not give the Commission unfettered discretion to grant a waiver or exemption. Any waiver or exemption would be done through a formal proceeding before the Commission, which includes the Consumer Advocate as a party, and may, at the discretion of the Commission include other qualified intervenors or participants. Under the subject measure, the Commission is only authorized to grant a waiver or exemption if it finds that the regulatory requirements sought to be waived or exempted should not be applied to an electric cooperative or are otherwise unjust, unreasonable, or not in the public interest.

Thank you again for the opportunity to inform you of KIUC's position on this matter.

**thielen3 - Charles**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 20, 2013 8:58 PM  
**To:** EEPtestimony  
**Cc:** ahuntemer@aol.com  
**Subject:** Submitted testimony for SB1045 on Mar 21, 2013 08:30AM

**SB1045**

Submitted on: 3/20/2013

Testimony for EEP on Mar 21, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Angela Huntemer	Individual	Comments Only	No

Comments: This language is very, very troubling to me - "waive or exempt an electric cooperative operating in the State from compliance with the provisions of chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws" What could possibly warrant waiving or exempting all of the above. Very suspect. Angela Huntemer.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)