



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

SCOTT T. NAGO
INTERIM CHIEF ELECTION OFFICER

TESTIMONY OF THE
INTERIM CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON WAYS AND MEANS

January 4, 2010

Chair Kim and members of the Senate Committee on Ways and Means, thank you for the opportunity to update the committee on the Office of Elections current status. Given the recent transition in the Office of Elections, we will attempt to provide the committee with an overall picture of the issues that affect the office's preparedness to plan and implement the 2010 Elections, as well as, a Special Election for Congressional District I.

Provided that resources are made available, the Office will work towards ensuring that the voters of Congressional District I have the opportunity to elect a representative when a vacancy occurs. The Office has explored two different election models should there be a need for a Special Election. They are:

ALL MAIL ELECTIONS

This is based on the model used successfully by the City and County of Honolulu to fill its two council vacancies in 2009. All voters in Congressional District I would be mailed a ballot and absentee walk sites containing voting machines that are accessible would be made available. The counting of ballots would be done centrally prior to and on Election Day.

All mail elections would be our recommended model for a Special Election since it would obviate much of the administration and costs related to conducting a polling place election.

POLLING PLACE ELECTIONS

This model was used in the 2002 and 2003 Special Election to fill the vacancy in Congressional District II. Those elections were conducted similar to the regularly scheduled Primary and General Election.

On Election Day, polling places will be established for voting, as well as, prior to Election Day absentee walk sites and absentee mail will be offered. For this model, all ballots would be counted at the polling places on a precinct counter and consolidated after the polls close at a central counting center.

This model is essentially a scaled-down Primary or General Election and presents the office with the same logistical, staffing, and funding issues that a Primary or General Election would. These include an accessible voting system to service voters at the polling places and absentee walk sites, recruiting and training of Election Day Officials, as well as, the establishment and support of the polling places on Election Day.

For the committee's information, we attached a proposed timeline for conducting a Special Election and the estimated costs for the aforementioned election models.

It should also be noted that any election held in 2010 – either a Special Election or regularly scheduled election – would be conducted during a time when resources are increasingly scarce, as well as, the resolution of a number of outstanding issues. The following are a brief description of the issues the Office is faced with:

STAFFING

The Office is currently without key staff members. Normally the Office has a complement of 18 full-time staff members, not including the Chief Election Officer. Presently, there are four (4) vacant positions. This includes the Ballot Operations Coordinator who directs all aspects of ballot production and distribution and also all areas of candidate filing. The remaining vacant posts include three (3) specialist level staff in the areas of Voter Services, Computer Services, and Election Support Services. All specialist positions provide critical support to their respective program areas. These positions have not been filled due to lack of funds and authorization to fill these positions.

Additionally, seasonal election staff has not been hired. The Office of Elections employs thirteen (13) seasonal staff to provide logistical and clerical support during an election year. These positions also include staff to recruit and train Election Day Officials and other volunteers. Seasonal staff is necessary to ensure that operational goals and objectives are achieved. The Office has received authorization from the Administration to fill these positions, through a personal services contract, contingent upon the use of Federal Help America Vote Act funds. A Request for Proposals (RFP) has been issued on December 23, 2009.

BUDGET

The Office budget is insufficient to reach the end of the current fiscal year. The Office has previously provided budget figures combining both current and personnel expenses, producing a net figure which did not give an accurate depiction of our insufficiencies.

The Office has not acquired goods and services normally scheduled in the fiscal year prior to an election due to the lack of funding. These include ballot transport services, phone service, and printing (absentee and voter registration forms). It is uncertain whether these items can be purchased with the FY11 budget without severely impacting that budget and its priorities. A list of these goods and services necessary to conduct the 2010 Elections, but to date not procured, is noted in the attached list of items procured in FY08.

VOTING SYSTEM

The Office has not selected a voting system to conduct the 2010 elections. Pending litigation and the rules making process has required that the RFP to procure the system be put on hold. Acquisition of the voting system cannot proceed until after the rules are formally adopted. It is currently awaiting approval from the Governor's Office.

NECESSARY TIME

Due to the many outstanding issues, the Office's planning abilities would have to be divided between the 2010 Elections and a Special Election. The Office's capacity to accomplish all this work is contingent upon the staffing and funding issues being resolved.

Thank you for the opportunity to provide testimony regarding the Office's readiness to conduct elections in 2010. We hope that the information provided here serves as a meaningful starting point to clarify the resources needed and challenges that must be overcome in order to ensure that the people of State of Hawaii have the opportunity to have their voices heard in secure, open, and honest elections.

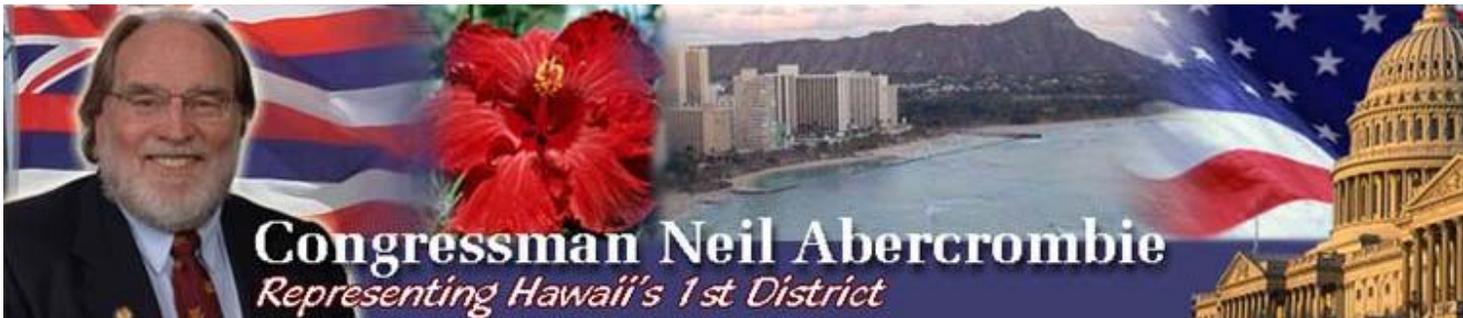
We are committed to continued dialog and collaboration with the various stakeholders including the Administration, Legislature, Elections Commission, voters, and counties, to work toward this goal.

Subject: FW: Abercrombie sets resignation date for February 28th

[Amy Asselbayer - Chief of Staff - Office of Congressman Neil Abercrombie - Phone (808) 541-2570 - Fax (808) 533-0133]

Website www.house.gov/abercrombie

From: Obata, Randy
Sent: Monday, January 04, 2010 11:55 AM
To: Obata, Randy
Subject: Abercrombie sets resignation date for February 28th



For Immediate Release: January 4, 2010
Contact: Dave Helfert 202-225-2726 / Randy Obata 808-541-2570

Abercrombie sets resignation date for February 28th

Honolulu, Hawaii – *U.S. Representative Neil Abercrombie issued the following statement today:*

“Three weeks ago, I announced my intention to resign from the U.S. House of Representatives in order to devote all my efforts to the 2010 campaign for governor of the State of Hawaii—a decision that followed a tremendous amount of thought and careful consideration. It was a decision inspired by the thousands of people who are frustrated by a collapse of leadership in our community but are encouraged by the opportunity in this New Year for a change in direction for our people and our state.

“Since announcing my intentions, I have consulted closely with the people I have worked with during my 19 years in Congress, including members of the Hawaii congressional delegation, House Speaker Nancy Pelosi, and the chairmen of two of my committees, the House Armed Services Committee and the Natural Resources Committee. These discussions have helped me to ensure that I will be able to fulfill the remaining duties requiring my presence in the House. This work, most notably, involves providing my continuing support for legislation on health care and the Akaka Bill. I’ve discussed with House Armed Services Committee Chairman Ike Skelton the transition of my chairmanship of the Subcommittee on Air and Land Forces. I’ve also discussed the Akaka Bill with Natural Resources Committee Chairman Nick Rahall who will continue working for all of us to move the measure to the House floor where it has received approval before.

“As a result of these discussions, I can now set the effective date of my resignation for February 28, 2010, which will enable state elections officials to plan for a timely and cost-effective special election for the First Congressional District to select a successor who will carry on the work of the people.

“The past few weeks have reminded me that my 19 years in Washington, D.C. as a U.S. Representative from Hawaii have allowed me to build strong, lasting, and life-long relationships with many colleagues on both sides of the aisle on Capitol Hill and throughout the federal government. Most of all, I have been privileged to be a part of an effective Hawaii congressional delegation which has accomplished so much to improve the quality of life for the people of Hawaii and nation. I take all of these experiences and friendships with me into the future, as part of a proven partnership involving the state government, Congress, and now the White House, to change the direction and leadership of our state.”

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KEVIN B. CRONIN
CHIEF ELECTION OFFICER

AARON H. SCHULANER
GENERAL COUNSEL

December 31, 2009

Sen. Colleen Hanabusa
President of the Senate
State Capitol
Honolulu, HI 96813

Sen. Donna Mercado Kim
Chair Ways and Means Committee
State Capitol
Honolulu, HI 96813

Rep. Calvin K.Y. Say
Speak of the House of Representatives
State Capitol
Honolulu, HI 96813

Rep. Marcus R. Oshiro
Chair Finance Committee
State Capitol
Honolulu, HI 96813

Dear Senate President Hanabusa and Sen. Kim and Speaker Say and Rep. Oshiro:

As one of my last official acts as chief election officer, I write to provide information that may be relevant to pending election issues at this time that give rise to the scheduled Information Briefing to be held before the Senate Committee on Ways and Means on Monday, January 4, 2010.

The committee's Notice of Information Briefing recognizes the possible issue of a special election that could be held if U.S. Congressman Neil Abercrombie (D, 1st Congressional District), resigns from his office before the end of his term of office in 2011. The specific issues of interest relate to the Office of Elections' level of readiness and its options and operational and fiscal implications and the state's fiscal implications and "possible sources of funding," for such election.

Since Rep. Abercrombie announced his plan to resign but its date, the Office of Elections' staff and I have spent considerable effort and time considering the issues of interest to the Committee on Ways and Means on Monday. These issues can be developed by Interim Chief Election Officer Scott Nago to the committee at that time. The committee's issue about "possible sources of funding," however, is the issue considered here.

The U.S. Election Assistance Commission (EAC) at my request in June 2009 agreed to field audit the receipt, use, and disbursement of all funds distributed to the state

Senate President Colleen Hanabusa
Sen. Donna Mercado Kim
Speaker of the House of Representatives Calvin K.Y. Say
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December 31, 2009
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through the Office of Elections under the Help America Vote Act of 2002 (HAVA) since the first disbursement during or after 2003. Three experienced and seasoned auditors who had performed 17 similar EAC state election office field audits before coming to the Office of Elections began their audit on Monday, October 5, 2009. They audited the state's HAVA funds for three weeks through Friday, October 23, with the full cooperation of the election office's staff and me and others from whom the auditors sought information in Honolulu. The auditors identified proposed findings and recommendations that are not final yet and thus not public information.

One important finding and recommendation, among the issues yet to be resolved between the EAC and the Office of Elections before the audit becomes final, concerns certain funds the auditors discovered in the HAVA accounts in the state treasury. The auditors informed me it is within my discretion as the state officer solely responsible to the EAC and the federal government for the use of the HAVA funds under HAVA to determine to whom and when to provide any information about the audit before it becomes final and public record. Because of both the significant public interest in a possible special election and the state's fiscal circumstances and because the funds to inform you about have not been, and are not appropriated by the legislature to the Office of Elections to use, I exercise my discretion that I believe is my duty here and that is in the public interest to inform you about the certain funds.

The EAC auditors identified funds of \$1,339,192.30. This amount arrived in a single check that was deposited into the HAVA account on May 16, 2003. The auditors noted this amount "of pre-HAVA reimbursement funds [before any HAVA funds were disbursed to any state under the law] were treated as (HAVA) Sec. 102 funds and were deposited into HAVA funds; should have been deposited in state's general fund" in 2003. This amount remains in the election office's HAVA accounts with accrued interest since May 16, 2003, and continuing to accrue interest. We do not know the total of principal and interest now in the HAVA account. The reason, I am informed, is the Department of Budget and Finance does not have the staff to calculate the interest to add to the principal. The final determination of these funds located because of the audit I requested remains for the EAC and chief election officer to agree about. I had hoped this funds issue could have been determined before my last day of service, today, and I worked regularly to do so, but regretfully it remains unresolved.

Sincerely

Kevin B. Cronin

cc: Scott Nago
Rhowell Ruiz
Aaron H. Schulaner