



RESOLUTION

RELATING TO THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE.

WHEREAS, the Hawaii State Association of Counties ("HSAC") is composed of the members of all four county councils of the state of Hawaii; and

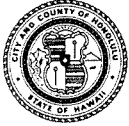
WHEREAS, the legislative package proposed by HSAC represents the state legislative priorities of the counties; and

WHEREAS, the HSAC Executive Committee has proposed state legislation listed in this resolution to be part of the Hawaii State Association of Counties' 2013 legislative package; and

WHEREAS, approval by all four councils is required to include proposals in the 2013 HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves for inclusion in the 2013 Hawaii State Association of Counties legislative package as follows:

- A proposed bill strengthening agricultural product branding and country or region of origin labeling for products grown, packaged or sold in the state of Hawaii, attached as Exhibit A.
- A proposed bill defining "indigent" and "partially indigent" to determine whether an individual is eligible to use the legal services of the Public Defender's Office, attached as Exhibit B.
- A proposed bill increasing the gallonage tax on liquor by \$0.05 starting July 1, 2014, to pay for police, fire and emergency medical services costs relating to drunk driving incidents, attached as Exhibit C.
- A proposed resolution requesting the state Chief Election Officer and the state Elections Commission to establish a mechanism to monitor the counties' readiness to conduct an election and intervene if necessary, attached as Exhibit D.
- A proposed bill requiring a prescription to purchase any product that contains pseudoephedrine, attached as Exhibit E.



RESOLUTION

- A proposed bill creating a cause of action against a person who maintains a property nuisance on residential property, attached as Exhibit F.
- A proposed bill allowing voters to register on the day of an election, attached as Exhibit G.
- A proposed resolution urging the U.S. Department of State, the U.S. Department of Homeland Security and the U.S. Attorney General to ease visa restrictions for the People's Republic of China, attached as Exhibit H.
- A proposed resolution urging the Governor and Legislature to maintain the counties' share of transient accommodation tax, attached as Exhibit I.
- A proposed bill providing the counties with representation on the Hawaii Employer-Union Health Benefits Trust Fund Board, attached as Exhibit J.
- A proposed bill providing the counties with representation on the Employees' Retirement System Board of Trustees, attached as Exhibit K.
- A proposed bill strengthening the laws relating to electronic waste recycling, attached as Exhibit L.
- A proposed bill requiring the state Director of Finance to transmit to the relevant county a percentage of all fines and forfeitures for uncontested traffic infractions committed in that county, attached as Exhibit M.
- A proposed bill authorizing only the buyer-owner of a newly constructed single-family dwelling to apply for a variance to the solar water heater requirement, attached at Exhibit N.
- A proposed bill requiring each respective county and the state Department of Hawaiian Home Lands to mutually consent upon the issuance of affordable housing credits for future Hawaiian Home Lands projects, attached as Exhibit O.

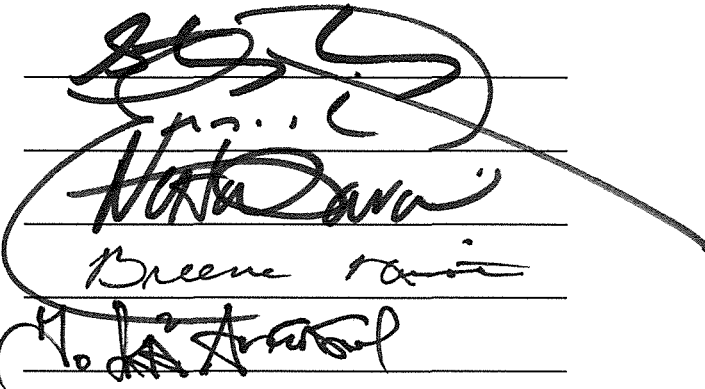
and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:


Hilda Davis
Breene Davis
H. Davis

DATE OF INTRODUCTION:

NOV 21 2012

Honolulu, Hawaii

Councilmembers

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING IN HAWAII' I REVISED STATUTES, SECTION 486.

PURPOSE: To amend HRS Chapter 486 on branding agricultural products and labeling with the country or region of origin to protect Hawai'i's regional crops and our growers investment, , provide protection of the consumer, prevent misleading information on labels, be informative to all parties of interest, create an identity for Hawai'i agricultural products, increase the minimum percentage in blends of any product to 75% before a Hawaiian or Hawai'i regional name may be placed on the label, and equalize all agricultural products in the way products are labeled and blended.

MEANS: Amend HRS Chapter 486 to make all agricultural products fairly and accurately labeled with a minimum percentage of Hawaiian products and country or region of origin so the consumer knows exactly what they are buying from the front label.

JUSTIFICATION: Milk products require 90% of the product to be produced in Hawai'i before the name of "Island Fresh" may be allowed on the label. However, other Hawaiian products, coffee, tea, vanilla, and macadamia nuts products are allowed to have as low as 10% Hawaiian product and be labeled with a Hawaiian regional name and the word, "blend". This is discriminatory, disadvantages the growers, confuses the consumer, degrades our Hawaiian products, and makes a mockery of the regional quality of our products. Additionally, HRS 486 specifically and in numerous sections, prohibits unfair or misleading the consumer, or misrepresents the origin of the product. HRS 486-110 specifically states "measure of any commodity for sale reflects accurate information and fair measurement practices to all concerned". Section 486 needs to be amended to protect the growers and consumers.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION
OF ORIGIN LABELING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawai'i Revised Statutes, Chapter 486,
2 Measurement Standards, Part V, Measurement Standards, Uniform
3 Packaging and Labeling is amended to add a new section 486-
4 120.7 to read as follows:

5 "§486-120.7 Agricultural product branding and country or region
6 of origin labeling.

7 (a) All agricultural products grown, packaged, or sold in
8 Hawai'i shall conform to the following conditions:

9 Honey, macadamia nuts, coffee, tea, vanilla, and any other
10 plant or animal products for which any information or name
11 indicating "Hawai'i", "Hawaiian", or any region of Hawai'i,
12 and where the product is less than 100% grown in Hawai'i,
13 shall after the word "Contains:" list on the front label
14 the country or region of origin and the percentage of each
15 country's or region's portion of the product in descending
16 order of percentage and in font size at least equal to one-
17 half the size of the largest font on the front label.

____.B. NO. _____

1 (Spices are exempted unless spice is the major portion of
2 the product.)

3 (b) All agricultural products claiming to be 100% grown in
4 Hawai'i shall be labeled to conform to the following condition:

5 (1) A minimum of 100% Hawai'i-grown product shall be
6 included in the package for the front label to say,
7 with or without Hawaiian okinas, in a font size at
8 least equal to one-half the size of the largest font:

9 "100% Hawai'i (product)" or "Hawai'i (product)"

10 "100% Hawai'i-Grown (product)" or "Hawai'i-Grown
11 (product)";

12 "100% Grown in Hawai'i";

13 "100% Hawai'i-Made (product)" or "Hawai'i-Made
14 (product)";

15 "100% Hawaiian-Made (product)" or "Hawaiian-Made
16 (product)";

17 "100% Made in Hawai'i"; or

18 "100% Hawaiian (product)" or "Hawaiian (product)".

19 (2) Spices are exempted unless spice is the major portion
20 of the product.

____.B.NO.____

1 (c) All agricultural products claiming to be 100% grown in a
2 single Hawaiian region shall be labeled to conform to the
3 following conditions:

4 (1) A minimum of 100% of the Hawaiian regionally-grown
5 product shall be included in the package for the front
6 label to say, with or without Hawaiian okinas, in a
7 font size at least equal to one-half the size of the
8 largest font:

9 (A) Regional names:

10 "100% (Region) (product)" or "(Region)
11 (product)";

12 "100% (Region)-Grown (product)" or "(Region)-
13 Grown (product)";

14 "100% (Region)-Made (product)" or "(Region)-Made
15 (product)"; or

16 "100% (Region) (product)".

17 (B) In the case of a blend that contains 100%
18 products from multiple Hawaiian islands:

19 "100% Hawaiian Islands (product) Blend" or "100%
20 Hawai'i Islands (product) Blend".

____.B. NO. _____

1 (2) Spices are exempted unless spice is the major portion
2 of the product.

3 (d) All packaging and labeling for products claiming to contain
4 some but less than 100% Hawai'i-grown product shall conform to
5 the following conditions:

6 (1) A blended plant or animal product labeled with the
7 words "Hawai'i" "Hawaiian" or the name of any Hawaiian
8 region (e.g. "75% Kona Coffee Blend") shall:

9 (A) Contain a minimum of 75% of that named region's
10 agricultural or animal product, and shall use the
11 word "Blend" in the identification of the
12 product;

13 (B) List the percentage number of the majority
14 portion of the product (e.g. "75% (region)
15 (product)"); and

16 (C) List after the word "Contains:" in descending
17 order, and after the majority content, the
18 remainder of the product by percentage and
19 country or Hawaiian region of origin, with or
20 without okinas, for example:

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1 "15% Argentina (product)" and "10% Congo
2 (product)";

3 "15% Argentina (product)" and "10% Mau'i
4 (product)"; or

5 "25% Mau'i and Kaua'i (product)" (The bulk
6 listing of percentages shall be allowed for
7 Hawaiian regions only); and

8 (D) The labeling required in (1), (2), and (3) above
9 shall be printed on the front label in a font
10 size at least equal to one-half the size of the
11 largest font on the front label.

12 (2) Any blended product that contains less than 75% of a
13 Hawaiian product shall not use the names "Hawai'i"
14 "Hawaiian" or any Hawaiian regional name on the front
15 label, except in the contents list which shall
16 identify on the front label the countries or
17 geographic regions of origin for the entire product
18 with the percentage for each country's or region's
19 portion of the product in a font size at least equal
20 to one-half the size of the largest font on the front
21 label."

____.B. NO. _____

1 SECTION 2. Nothing stated on side or back labels on any
2 product subject to this section shall be inconsistent with
3 statements appearing on the front label.

4 SECTION 3. To the extent the provisions of this section
5 are inconsistent with the labeling requirements of HRS Sections
6 486-120.5, 486-120.6, or 486-119, or any other statutory
7 section, the provisions of this section shall apply.

8 SECTION 4. New material is underscored. In printing this
9 ordinance, the underscoring need not be included.

10 SECTION 5. The effective date of this ACT shall be 18
11 months from the date the legislation is passed by the State
12 Legislature. The passage of this ACT shall begin the 18-month
13 time period for the effective date to take effect.

14

15 INTRODUCED BY: _____

16

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO DEFINITION OF INDIGENCY

PURPOSE: To promote fairness and consistency within our judicial system, it is proposed that the State of Hawai'i reconsider the current indigency definition, establish a screening program for financial need and third party review, and adopt a process which would clearly delineated the circumstances in which court-appointed counsel is necessary.

MEANS: Amend HRS 802-4 to:

- (a) Include a concrete definition of indigency to allow non-objective determination of annual income and other resources. Consider that if a criminal defendant is receiving some variety of public assistance, they may be deemed indigent;
- (c) Establish indigency at one hundred twenty-five percent (125%) or less of the current federally established poverty level;
- (d) Include a "partially indigent" designation, which requires criminal defendants to reimburse the state for a portion or all of the cost of court-appointed counsel;
- (e) Establish a uniform, well-defined screening process that includes an in-depth investigation of the applicant's financial circumstances to make an accurate determination as to whether the criminal defendant warrants government-funded public defense;
- (f) Require that "indigency" should be performed by an independent board, agency, or committee, or by judges not directly involved in the case,
- (g) Gather and verify substantial financial data including: biographical information and itemize any public assistance that the criminal defendant is receiving, criminal defendant and defendant's spouse's jobs, list assets (such as homes in any location, cars and investments); monthly expenses (food, rent, medical/dental), other debts, other persons living in the household (including children, dependants and contributing members of the household), provide space for listing more than one job, income provided to criminal defendant by individuals other than himself and his spouse, retirement benefits, any alimony/child support received, sporting equipment (such as boats and motorcycles), money owed to the criminal defendant, personal property of worth (such as appliances), other valuable property (such as gold, precious stones,

jewelry, works of art, farm equipment, etc.), and the amount of cash a criminal defendant has on hand;

- (h) Charge an application fee of at least \$100.00 for one or more misdemeanors and \$250 for one or more felonies to every person interested in receiving a public defender to pay for the cost of verification of financial information. If the criminal defendant cannot pay the fee in advance, the amount is added to the judgment and sentence if the criminal defendant is convicted. Utilize a promissory note for the application fee which the criminal defendant signs before the disposition of the case;
- (i) Devise a contribution plan for someone who is partially indigent to distinguish those who are truly indigent from those who can contribute limitedly to the cost of their counsel;
- (j) Require that the cases represented by public defenders are not chosen arbitrarily; and
- (k) Require Office of the Public Defender to report and furnish the criminal defendant's request forms to the Office of the Prosecutor (State Attorney General), when they find that the information provided is fraudulent, and advise the criminal defendant that fraudulent information shall result in 60 days jail time or and addition of 60 days jail time to any sentence to be served consecutively.

JUSTIFICATION: The State of Hawai'i has limited resources, it is essential that we make certain that funding is appropriately disbursed. The technique that is currently in place to evaluate the need for and assign court-appointed counsel is inefficient and outdated; furthermore, it discourages both consistency and fairness. These changes will create a far more defined and regulated system, and will streamline the process of determining indigency, ensuring that the constitutional rights of indigent people are met equitably.

___B. NO. ___

A BILL FOR AN ACT

RELATING TO THE DEFINITION OF INDIGENT AND PARTIALLY INDIGENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 802-4, Hawai'i Revised Statutes, is amended
2 to read as follows:

3 "§802-4 Determination of indigency. (a) Unless otherwise
4 ordered by the court, the determination of indigency shall be
5 made by ~~[a public defender subject to review by the court]~~ an
6 independent board, agency, or committee, or by judges not
7 directly involved in the case and shall be known as the
8 verification officers. Such determination shall be based upon
9 an appropriate and thorough inquiry into the financial
10 circumstances of the person seeking legal representation and an
11 affidavit or a certificate signed by such person demonstrating
12 the person's financial inability to obtain legal counsel. A
13 person shall waive the person's right to counsel by refusing to
14 furnish any information pertinent to the determination of
15 indigency.

____.B. NO. _____

1 (b) The definition of "indigent" shall be based on an objective
2 determination of annual income and other resources, and
3 shall comply with the following:

4 a. For misdemeanor cases, criminal defendants must earn
5 less than one hundred twenty-five percent (125%) of
6 the Federal Poverty Guidelines in order to qualify as
7 indigent.

8 b. For felony cases, criminal defendants must earn less
9 than one hundred fifty percent (150%) of the Federal
10 Poverty Guidelines in order to qualify as indigent.

11 (c) Financial Standards for Determining Indigence.

12 (1) The financial standards set forth below shall be used
13 to determine whether a defendant is indigent and shall
14 be applied equally to each defendant in the county. In
15 determining whether a defendant is indigent, the
16 verification officers may consider the defendant's
17 income, assets, property owned, outstanding
18 obligations, necessary expenses, the number and ages
19 of defendant's children, and spousal income that is
20 available to the defendant.

21 (2) A defendant is considered indigent if:

____.B. NO. ____

- 1 1. The defendant's net household income does not
2 exceed 125% of the Poverty Guidelines as
3 established and revised annually by the United
4 States Department of Health and Human Services
5 and published in the Federal Register; and
- 6 2. The value of the non-exempt assets and property
7 owned by the defendant:
 - 8 (i) does not exceed \$2,500.00;
 - 9 (ii) does not exceed \$5,000.00 in the case of a
10 defendant whose household includes a person
11 who is age 60 or over, disabled, or
12 institutionalized; or
 - 13 (iii) does not exceed double the estimated
14 cost of obtaining competent private legal
15 representation on the offense(s) with which
16 the defendant is charged.
- 17 (C) The following table indicates income levels
18 guidelines:

<u>The income levels in the following table</u> <u>represent 125% of the U.S. Department of</u>
--

B. NO.

<u>Health and Human Services Poverty</u>	
<u>Guidelines for 2008.</u>	
<u>1.....</u>	<u>\$10,400</u>
<u>2.....</u>	<u>14,000</u>
<u>3.....</u>	<u>17,600</u>
<u>4.....</u>	<u>21,200</u>
<u>5.....</u>	<u>24,800</u>
<u>6.....</u>	<u>28,400</u>
<u>7.....</u>	<u>32,000</u>
<u>8.....</u>	<u>35,600</u>
<u>For family units with more than eight</u> <u>members, add \$3,600 for each additional</u> <u>member in the family when determining 125%</u> <u>of Poverty.</u>	

- 1 (D) A defendant is considered indigent if, at the
2 time of requesting appointed counsel, the
3 defendant or the defendant's dependents have been
4 determined to be eligible to receive food stamps,

____.B. NO. _____

1 Medicaid, Temporary Assistance for Needy
2 Families, Supplemental Security Income, or public
3 housing.

4 (E) A defendant is considered indigent if the
5 defendant:

6 (i) is currently serving a sentence in a
7 correctional institution, is currently
8 residing in a public mental health facility,
9 or is the subject of a proceeding in which
10 admission or commitment to such a mental
11 health facility is sought, and does not have
12 sufficient funds in his inmate trust account
13 to hire counsel; and

14 (ii) has no non-exempt assets or property in
15 excess of the amounts specified in (b)(2)(B)
16 above.

17 (3) Definition of "partially indigent" (see section 802-
18 6):

19 (A) A defendant determined to be partially indigent
20 shall be eligible for appointment of counsel only
21 upon payment to the county of an appointment fee

____.B. NO. _____

1 of \$100 if charged with one or more misdemeanors
2 or \$250 if charged with one or more felonies. If
3 a defendant determined to be partially indigent
4 pleads or is found guilty, the court may order
5 the defendant to comply with a payment schedule
6 to reimburse the county for all indigent defense
7 costs in the case.

- 8
- 9 (B) A defendant shall be considered partially
10 indigent if the defendant does not meet any of
11 the standards for indigence set forth in
12 (b) (2) (B) above and:
- 13 (i) The defendant's net household income is
14 greater than 125% but does not exceed 175%
15 of the Poverty Guidelines as established and
16 revised annually by the United States
17 Department of Health and Human Services and
18 published in the Federal Register; and
- 19 (ii) The value of the non-exempt assets and
20 property owned by the defendant:
- 21 a. Does not exceed \$2,500.00;

____.B. NO. _____

b. Does not exceed \$5,000.00 in the case
of a defendant whose household includes
a person who is age 60 or over,
disabled, or institutionalized; or

c. Does not exceed double the estimated
cost of obtaining private legal
representation on the offense(s) with
which the defendant is charged.

(4) Factors Not to be Considered.

(A) A defendant's posting of bail or ability to post
bail may not be considered in determining whether
the defendant is indigent or partially indigent
except to the extent it reflects the defendant's
financial circumstances as measured by (b) above.
Even when a defendant has posted bail, the
defendant's financial circumstances are measured
by the financial standards stated in this rule.

(B) Except where the Defendant is a juvenile, the
resources available to friends or relatives of
the defendant may not be considered in
determining whether the defendant is indigent.

____.B. NO. _____

1 Only the defendant's financial circumstances as
2 measured by the financial standards stated in
3 this rule shall be used as the basis for
4 determining indigence.

5 (5) Payment by defendant

6 (A) A court that finds that a criminal defendant has
7 financial resources to offset, in part or in
8 whole, the costs of legal services provided under
9 this Part, may order the defendant to pay the
10 county that portion of the costs of legal
11 services, provided that it finds that the
12 defendant is able to pay. If a defendant is
13 placed on probation or deferred adjudication, the
14 court, as a condition of probation, may require
15 repayment of all or a portion of the county's
16 cost for providing legal representation if it
17 does not impose a substantial financial hardship
18 on the defendant or his legal dependants.

19 (B) Upon a determination of indigency, the Judge
20 presiding over the case shall sign the form
21 indicating the accused is indigent and shall

____.B. NO. _____

1 immediately appoint an attorney pursuant to the
2 approved attorney appointment list plan.

3 (d) A uniform, well-defined screening process to gather and
4 verify substantial financial data shall include an in-depth
5 investigation of the applicant's financial circumstances to
6 make an accurate determination as to whether the criminal
7 defendant warrants government-funded public defense. The
8 following is the minimum required information:

9 (1) obtain biographical information;

10 (2) itemize any public assistance that the criminal
11 defendant is receiving;

12 (3) list all jobs held by criminal defendant and
13 defendant's spouse, even part-time jobs or cash only
14 jobs;

15 (4) list assets (such as homes in any location, cars and
16 investments);

17 (5) list monthly expenses (food, rent, medical/dental);

18 (6) list other debts;

____.B. NO. _____

- 1 (7) other persons living in the household (including
2 children, dependants and contributing members of the
3 household);
- 4 (8) list all jobs;
- 5 (9) list income provided to criminal defendant by
6 individuals other than himself and his spouse;
- 7 (10) list retirement benefits;
- 8 (11) list any alimony/child support received or paid, or
9 owed;
- 10 (12) list sports equipment (such as boats and motorcycles);
- 11 (13) list money owed to the criminal defendant;
- 12 (14) list personal property of worth (such as appliances);
- 13 (15) list other valuable property (such as gold, precious
14 stones, jewelry, works of art, farm equipment, etc.);
15 and
- 16 (16) list the amount of cash a criminal defendant has on
17 hand.

.B. NO.

1 (e) Fees.

2 (1) An application fee of \$100.00 for one or more
3 misdemeanors and \$250 for one or more felonies shall
4 be charged for every person interested in receiving a
5 public defender to pay for the cost of verification of
6 financial information. If the criminal defendant
7 cannot pay the fee in advance, the amount is added to
8 the judgment and sentence if the criminal defendant is
9 convicted. Utilize a promissory note for the
10 application fee which the criminal defendant signs
11 before the disposition of the case.

12 (2) For those defendants who are partially indigent, a
13 contribution plan shall be devised to contribute to
14 the cost of their counsel. If the criminal defendant
15 cannot pay the fee in advance, the amount is added to
16 the judgment and sentence if the criminal defendant is
17 convicted. Utilize a promissory note for the
18 application fee which the criminal defendant signs
19 before the disposition of the case.

20 (3) The Office of the Public Defender shall report and
21 furnish the criminal defendant's request forms to the

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1 Office of the Prosecutor or the State Attorney General
2 when they find that the information provided is
3 fraudulent, and advise the criminal defendant that
4 fraudulent information shall result in 60 days jail
5 time or and addition of 60 days jail time to any
6 sentence to be served consecutively."

7 Click here and insert text of bill

8 SECTION 2. Statutory material to be deleted is bracketed
9 and in strikethrough. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

11

12 INTRODUCED BY: _____

13

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO INCREASED GALLONAGE TAX ON LIQUOR.

PURPOSE: To increase gallonage tax on liquor by 30%, collect and transfer this additional revenue to the respective counties, and partially reimburse counties for cost of handling crashes and crash fatalities involving driving under the influence of an intoxicant.

MEANS: Amend HRS Chapter 244D-4 to increase the gallonage tax on liquor by 30%.

JUSTIFICATION: The high rate of crashes and crash fatalities involving driving under the influence of an intoxicant (alcohol), and the cost of resolving the crash and fatalities falls on the counties which justifies an increase in gallonage tax for liquor. Gallonage tax on liquor has not increased since 1998 while the Consumer Price Index has increased more than 35% in the same period of time. Resolving the crash involves police, fire, EMS, traffic division to clear the wreckage, and prosecution of the case in each county. These costs could be partially covered by an increase in gallonage tax for liquor.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO GALLONAGE TAX ON LIQUOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 244D-4, Hawaii Revised Statutes, is amended
2 to read as follows:

3 "§244D-4 Tax; limitations. (a) Every person who sells or
4 uses any liquor in the State not taxable under this chapter, in
5 respect of the transaction by which the person or the person's
6 vendor acquired the liquor, shall pay a gallonage tax which is
7 hereby imposed at the following rates for the various liquor
8 categories defined in section 244D-1:

9 For the period July 1, 1997, to June 30, 1998, the tax rate
10 shall be:

- 11 (1) \$5.92 per wine gallon on distilled spirits;
12 (2) \$2.09 per wine gallon on sparkling wine;
13 (3) \$1.36 per wine gallon on still wine;
14 (4) \$0.84 per wine gallon on cooler beverages;
15 (5) \$0.92 per wine gallon on beer other than draft beer;

____.B. NO. _____

1 (6) \$0.53 per wine gallon on draft beer;

2 [On] For the period July 1, 1998, [and thereafter,] to June
3 30, 2014, the tax rate shall be:

4 (1) \$5.98 per wine gallon on distilled spirits;

5 (2) \$2.12 per wine gallon on sparkling wine;

6 (3) \$1.38 per wine gallon on still wine;

7 (4) \$0.85 per wine gallon on cooler beverages;

8 (5) \$0.93 per wine gallon on beer other than draft beer;

9 (6) \$0.54 per wine gallon on draft beer;

10 On July 1, 2014, and thereafter, the tax rate shall be:

11 (1) \$7.77 per wine gallon on distilled spirits;

12 (2) \$2.76 per wine gallon on sparkling wine;

13 (3) \$1.79 per wine gallon on still wine;

14 (4) \$1.11 per wine gallon on cooler beverages;

15 (5) \$1.21 per wine gallon on beer other than draft beer;

16 (6) \$0.70 per wine gallon on draft beer;

17 and at a proportionate rate for any other quantity so sold or
18 used.

____.B. NO. _____

1 (b) Beginning July 1, 2014, the increase in the gallonage
2 tax shall begin and the additional thirty percent per gallon
3 collected shall be reimbursed to each county by the amount of
4 additional gallonage tax collected from that county; however,
5 finances on the increased tax revenue shall be retained by the
6 State of Hawai'i to compensate it for the expense of collection.
7 Tax revenues from this Act shall be kept by the respective
8 counties in a special fund, and be accounted for as a separate
9 line item in their respective budgets.

10 (c) The tax collected for the period July 1, 2014 and
11 thereafter as set forth under subparagraph (a) above shall only
12 be used to pay for Police, Fire, Emergency Medical Services,
13 road clean-up, prosecution, and may also be used for training,
14 the purchase of any equipment deemed necessary by the respective
15 county departments, education and public service announcements
16 utilized to reduce driving while under the influence of an
17 intoxicant.

18 ~~[(b)]~~ (d) The tax levied pursuant to subsection (a) shall
19 be paid only once upon the same liquor; provided further that
20 the tax shall not apply to:

21 (1) Liquor held for sale by a permittee but not yet sold;

____.B. NO. _____

- 1 (2) Liquor sold by one permittee to another permittee;
- 2 (3) Liquor which under the Constitution and laws of the
- 3 United States cannot be legally subjected to the tax
- 4 imposed by this chapter so long as and to the extent
- 5 to which the State is without power to impose the tax;
- 6 (4) Liquor sold for sacramental purposes or the use of
- 7 liquor for sacramental purposes, or any liquor
- 8 imported pursuant to section 281-33; and
- 9 (5) Alcohol sold pursuant to section 281-37 to a person
- 10 holding a purchase permit or prescription therefor, or
- 11 any sale or use of alcohol, so purchased, for other
- 12 than beverage purposes."

13 SECTION 2. Statutory material to be deleted is bracketed

14 and in strikethrough. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

16

17 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: A Resolution Requesting the State of Hawai'i Chief Election Officer and Elections Commission to Establish a Mechanism to Monitor the Counties' Readiness to Conduct an Election and to Intervene if Necessary.

PURPOSE: The purpose of this resolution is to establish a proactive policy of monitoring each county's readiness to conduct an election to reduce the potential for future election-day issues.

MEANS: A House Concurrent Resolution, the Senate concurring, that the Twenty-seventh Legislature of the State of Hawai'i, Regular Session of 2013 request the chief election officer and the elections commission to establish a mechanism to monitor counties' readiness to conduct an election and to intervene if necessary.

JUSTIFICATION: It is of utmost importance to pursue a remedy to restore and assure confidence in the electoral process.

H.C.R. NO. _____

HOUSE CONCURRENT RESOLUTION

A RESOLUTION REQUESTING THE STATE OF HAWAII CHIEF ELECTION
OFFICER AND ELECTIONS COMMISSION TO ESTABLISH A MECHANISM TO
MONITOR THE COUNTIES' READINESS TO CONDUCT AN ELECTION AND TO
INTERVENE IF NECESSARY

1 WHEREAS, in the 2012 Primary Election in Hawai'i County,
2 issues occurred which resulted in several polling places opening
3 late, inhibiting the public's ability to exercise the right to
4 vote; and

5
6 WHEREAS, these late openings compelled Governor Neil
7 Abercrombie to issue an unprecedented emergency proclamation
8 extending polling place hours on Hawai'i Island to provide
9 sufficient opportunity for citizens to vote; and

10
11 WHEREAS, this event has damaged the public's confidence in
12 the electoral process; and

13
14 WHEREAS, Section 11-2 of the Hawai'i Revised Statutes
15 provides, in part, that the Chief Election Officer shall
16 supervise all state elections, and that election responsibilities
17 within a county may be delegated to a county clerk or other
18 specified persons; and

19
20 WHEREAS, Section 11-4 of the Hawai'i Revised Statutes
21 authorizes the chief election officer to make, amend and repeal
22 rules and regulations governing elections; and

23
24 WHEREAS, Section 11-7.5(5) of the Hawai'i Revised Statutes
25 provides for the Elections Commission to advise the chief
26 election officer on matters relating to elections; and

27
28 WHEREAS, it is of utmost importance to pursue a remedy to
29 restore and assure confidence in the electoral process; and
30

1 WHEREAS, a strong partnership between the State and the
2 County, formed through effective communication, is critical to
3 ensure a well-run election; and
4

5 WHEREAS, a proactive policy of monitoring each county's
6 readiness to conduct an election will reduce the potential for
7 future election-day issues that would further undermine the
8 public trust; now, therefore,
9

10 BE IT RESOLVED by the House of Representatives of the
11 Twenty-seventh Legislature of the State of Hawai'i, Regular
12 Session of 2013, the Senate concurring, that the State
13 Legislature requests the chief election officer and the
14 elections commission to establish a mechanism to monitor
15 counties' readiness to conduct an election and to intervene if
16 necessary; and
17

18 BE IT FURTHER RESOLVED that certified copies of this
19 Concurrent Resolution be transmitted to the Lieutenant Governor,
20 the Attorney General, the Chief Election Officer, the Elections
21 Commission and the Clerks of the four Counties.
22

23 OFFERED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO PSEUDOEPHEDRINE.

PURPOSE: Requires a prescription to purchase any product that contains pseudoephedrine.

MEANS: Amend §§329-24, 38, 64, 75, 73 and 74 and Repeal §§329-73 and 74, Hawaii Revised Statutes

JUSTIFICATION: A key ingredient in the illegal production of methamphetamine ("meth") that cannot be replaced is pseudoephedrine, found in many over-the-counter cold medicines. While state statute currently restricts the amount of pseudoephedrine that can be obtained at any one time and mandates reporting requirements for pharmacies and retailers, it does not require a doctor's prescription to obtain pseudoephedrine. Two states, Oregon and Mississippi, now require prescriptions for pseudoephedrine and have seen commensurately dramatic declines in meth lab incidents, meth-related seizures and arrests and meth-related treatment. Requiring a prescription to obtain pseudoephedrine is a proven method of reducing the manufacture and availability of meth which will directly result in reducing the levels of meth use and related economic costs in Hawaii.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO PSEUDOEPHEDRINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that methamphetamine is a
2 highly addictive drug with dangerous long-term side effects
3 including addiction, anxiety, insomnia, and violent behavior.
4 The legislature also finds that pseudoephedrine, a safe,
5 effective, and widely-used over the counter decongestant, is an
6 essential ingredient used to make methamphetamine.

7 The legislature finds that some state governments have
8 taken steps to address the growing number of methamphetamine
9 labs in their states. Oregon and Mississippi have passed laws
10 requiring prescriptions for pseudoephedrine. The purpose of
11 this Act is to classify pseudoephedrine as a schedule V drug
12 that may only be dispensed with a prescription.

13 SECTION 2. Section 329-22, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§329-22 Schedule V.

____.B. NO. _____

1 (a) The controlled substances listed in this section are
2 included in schedule V.

3 (b) Narcotic drugs containing nonnarcotic active medicinal
4 ingredients. Any compound, mixture, or preparation containing
5 limited quantities of any of the following narcotic drugs, which
6 also contains one or more nonnarcotic active medicinal
7 ingredients in sufficient proportion to confer upon the
8 compound, mixture, or preparation, valuable medicinal qualities
9 other than those possessed by the narcotic drug alone:

10 (1) Not more than 200 milligrams of codeine, or any
11 of its salts, per 100 milliliters or per 100
12 grams;

13 (2) Not more than 100 milligrams of hydrocodeine, or
14 any of its salts, per 100 milliliters or per 100
15 grams;

16 (3) Not more than 100 milligrams of ethylmorphine, or
17 any of its salts, per 100 milliliters or per 100
18 grams;

____.B. NO. _____

1 (4) Not more than 2.5 milligrams of diphenoxylate and
2 not less than 25 micrograms of atropine sulfate
3 per dosage unit;

4 (5) Not more than 100 milligrams of opium per 100
5 milliliters or per 100 grams; and

6 (6) Not more than 0.5 milligram of difenoxin and not
7 less than 25 micrograms of atropine sulfate per
8 dosage unit.

9 (c) Stimulants. Unless specifically exempted or excluded
10 or unless listed in another schedule, any material, compound,
11 mixture, or preparation that contains any quantity of the
12 following substances having a stimulant effect on the central
13 nervous system, including its salts, isomers, and salts of
14 isomers[-]: pseudoephedrine or any drug containing
15 pseudoephedrine.

16 (d) Depressants. Unless specifically exempted or excluded
17 or unless listed in another schedule, any material, compound,
18 mixture, or preparation that contains any quantity of the
19 following substances having a depressant effect on the central

____.B. NO. _____

1 nervous system, including its salts, isomers, and salts of
2 isomers:

- 3 (1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-
4 propionamide], (Vimpat); and
5 (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic
6 acid].

7 (e) No later than July 1, 2013, all drugs containing
8 pseudoephedrine shall be subject to the requirements of section
9 329-38."

10 SECTION 3. Section 329-38, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) No controlled substance in schedule II or
13 pseudoephedrine may be dispensed without a written prescription
14 of a practitioner, ~~[except-]~~ with the following exceptions:

- 15 (1) ~~[In]~~ For purposes of a controlled substance in
16 schedule II or pseudoephedrine, in the case of an
17 emergency situation, a pharmacist may dispense a
18 controlled substance listed in schedule II or
19 pseudoephedrine upon receiving oral authorization
20 from a prescribing practitioner; provided that:

____.B. NO. _____

- 1 (A) The quantity prescribed and dispensed is
2 limited to the amount adequate to treat the
3 patient during the emergency period
4 (dispensing beyond the emergency period must
5 be pursuant to a written prescription signed
6 by the prescribing practitioner);
- 7 (B) If the prescribing practitioner is not known
8 to the pharmacist, the pharmacist shall make
9 a reasonable effort to determine that the
10 oral authorization came from a registered
11 practitioner, which may include a callback
12 to the prescribing practitioner using the
13 phone number in the telephone directory or
14 other good faith efforts to identify the
15 prescriber; and
- 16 (C) Within seven days after authorizing an
17 emergency oral prescription, the prescribing
18 practitioner shall cause a written
19 prescription for the emergency quantity
20 prescribed to be delivered to the dispensing

____.B. NO. ____

1 pharmacist. In addition to conforming to
2 the requirements of this subsection, the
3 prescription shall have written on its face
4 "Authorization for Emergency Dispensing".
5 The written prescription may be delivered to
6 the pharmacist in person or by mail, and if
7 by mail, the prescription shall be
8 postmarked within the seven-day period.
9 Upon receipt, the dispensing pharmacist
10 shall attach this prescription to the oral
11 emergency prescription, which had earlier
12 been reduced to writing. The pharmacist
13 shall notify the administrator if the
14 prescribing practitioner fails to deliver a
15 written prescription to the pharmacy within
16 the allotted time. Failure of the
17 pharmacist to do so shall void the authority
18 conferred by this paragraph to dispense
19 without a written prescription of a
20 prescribing individual practitioner. Any

____.B. NO. _____

1 practitioner who fails to deliver a written
2 prescription within the seven-day period
3 shall be in violation of section
4 329-41(a)(1); or
5 (2) When dispensed directly by a practitioner, other
6 than a pharmacist, to the ultimate user. The
7 practitioner in dispensing a controlled substance
8 in schedule II shall affix to the package a label
9 showing:
10 (A) The date of dispensing;
11 (B) The name, strength, and quantity of the drug
12 dispensed;
13 (C) The dispensing practitioner's name and
14 address;
15 (D) The name of the patient;
16 (E) The "use by" date for the drug, which shall
17 be:
18 (i) The expiration date on the
19 [manufacturer's] or principal labeler's
20 container; or

____.B. NO. ____

1 (ii) One year from the date the drug is
2 dispensed, whichever is earlier; and

3 (F) Directions for use, and cautionary
4 statements, if any, contained in the
5 prescription or as required by law.

6 A complete and accurate record of all schedule II
7 controlled substances ordered, administered, prescribed, and
8 dispensed shall be maintained for five years. Prescriptions and
9 records of dispensing shall otherwise be retained in conformance
10 with the requirements of section 329-36. No prescription for a
11 controlled substance in schedule II may be refilled."

12 SECTION 4. Section 329-64, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The requirements imposed by sections 329-62 and
15 329-63(a) of this part shall not apply to any of the following:

16 (1) Any pharmacist or other authorized person who
17 sells or furnishes a substance upon the
18 prescription of a physician, dentist, podiatrist,
19 or veterinarian;

____.B. NO. ____

- 1 (2) Any physician, dentist, podiatrist, or
2 veterinarian who administers or furnishes a
3 substance to patients;
4 (3) Any manufacturer or wholesaler licensed by the
5 State who sells, transfers, or otherwise
6 furnishes a substance to a licensed pharmacy,
7 physician, dentist, podiatrist, or veterinarian[;
8 and
9 (4) Any sale, transfer, furnishing, or receipt of any
10 drug that contains [~~pseudoephedrine or~~
11 norpseudoephedrine that is lawfully sold,
12 transferred, or furnished over the counter
13 without a prescription pursuant to the federal
14 Food, Drug, and Cosmetic Act (21 United States
15 Code section 301 et seq.) or regulations adopted
16 thereunder as long as it complies with the
17 requirements of sections [~~329-73, 329-74, and~~
18 ~~329-75-~~] 329-38."

19

____.B. NO. ____

1 SECTION 5. Section 329-75, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§329-75 ~~[Sales of products, mixtures, or preparations~~
4 ~~containing pseudoephedrine; reporting]~~ Reporting requirement for
5 wholesalers.

6 ~~[(a) Notwithstanding any other law to the contrary, a~~
7 ~~pharmacy or retailer may sell or distribute to a person without~~
8 ~~a prescription products containing not more than 3.6 grams per~~
9 ~~day or not more than nine grams per thirty-day period of~~
10 ~~pseudoephedrine, without regard to the number of transactions;~~
11 ~~provided that the pharmacy or retailer shall comply with the~~
12 ~~following conditions:~~

13 ~~(1) The product, mixture, or preparation shall be~~
14 ~~sold or distributed from an area not accessible~~
15 ~~by customers or the general public, such as~~
16 ~~behind the counter or in a locked display case~~
17 ~~and where the pharmacy or retailer delivers the~~
18 ~~product directly into the custody of the person~~
19 ~~purchasing or obtaining the substances;~~

____.B. NO. _____

- 1 ~~(2) Any person purchasing or otherwise obtaining any~~
2 ~~product, mixture, or preparation shall produce~~
3 ~~valid, government-issued identification~~
4 ~~containing the photograph, date of birth, printed~~
5 ~~name, signature, and address of the person~~
6 ~~purchasing or obtaining the substance;~~
- 7 ~~(3) The pharmacy or retailer shall maintain a written~~
8 ~~or electronic log of required information for~~
9 ~~each sale of a nonprescription product containing~~
10 ~~pseudoephedrine, including:~~
- 11 ~~(A) The date and time of any transaction under~~
12 ~~paragraph (2);~~
- 13 ~~(B) The name, address, and date of birth of the~~
14 ~~person purchasing or obtaining the~~
15 ~~substance;~~
- 16 ~~(C) The type of identification provided by the~~
17 ~~person purchasing or obtaining the substance~~
18 ~~and identification number;~~
- 19 ~~(D) The agency issuing the identification used;~~
20 ~~and~~

____. B. NO. ____

1 ~~(E) The name of the compound, mixture, or~~
2 ~~preparation, and the amount, and~~

3 ~~(4) The pharmacy or retailer shall require every~~
4 ~~person purchasing or obtaining the substance to~~
5 ~~sign a written or electronic log attesting to the~~
6 ~~validity of the information.~~

7 ~~The information shall be retained by the pharmacy or~~
8 ~~retailer for a period of two years. The written or electronic~~
9 ~~log shall be capable of being checked for compliance against all~~
10 ~~state and federal laws, including interfacing with other states~~
11 ~~to ensure comprehensive compliance, and shall be subject to~~
12 ~~random and warrantless inspection by county or state law~~
13 ~~enforcement officers.~~

14 ~~(b) Beginning January 1, 2013, before completing a sale of~~
15 ~~an over-the-counter product containing pseudoephedrine, a~~
16 ~~pharmacy or retailer shall electronically submit the information~~
17 ~~required pursuant to subsection (a) to the National Precursor~~
18 ~~Log Exchange administered by the National Association of Drug~~
19 ~~Diversion Investigators, provided that the National Precursor~~
20 ~~Log Exchange is available to pharmacies or retailers in the~~

.B. NO.

1 ~~state without a charge for accessing the system. The pharmacy~~
2 ~~or retailer shall not complete the sale if the system generates~~
3 ~~a stop sale alert. Except in the case of negligence,~~
4 ~~wantonness, recklessness, or deliberate misconduct, any pharmacy~~
5 ~~or retailer using the electronic sales tracking system in~~
6 ~~accordance with this subsection shall not be civilly liable as a~~
7 ~~result of any act or omission in carrying out the duties~~
8 ~~required by this subsection and shall be immune from liability~~
9 ~~to any third party, unless the pharmacy or retailer has violated~~
10 ~~this subsection, in relation to a claim brought for such~~
11 ~~violation.~~

12 ~~(c) If a pharmacy or retailer selling an over-the-counter~~
13 ~~product containing pseudoephedrine experiences mechanical or~~
14 ~~electronic failure of the electronic sales tracking system and~~
15 ~~is unable to comply with the electronic sales tracking~~
16 ~~requirement under this section, the pharmacy or retailer shall~~
17 ~~maintain a written log or an alternative electronic~~
18 ~~recordkeeping mechanism until such time as the pharmacy or~~
19 ~~retailer is able to comply with the electronic sales tracking~~
20 ~~requirement.~~

____.B. NO. ____

1 ~~(d) A pharmacy or retailer selling an over-the-counter~~
2 ~~product containing pseudoephedrine may seek an exemption from~~
3 ~~submitting transactions to the electronic sales tracking system~~
4 ~~in writing to the administrator stating the reasons therefore.~~
5 ~~The administrator may grant an exemption for good cause shown,~~
6 ~~but in no event shall the exemption exceed one hundred eighty~~
7 ~~days. Any pharmacy or retailer that receives an exemption shall~~
8 ~~maintain a hard copy log and shall require the person purchasing~~
9 ~~or obtaining the substance to provide the information required~~
10 ~~under this section before completion of any sale. The log shall~~
11 ~~be maintained as a record of each sale for inspection by any law~~
12 ~~enforcement officer or inspector of the board of pharmacy during~~
13 ~~normal business hours.~~

14 ~~(e) The National Association of Drug Diversion~~
15 ~~Investigators shall forward Hawaii transaction records in the~~
16 ~~National Precursor Log Exchange to the narcotics enforcement~~
17 ~~division of the department of public safety weekly and provide~~
18 ~~real-time access to National Precursor Log Exchange information~~
19 ~~through the National Precursor Log Exchange online portal to law~~
20 ~~enforcement in the State as authorized by the narcotics~~

.B. NO.

1 ~~enforcement division; provided that the narcotics enforcement~~
2 ~~division executes a memorandum of understanding with the~~
3 ~~National Association of Drug Diversion Investigators governing~~
4 ~~access to the information; provided further that the department~~
5 ~~of public safety narcotics enforcement division shall establish~~
6 ~~the electronic tracking system in conjunction with the State's~~
7 ~~existing narcotics tracking system beginning no later than~~
8 ~~January 1, 2015.~~

9 ~~(f) This system shall be capable of generating a stop sale~~
10 ~~alert, which shall be a notification that completion of the sale~~
11 ~~would result in the pharmacy or retailer, or person purchasing~~
12 ~~or obtaining the substance, violating the quantity limits set~~
13 ~~forth in this section. The system shall contain an override~~
14 ~~function that may be used by a pharmacy or retailer selling~~
15 ~~pseudoephedrine who has a reasonable fear that imminent bodily~~
16 ~~harm will result if the sale is not completed. Each instance~~
17 ~~where the override function is used shall be logged by the~~
18 ~~system.~~

19 ~~(g) No person shall knowingly purchase, receive, or~~
20 ~~otherwise acquire products containing more than 3.6 grams per~~

_____. B. NO. _____

1 ~~day or more than nine grams per thirty-day period of~~
2 ~~pseudoephedrine, except that this limit shall not apply to any~~
3 ~~quantity of such product, mixture, or preparation dispensed~~
4 ~~pursuant to a valid prescription.~~

5 ~~(h) Any person who violates subsections (b) through (g) is~~
6 ~~guilty of a class C felony.~~

7 ~~(i) The department, by rule, may exempt other products~~
8 ~~from this section, if the administrator finds that the products~~
9 ~~are not used in the illegal manufacture of methamphetamine or~~
10 ~~other controlled substances. A manufacturer of a drug product~~
11 ~~may apply for removal of the product from this section if the~~
12 ~~product is determined by the administrator to have been~~
13 ~~formulated in such a way as to effectively prevent the~~
14 ~~conversion of the active ingredient into methamphetamine.~~

15 ~~(j)}~~ Notwithstanding any other provision of this chapter
16 to the contrary, every wholesaler shall report to the
17 administrator all sales made to any retailer, of any product,
18 mixture, or preparation containing any detectable quantity of
19 pseudoephedrine, its salts, optical isomers, or salts of optical
20 isomers, as the only active ingredient or in combination with

.B. NO.

1 other active ingredients. The department shall provide a common
2 reporting form that contains at least the following information
3 about the product, mixture, or preparation:

- 4 (1) Generic or other name;
5 (2) Quantity sold;
6 (3) Date of sale;
7 (4) Name and address of the wholesaler; and
8 (5) Name and address of the retailer.

9 ~~[(k) Intentional or knowing failure of a retailer or~~
10 ~~pharmacy to transmit any information as required by this section~~
11 ~~shall be a misdemeanor and shall result in the immediate~~
12 ~~suspension of that retailer's ability to sell any product,~~
13 ~~mixture, or preparation containing any detectable quantity of~~
14 ~~pseudoephedrine, its salts, optical isomers, or salts of optical~~
15 ~~isomers as the only active ingredient or in combination with~~
16 ~~other active ingredients until authorized by the~~
17 ~~administrator."]~~

18 SECTION 6. Section 329-73, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§329-73 Pseudoephedrine permit."~~

B. NO.

1 ~~(a) Beginning January 1, 2006, any person transporting by~~
2 ~~any means more than three packages of any product the sale of~~
3 ~~which is restricted by section 329-75 shall obtain a~~
4 ~~pseudoephedrine permit.~~

5 ~~(b) The requirements imposed by [subsection] (a) shall not~~
6 ~~apply to persons registered with the department under section~~
7 ~~329-67. A pseudoephedrine permit shall be issued by the~~
8 ~~department in a form and manner as prescribed by the department~~
9 ~~by rule. A pseudoephedrine permit shall be valid for one year~~
10 ~~and renewable annually."]~~

11 SECTION 7. Section 329-74, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§329-74 Unlawful transport of pseudoephedrine.~~

14 ~~(a) A person commits the offense of unlawful transport of~~
15 ~~pseudoephedrine if the person transports more than three~~
16 ~~packages of any product the sale of which is restricted by~~
17 ~~section 329-75 without a permit issued from the department.~~

18 ~~(b) For purposes of this section, "transportation" means~~
19 ~~the transfer of a pseudoephedrine product by a person other than~~

____.B. NO. ____

1 ~~a wholesaler, distributor, or retailer of such product~~

2 ~~authorized to conduct business as such by the State.~~

3 ~~(c) Unlawful transport of pseudoephedrine is a~~

4 ~~misdemeanor."]~~

5 SECTION 8. This Act does not affect the rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 9. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect upon its approval.

11

12 INTRODUCED BY: _____

13

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO LANDOWNER LIABILITY.

PURPOSE: Creates a cause of action against a person who maintains a property nuisance on residential property that results in damage or injury to the person or property of another person.

MEANS: Add new section to Chapter 663, Hawaii Revised Statutes.

JUSTIFICATION: The State of Hawaii continues to be one of the most expensive states in the nation to purchase a home and as such, a home will be the largest financial asset for most of Hawaii's citizenry. Real estate investors have purchased large blocks of residential property only to then engage in the blighting of these same properties, as they have no intention of residing in the affected communities. This practice, commonly called "block busting", seeks to lower the neighborhood's overall property value, thereby enabling unscrupulous real estate investors to purchase additional surrounding properties in the same neighborhoods at lowered prices. As a result of "block busting", homeowners in the affected neighborhoods will see the value of their largest financial asset decline through no dereliction on the homeowners' part. The most effective tool to combat "block busting" is the creation and imposition of liability damages to financially deter unscrupulous real estate investors from engaging in property blighting.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "~~§663-~~ Liability for maintenance of property nuisance.

5 (a) A person may be held personally liable in damages for
6 injury or trespass, whether direct or indirect, including the
7 diminution of property valuation, to another person or the
8 property of the other person proximately caused by the
9 maintenance of a residentially zoned property nuisance.

10 (b) If a person engages in conduct that constitutes the
11 maintenance of a property nuisance involving three or more
12 residentially zoned separate properties within a one mile radius
13 from a claim arising pursuant to this section and judgment is
14 entered for the person who is asserting the claim under this
15 section, the person shall be awarded a sum equal to threefold
16 damages sustained by that person.

.B. NO.

1 (c) For purposes of this section, "maintenance of a
2 property nuisance" means owning, leasing, occupying, or having
3 charge, possession, or control of any property and maintaining
4 that property in a manner in which any one or more of the
5 following conditions or activities is allowed to exist or
6 continue:

7 (1) Keeping, storing, depositing, or accumulating on
8 improved or unimproved real property any personal
9 property that constitutes visual blight.

10 Personal property includes:

11 (A) Abandoned, wrecked, or dismantled motor
12 vehicles or boats or vessels;

13 (B) Automotive parts and equipment, appliances,
14 and furniture;

15 (C) Containers, packing materials, scrap metal,
16 wood, building materials, concrete masonry
17 units, litter, garbage, junk, rubbish, and
18 debris; and

19 (D) Any material that constitutes an offense of
20 displaying indecent matter under section
21 712-1211;

.B. NO. _____

- 1 (2) Keeping, storing, depositing, or accumulating
2 dirt, sand, gravel, concrete, or other similar
3 materials that constitute visual blight;
4 (3) Operating a junk yard or automobile dismantling
5 yard, except as a permitted use;
6 (4) Permitting standing or stagnant water to
7 accumulate, allowing vermin and insects to live,
8 breed, and multiply;
9 (5) Creating, permitting, or maintaining any
10 dangerous or unsightly condition that constitutes
11 visual blight;
12 (6) Attracting and providing a place of temporary
13 abode for vagrants, interlopers, or trespassers;
14 and
15 (7) Creating, permitting, or maintaining any
16 condition recognized in law or in equity as
17 constituting a public nuisance.

18 (d) Nothing in this section shall be deemed to create
19 liability:

- 20 (1) If the defendant's property or properties are not
21 zoned exclusively for residential use;

____.B. NO. _____

1 (2) If the defendant's property use is a permitted
2 non-conforming use;

3 (3) For any public use or public works;

4 (4) For any publicly funded project;

5 (5) For agricultural use;

6 (6) For vacant property that has never been built on
7 that is in a predominantly natural state; and

8 (7) For construction and demolition activity pursuant
9 to a permit, law, ordinance, regulation, or an
10 emergency and for the presence of equipment and
11 material for a reasonable time after that
12 construction and demolition activity has ceased.

13 (e) For purposes of this section, "visual blight" means
14 any unreasonable or unlawful condition, or use of premises or of
15 a building exterior or interior that by reason of its appearance
16 as viewed at ground level from the public right-of-way or from
17 the neighboring premises, is detrimental to:

18 (1) The surrounding areas and the valuation of the
19 property of another; or

20 (2) The health, safety, and welfare of individuals
21 residing within that community."
22

____.B. NO. ____

1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon approval.

3

4 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO VOTING.

PURPOSE: Allows citizens to register to vote on election day.

MEANS: Add a new section to Chapter 11, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii state statute requires voters to register 30 days in advance to vote in a primary, general or special election. In 2010, only 36% of eligible Hawaii citizens turned out to vote according to the United States Elections Project. Nine states currently allow voters to register and vote on the same day. These nine states have reported increased voter turnout since the enactment of same day registration legislation, with up to a 17% higher voter turnout rate than the national average. Removal of the 30 day registration requirement and allowing citizens to register to vote on election day will increase the convenience and ease for Hawaii's citizenry to turn out to vote.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§11- Election day voter registration.

5 (a) Notwithstanding any law to the contrary, an individual
6 who is eligible to vote may register on the day of an election
7 by:

8 (1) Appearing in person at the polling place for the
9 precinct in which the voter maintains residency;

10 (2) Completing a voter registration application;

11 (3) Making an oath on a form prescribed by the chief
12 election officer; and

13 (4) Providing proof of residency;

14 provided that in the case of an election conducted by mail, an
15 individual who is eligible to vote may register at the walk-in
16 locations in the same manner as prescribed in paragraphs (1)
17 through (4).

____.B. NO. _____

1 (b) An individual may prove residency for purposes of this
2 section by presenting:

3 (1) A valid Hawaii driver's license or Hawaii state
4 identification card; or

5 (2) Any documentation approved by the chief election
6 officer.

7 (c) No precinct official shall receive the vote of any
8 individual who is not registered pursuant to subsection (a) or
9 section 11-15.

10 (d) The chief election officer or the chief election
11 officer's designee shall maintain a record of the number of
12 individuals who registered to vote on election day and voted, as
13 well as the number of individuals who attempted to register on
14 election day, but were unable to provide proof of residency
15 pursuant to subsection (b). The record shall be included with
16 the election returns for each precinct.

17 (e) The chief election officer shall establish rules
18 pursuant to chapter 91, as necessary to carry out this section."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

21

22 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA.

PURPOSE: Supporting the easing of visa restrictions for the People's Republic of China.

MEANS: Concurrent Resolution

JUSTIFICATION: The People's Republic of China (PRC) is now a major trade partner with the United States (U.S.), a world leader in the auto market and the world's largest producer of energy. PRC has approximately 1.3 billion citizens which represents a very large and lucrative pool of visitors, as the average PRC tourist to Hawaii spends on average \$368 per day, compared to the \$275 daily for every Japanese tourist and just \$178 per day for every other tourist to Hawaii. However, despite the reciprocity between China and Hawaii, the visa application and approval process for PRC business and tourist travelers is an arduous and often lengthy process which deters potential visitors to Hawaii and the U.S. A PRC citizen who wishes to visit the U.S. must appear in person before a U.S. consulate official to obtain the visa, but there are only five U.S. consulates in the entire PRC. The average wait time for a PRC visa applicant far exceeds wait times for other countries. The solution to ease this problem is for the PRC to be admitted to the U.S. State Department's Visa Waiver Program which allows nationals from foreign countries to enter the U.S. for tourism or business related purposes for a maximum of 90 days without obtaining a visa. Currently there are 36 countries admitted into the Visa Waiver Program.

__C.R. NO. __

CONCURRENT RESOLUTION

URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF
HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL
TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF
CHINA.

1 WHEREAS, China and her people have long been a part of the
2 economy and culture of Hawaii since the first Chinese sugar
3 plantation laborers arrived in the islands in 1852; and

4 WHEREAS, the first one hundred seventy-five laborers were
5 from Hong Kong bound for Maui-most of them from depression-torn
6 Guangdong and Fujian in southern China; and

7 WHEREAS, from 1852 to 1876, nearly 4,000 Chinese laborers
8 migrated to Hawaii; and by 1882, these *huaqiao* or migrants made
9 up almost 49 percent of plantation labor, outnumbering
10 Caucasians in the islands; and

11 WHEREAS, the progeny of these humble but determined Chinese
12 immigrants rose quickly through the ranks of Hawaii's
13 educational, political, and business communities, and would
14 leave lasting impacts on Hawaii and even the world-the most

1 famous of whom is referred to as "The Forerunner of the
2 Revolution," Dr. Sun Yat-sen; and

3 WHEREAS, Dr. Sun's education at Iolani School and Oahu
4 College inspired him to develop the vision of an educated,
5 strong, and democratic, modern-day China that he would dedicate
6 the rest of his life to building, and would later say that
7 Hawaii was where he "came to know what modern, civilized
8 governments are like and what they mean"; and

9 WHEREAS, Dr. Sun established the first Chinese
10 revolutionary party, called Xing Zhong Hui or Revive China
11 Society, and returned to Hawaii five more times at which time
12 many Hawaii families contributed financially to his cause; and

13 WHEREAS, the Counties of Hawaii Sister-Cities Summit held
14 in Honolulu on September 13-15, 2011 highlighted the
15 inextricable and historic ties between China and Hawaii with a
16 particular emphasis on strengthening our relationships with
17 Honolulu's sister cities of Zhongshan, Haikou, Qinhuangdao, and
18 Chengdu; and

19 WHEREAS, the summit demonstrated that China will continue
20 to embrace our open door policy and fortified our understanding
21 of each other's needs in the areas of cultural exchange,
22 economic development, trade, tourism, and education; and

__C.R. NO. __

1 WHEREAS, recently, members of Hawaii's business and
2 government communities welcomed 271 passengers at Honolulu
3 International Airport from China Eastern Airlines' inaugural
4 direct flight from Shanghai, heralding a new era for Honolulu's
5 economic growth and forging closer ties between the United
6 States and China; and

7 WHEREAS, the People's Republic of China, with its 1.3
8 billion people, represents a very large and lucrative pool of
9 visitors, as the average Chinese tourist to Hawaii is expected
10 to spend about \$368 per day, compared to \$275 daily for every
11 Japanese tourist and just \$178 per day, on average, for all
12 tourists to Hawaii; and

13 WHEREAS, tourism dollars have been identified by the United
14 States Department of Commerce as an export, and President Barack
15 Obama's National Export Initiative of May 2010 seeks to double
16 U.S. exports by 2015; and

17 WHEREAS, China has transformed itself from an impoverished
18 country to the world's second largest economy, and as it grows,
19 continues to have an impact on Hawaii and the globe; and

20 WHEREAS, China is now a major trade partner with the United
21 States and force for stability and peace in Asia, and has become

__C.R. NO. __

1 a world leader in the auto market and the world's largest
2 producer of energy; and

3 WHEREAS, in spite of the reciprocity between China and
4 Hawaii, the visa application and approval process for Chinese
5 business and tourist travelers is an arduous and often lengthy
6 process which deters many potential visitors to Hawaii and the
7 United States; and

8 WHEREAS, a Chinese citizen who wishes to visit the United
9 States must appear in person before a U.S. consulate official to
10 obtain the visa but there are only five U.S. consulates in the
11 entire People's Republic of China; and

12 WHEREAS, due to the small number of consulates and staff to
13 handle the in-person interviews necessary for entry visas, the
14 average wait times for those interviews in China far exceed
15 those wait times in other countries; and

16 WHEREAS, one solution to ease this problem is for a country
17 to be admitted to the U.S. State Department's Visa Waiver
18 Program, which allows nationals from foreign countries to enter
19 the United States for tourism- or business-related purposes for
20 as long as 90 days without obtaining a visa; and

__C.R. NO. __

1 WHEREAS, both Japan and South Korea qualify for visa
2 waivers; and

3 WHEREAS, when South Korea became one of the 36 countries in
4 the State Department's Visa Waiver Program in November of 2008,
5 it boosted tourism to Hawaii from that country; and

6 WHEREAS, in order for a country to qualify for the Visa
7 Waiver Program, the country must satisfy certain conditions;
8 with the United States government retaining the ultimate
9 discretion to admit the country to the program; and

10 WHEREAS, one condition for entry into the waiver program is
11 the rate of refusal of a country's visa applicants which must be
12 three percent or lower; and

13 WHEREAS, the refusal rate for Chinese visa applicants was
14 13.3 percent as of 2010; and

15 WHEREAS, the Travel and Tourism Advisory Board, a newly
16 created industry group appointed by the U.S. Secretary of
17 Commerce, recommended measures that can be taken to increase
18 travel to the U.S. from China, which include: (1) raising the
19 visa refusal rate from three to 10 percent; (2) establishing a
20 maximum wait time for in-person visa interviews of five days;
21 (3) adding four to six visa processing locations and several

__C.R. NO. __

1 hundred consulate officers to process visas; and (4) allowing
2 non-immigrant visas to last 10 years for Chinese visitors, which
3 is permitted in other countries; now, therefore

4 BE IT RESOLVED by the House of Representatives/Senate of
5 the Twenty-seventh Legislature of the State of Hawaii, Regular
6 Session of 2013, the Senate/House concurring, that it urges the
7 United States Department of State, the Department of Homeland
8 Security, and the United States Attorney General to include the
9 People's Republic of China in the Visa Waiver Program and
10 support the recommendations of the Travel and Tourism Advisory
11 Board to ease visa restrictions and the visa application and
12 approval process for business and tourist travelers from the
13 People's Republic of China; and

__C.R. NO. __

1 BE IT FINALLY RESOLVED that copies of this Resolution be
2 transmitted to the Honorable Hillary Clinton, Secretary of the
3 U.S. Department of State; Secretary Janet Napolitano, Secretary
4 of the Department of Homeland Security; U.S. Attorney General
5 Eric H. Holder Jr.; Secretary Rebecca Blank, Acting Secretary,
6 U.S. Department of Commerce; China's Ambassador to the United
7 States, 2201 Wisconsin Avenue, N.W., Suite 110, Washington, D.C.
8 20007; the members of Hawaii's Congressional delegation; the
9 Hawaii Tourism Authority; the Director of the Hawaii State
10 Department of Business, Economic Development and Tourism; the
11 Asian American Institute, 4753 North Broadway, Suite 904,
12 Chicago, Illinois 60640; the Organization of Chinese Americans,
13 1322 18th Street, NW, Washington, D.C. 20036-1803; and the
14 President of the Hawaii State Association of Counties and the
15 Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.

16

OFFERED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: URGING THE GOVERNOR AND THE
LEGISLATURE OF THE STATE OF HAWAII TO
PRESERVE THE COUNTIES' SHARE OF THE
TRANSIENT ACCOMMODATIONS TAX.

PURPOSE: Urging the state to preserve the Counties' share of
the transient accommodations tax.

MEANS: Resolution and Concurrent Resolution

JUSTIFICATION: Act 185 (1990) allocated to each County a percentage
share of the state levied transient accommodations
tax (TAT) to acknowledge that the fiscal burdens
stemming from the tourist industry are borne by the
Counties, including the costs of providing police and
fire protection, maintaining County parks, beaches,
water systems, roads, sewer systems and other
tourism-related infrastructure. Since the enactment of
Act 185 (1990), TAT accounts for a significant portion
of each County's general fund budgets. As such,
maintaining the current TAT County allocations
enables the Counties to continue providing essential
government services without significantly raising
property taxes.

H.R. NO. _____

HOUSE RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
2 by the state on the proceeds derived from furnishing transient
3 accommodations; and
4

5 WHEREAS, in the 1990 legislative session, the Hawaii state
6 legislature enacted Act 185 which gave the counties a share of
7 the transient accommodations tax; and
8

9 WHEREAS, according to Conference Committee Report 207, the
10 purpose of Act 185 was to provide a more equitable method of
11 sharing state revenues with the counties rather than continuing
12 with the system existing at the time whereby the counties
13 requested financial assistance through grants in aid from the
14 state; and
15

16 WHEREAS, the county share of the tax also provides more
17 stability to county finances and enables improved budgeting and
18 planning; and
19

20 WHEREAS, currently, 44.8% of the total transient
21 accommodations tax collected by the state is distributed to the
22 counties; of this amount, the revenue is allocated as follows:
23

24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
26	City and County of Honolulu	-	44.1%
27	Maui County	-	<u>22.8%</u>
28			100.0%

29
30 and
31

1 WHEREAS, the transient accommodations tax revenues account
2 for a significant portion of the counties' general fund budgets;
3 and
4

5 WHEREAS, maintaining the current allocation of the
6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the Senate of the Twenty-eighth
15 Legislature of the State of Hawaii, Regular Session 2013, that
16 the Governor and the Legislature are urged to preserve the
17 counties' share of the transient accommodations tax; and
18

19 BE IT FURTHER RESOLVED that certified copies of this
20 Resolution be transmitted to the Governor, the Speaker of the
21 House, the President of the Hawaii State Association of
22 Counties, and the Mayors of the counties of Kauai, Hawaii,
23 Honolulu, and Maui.
24
25
26

OFFERED BY: _____

S.R. NO. _____

SENATE RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
2 by the state on the proceeds derived from furnishing transient
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6 legislature enacted Act 185 which gave the counties a share of
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7 continue providing essential government services to visitors and
8 residents; and
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11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
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21 House, the President of the Hawaii State Association of
22 Counties, and the Mayors of the counties of Kauai, Hawaii,
23 Honolulu, and Maui.
24
25
26

OFFERED BY: _____

H.C.R. NO. _____

HOUSE CONCURRENT RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
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6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the House of Representatives of the
15 Twenty-eighth Legislature of the State of Hawaii, Regular
16 Session of 2013, the Senate concurring, that the Governor and
17 the Legislature of the State of Hawaii are urged to preserve the
18 counties' share of the transient accommodations tax; and
19

20 BE IT FURTHER RESOLVED that certified copies of this
21 Concurrent Resolution be transmitted to the Governor, the
22 President of the Hawaii State Association of Counties, and the
23 Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.
24
25
26

OFFERED BY: _____

S.C.R. NO. _____

SENATE CONCURRENT RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
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7 the transient accommodations tax; and
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10 purpose of Act 185 was to provide a more equitable method of
11 sharing state revenues with the counties rather than continuing
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17 stability to county finances and enables improved budgeting and
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22 counties; of this amount, the revenue is allocated as follows:
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2 for a significant portion of the counties' general fund budgets;
3 and
4

5 WHEREAS, maintaining the current allocation of the
6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the Senate of the Twenty-eighth
15 Legislature of the State of Hawaii, Regular Session of 2013, the
16 House of Representatives concurring, that the Governor and the
17 Legislature of the State of Hawaii are urged to preserve the
18 counties' share of the transient accommodations tax; and
19

20 BE IT FURTHER RESOLVED that certified copies of this
21 Concurrent Resolution be transmitted to the Governor, the
22 President of the Hawaii State Association of Counties, and the
23 Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.
24
25
26

OFFERED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO HAWAII EMPLOYER-UNION
HEALTH BENEFITS TRUST FUND BOARD OF
TRUSTEES.

PURPOSE: Designates one of the five seats allocated to
represent "public employers" on the Hawaii Employer-
Union Health Benefits Trust Fund Board of Trustees
to be filled by an individual appointed by the four
County Mayors and approved by the Hawaii State
Association of Counties.

MEANS: Amend §87A-5, Hawaii Revised Statutes

JUSTIFICATION: As one of the major public employers in the state of
Hawaii, the Counties contribute a substantial amount
to the Hawaii Employer-Union Health Benefit Trust
Fund (EUTF) and County employees and retirees are
deeply affected by the benefit decisions made by the
EUTF Board of Trustees. However, the Counties do
not have representation on the EUTF Board. A
designated County Trustee on the EUTF Board would
provide the Board with the needed fiscal expertise
and knowledge of County finances and the County
workplace.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
BOARD OF TRUSTEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the counties need
2 representation on the board of trustees of the Hawaii employer-
3 union health benefits trust fund. The counties contribute a
4 substantial amount to the fund, and the health and well-being of
5 their employees and retirees depend on the benefit decisions
6 made by the board of trustees. Despite their lack of
7 representation as public employers the counties are affected by
8 board decisions.

9 The purpose of this Act is to require that one of the five
10 seats on the board allocated to public employers be occupied by
11 a member appointed by the mayors of all four counties and
12 approved by the Hawaii State Association of Counties.

13 SECTION 2. Section 87A-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§87A-5 Composition of board.

____.B. NO. ____

1 The board of trustees of the employer-union health benefits
2 trust fund shall consist of ten trustees appointed ~~[by the~~
3 ~~governor]~~ in accordance with the following procedure:

4 (1) Five trustees~~[,]~~ appointed by the governor, one of
5 whom shall represent retirees, to represent employee-
6 beneficiaries and to be selected as follows:

7 (A) Three trustees shall be appointed from a list of
8 two nominees per trustee selected by each of the
9 three exclusive representative organizations that
10 have the largest number of employee-
11 beneficiaries;

12 (B) One trustee shall be appointed from a list of two
13 nominees selected by mutual agreement of the
14 remaining exclusive employee representative
15 organizations; and

16 (C) One trustee representing retirees shall be
17 appointed from a list of two nominees selected by
18 mutual agreement of all eligible exclusive
19 representatives; and

20 (2) Five trustees to represent public employers~~[,]~~,
21 four of whom shall be appointed by the governor,

_____.B. NO. _____

1 and one of whom shall be appointed by unanimous
2 agreement of the mayors of each of the four
3 counties and approved by the Hawaii State
4 Association of Counties to represent the city and
5 county of Honolulu and the counties of Hawaii,
6 Maui, and Kauai; provided that if the counties do
7 not make an appointment within sixty days, the
8 governor may fill the vacancy.

9 Section 26-34 shall not apply to board member selection and
10 terms. Notwithstanding any other provision of this section, no
11 exclusive representative of a bargaining unit that sponsors or
12 participates in a voluntary employee beneficiary association
13 shall be eligible to select nominees or to be represented by a
14 trustee on the board.

15 As used in this section, the term "exclusive
16 representative" shall have the same meaning as in section 89-2."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

20

21 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: Adds one additional member to the Employees' Retirement System Board of Trustees, specifically designated to represent the Counties.

MEANS: Amends §88-24, Hawaii Revised Statutes

JUSTIFICATION: As one of the major public employers in the state of Hawaii, the Counties contribute a substantial amount to the Employees' Retirement System (ERS) and County employees and retirees are deeply affected by the benefit decisions made by the ERS Board of Trustees. However, the Counties do not have representation on the ERS Board. A designated County Trustee on the ERS Board would provide the Board with the needed fiscal expertise and knowledge of County finances and the County workplace.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the counties need
2 county representation on the board of trustees of the employees'
3 retirement system of the State. The counties contribute a
4 considerable share to retirement system costs, and their
5 employees and retirees are a significant portion of the system's
6 membership. County representation will ensure that the board
7 possesses expertise about county finances and the county
8 workforce in making benefit decisions. Lack of representation
9 may result in a situation where board members do not fully
10 consider the costs of their actions on the counties, resulting
11 in changes that may not be cost beneficial in the aggregate or
12 may affect the retirement income of county employees and
13 retirees.

14 The purpose of this Act is to include county representation
15 on the membership of the board of trustees of the employees'
16 retirement system.

____.B. NO. ____

1 SECTION 2. Section 88-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "\$88-24 Composition of board. The board of trustees shall
4 consist of [~~eight~~] ten members as follows:

- 5 (1) The director of finance of the State, ex officio;
- 6 (2) [~~Four~~] Five members of the system, [~~two~~] three of whom
7 shall be general employees, one of whom shall be a
8 teacher, and one of whom shall be a retirant to be
9 elected by the members and retirants of the system
10 under rules adopted by the board governing the
11 election to serve for terms of six years each, one of
12 the terms to expire on January 1 of each even-numbered
13 year; provided that, if after the close of filing of
14 petitions for candidacy, a member is unopposed for
15 election to a trustee position, the member shall be
16 deemed and declared to be duly and legally elected to
17 the position of trustee without an election; and
- 18 (3) Three citizens of the State who are not employees, two
19 of whom have at least three years of experience
20 providing financial services, including investments,
21 to public, corporate, or private institutional
22 clients, to be appointed by the governor, with the

B. NO.

1 advice and consent of the senate, to serve for a term
2 of six years each, one of the terms to expire
3 January 1 of each odd-numbered year[-]; and

4 (4) One member appointed by unanimous agreement of the
5 mayors of each of the four counties and approved by
6 the Hawaii State Association of Counties, subject to
7 the advice and consent of the senate in the same
8 manner as trustees appointed by the governor, to serve
9 for a term of six years, with each term to expire on
10 January 1 of an odd-numbered year. The counties shall
11 be responsible for all necessary expenses, including
12 travel, board, and lodging expenses, and any other
13 costs, incurred in the performance of the member's
14 duties.

15 Each trustee shall serve until the trustee's successor is
16 elected or appointed, as the case may be, and qualified. For
17 the purpose of this section, the term "general employees"
18 includes police officers and firefighters."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

____.B. NO. ____

1 SECTION 4. This Act shall take effect on July 1, 2030.

2

3

INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO ELECTRONIC WASTE RECYCLING.

PURPOSE: Establish an electronic waste recycling program administered by the state Department of Health.

MEANS: Add new sections to chapter 339D, Hawaii Revised Statutes (HRS). Amend §§339D-1, 339D-4, 339D-6, 339D-8, 339D-11, 339D-12, HRS. Repeal chapter 339D, part IV, HRS.

JUSTIFICATION: Electronic waste (e-waste) is the fastest growing segment of the municipal solid waste stream. Common examples of e-waste include televisions, computer-related devices, cellular telephones, electronic toys and digital cameras. As technology continues to advance and the use of electronic devices become more prevalent in the workplace and at home, the amount of e-waste will continue to increase. When these devices are not disposed or recycled properly, the risk of toxic materials within these devices leaching into the environment rises. It is incumbent upon the state to establish a clear and effective e-waste recycling program that is equitable to address public health and safety concerns.

1 manufacturer's market share shall be the percentage of the
2 weight of all covered electronic devices sold in the State
3 comprised of covered electronic devices sold by the electronic
4 device manufacturer.

5 (c) The department shall use the best available
6 information to establish the weight of all electronic devices
7 sold in the State, including but not limited to the reports
8 submitted pursuant to subsection (a), state and national sales
9 data, and other reliable commercially available, supplemental
10 sources of information.

11 (d) Beginning March 15, 2014, and each year thereafter,
12 the department shall notify each electronic device manufacturer
13 of its recycling responsibility under section 339D-4, based on
14 the department's determination of its market share.

15 §339D-B Liability for stored information.

16 An electronic device manufacturer shall not be liable for
17 any loss or misuse of electronic data or other information that
18 a consumer may have stored on a covered electronic device that
19 is recovered or recycled by the electronic device manufacturer.

20 §339D-C Environmental management.

21 (a) All covered electronic devices shall be recycled
22 pursuant to this chapter, in a manner that complies with
23 applicable federal, state, and county laws and requirements.

1 (b) The department shall adopt rules, pursuant to chapter
2 91, that include the Institute of Scrap Recycling Industries,
3 Inc.'s Electronics Recycling Operating Practices as requirements
4 for recycling covered electronic devices.

5 §339D-D State procurement.

6 Any state or county agency that purchases or leases any
7 covered electronic device shall require each prospective offeror
8 to certify compliance with this chapter. Failure to provide
9 certification shall disqualify the prospective offeror."

10 SECTION 2. Section 339D-1, Hawaii Revised Statutes, is
11 amended as follows:

12 By amending the definitions of "brand", "covered electronic
13 device", "covered entity", "covered television", "recycling",
14 and "retailer" to read:

15 1. "'Brand" means a symbol, word, or mark that identifies
16 a covered electronic device [~~or a covered television~~], rather
17 than any of its components.

18 "Covered electronic device":

19 (1) Means [a]:

20 (A) A computer, computer printer, computer
21 monitor, or portable computer with a screen
22 size greater than four inches measured
23 diagonally; [~~and~~] or

1 (B) A television with a screen size of nine
2 inches or larger as measured diagonally;
3 and
4
5 (2) Shall not include:
6 (A) A covered electronic device that is a part
7 of a motor vehicle or any component part of
8 a motor vehicle assembled by or for a motor
9 vehicle manufacturer or franchised dealer,
10 including replacement parts for use in a
11 motor vehicle;
12 (B) A covered electronic device that is
13 functionally or physically required as a
14 part of a larger piece of equipment designed
15 and intended for use in an industrial,
16 commercial, or medical setting, including
17 diagnostic, monitoring, or control
18 equipment;
19 (C) A covered electronic device that is
20 contained within a clothes washer, clothes
21 dryer, refrigerator, refrigerator and
22 freezer, microwave oven, conventional oven

1 or range, dishwasher, room air conditioner,
2 dehumidifier, or air purifier; or

3 (D) A telephone of any type."

4 "Covered entity" means any ~~[household,]~~ person, government
5 entity, business, or nonprofit organization exempt from taxation
6 under section 501(c)(3) of the Internal Revenue Code, regardless
7 of size or place of operation within the State.

8 ~~["Covered television"]:~~

9 ~~(1) Means]~~ "Television" means any device that is
10 capable of receiving broadcast, cable, or
11 satellite signals and displaying television or
12 video programming, including without limitation
13 any direct view or projection television ~~[with a~~
14 ~~viewable screen of nine inches or larger]~~ with
15 display technology based on cathode ray tube,
16 plasma, liquid crystal, digital light processing,
17 liquid crystal on silicon, silicon crystal
18 reflective display, light emitting diode, or
19 similar technology marketed and intended for use
20 by a ~~[household,]~~ person;

21 ~~[(2) Shall not include:~~

22 ~~(A) A computer, computer printer, computer~~
23 ~~monitor, or portable computer;~~

1 ~~(B) A television that is a part of a motor~~
2 ~~vehicle or any component part of a motor~~
3 ~~vehicle assembled by or for a vehicle~~
4 ~~manufacturer or franchised dealer, including~~
5 ~~replacement parts for use in a motor~~
6 ~~vehicle;~~

7 ~~(C) A television that is functionally or~~
8 ~~physically required as a part of a larger~~
9 ~~piece of equipment designed and intended for~~
10 ~~use in an industrial, commercial, or medical~~
11 ~~setting, including diagnostic, monitoring,~~
12 ~~or control equipment;~~

13 ~~(D) A telephone of any type, including a mobile~~
14 ~~telephone; } or~~

15 ~~(E) A global positioning system.]~~

16 "Recycling" means processing (including disassembling,
17 dismantling, or shredding) covered electronic devices [~~or~~
18 ~~covered televisions~~] or their components to recover a useable
19 product; provided that "recycling" does not include any process
20 defined as incineration under applicable laws and rules."

21 "Retailer" means any person who offers covered electronic
22 devices [~~or covered televisions~~] for sale, other than for resale

1 by the purchaser, through any means, including sales outlets,
2 catalogs, or the Internet."

3 2. By deleting the definitions of "household", "market
4 share", and "television manufacturer".

5 ~~["Household" means any occupant of a single detached~~
6 ~~dwelling unit or of a single unit of a multiple dwelling unit~~
7 ~~who has used a covered electronic device or covered television~~
8 ~~at a dwelling unit primarily for personal or home business use.~~

9 ~~"Market share":~~

10 ~~(1) Means the calculation of a television~~
11 ~~manufacturer's prior year's sales of televisions~~
12 ~~divided by all manufacturers' prior year's sales~~
13 ~~for all televisions, as determined by the~~
14 ~~department;~~

15 ~~(2) May be expressed as a percentage, a fraction, or~~
16 ~~a decimal fraction.~~

17 ~~"Television manufacturer" means a person who:~~

18 ~~(1) Manufactures for sale in the State a covered~~
19 ~~television under a brand that it licenses or~~
20 ~~owns;~~

21 ~~(2) Manufactures for sale in the State covered~~
22 ~~televisions without affixing a brand;~~

- 1 ~~(3) Resells into the State a covered television~~
2 ~~manufactured by others under a brand that the~~
3 ~~seller owns or is licensed to use;~~
- 4 ~~(4) Imports into the United States or exports from~~
5 ~~the United States a covered television for sale~~
6 ~~in the State;~~
- 7 ~~(5) Sells at retail a covered television acquired~~
8 ~~from an importer described in paragraph (4), and~~
9 ~~elects to register as the manufacturer for those~~
10 ~~products;~~
- 11 ~~(6) Manufactures covered televisions and supplies~~
12 ~~them to any person or persons within a~~
13 ~~distribution network that includes wholesalers or~~
14 ~~retailers in this State; or~~
- 15 ~~(7) Assumes the responsibilities and obligations of a~~
16 ~~television manufacturer under this chapter.~~

17 ~~In the event the television manufacturer is one who~~
18 ~~manufactures, sells, or resells covered televisions under a~~
19 ~~brand for which it has obtained the license, then the licensor~~
20 ~~or brand owner of the brand shall not be included in the~~
21 ~~definition of television manufacturer under paragraph (1) or~~
22 ~~(3)."~~]

1 SECTION 3. Section 339D-4, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) By June 1, 2009, and annually thereafter, each
4 electronic device manufacturer shall submit a plan to the
5 department to establish, conduct, and manage a program for the
6 collection, transportation, and recycling of its covered
7 electronic devices sold in the State, which shall be subject to
8 the following conditions:

9 ~~(1) The plan shall not permit the charging of a fee~~
10 ~~at the point of recycling if the covered~~
11 ~~electronic device is brought by the covered~~
12 ~~electronic device owner to a central location for~~
13 ~~recycling; provided that the plan may include a~~
14 ~~reasonable transportation fee if the electronic~~
15 ~~device manufacturer or electronic device~~
16 ~~manufacturer's agent removes the covered~~
17 ~~electronic device from the owner's premises at~~
18 ~~the owner's request and if the removal is not in~~
19 ~~conjunction with delivery of a new electronic~~
20 ~~device to the owner; and]~~

21 (1) The plan shall include a description of the
22 methods for the convenient collection of covered
23 electronic devices at no cost to the covered

1 entities. The recycling plan shall provide
2 collection services of covered electronic devices
3 in each county of the state. In addition, for
4 United States Postal Zip Code areas with a
5 population greater than twenty-five thousand, the
6 plan shall provide at least one of the following
7 services:

8 (A) A staffed drop-off site;

9 (B) Alternative collection service such as on-
10 site pick-up service; or

11 (C) Collection events which are periodically
12 held at an easily accessible, central
13 location;

14 (2) Each electronic device manufacturer may develop
15 its own recycling program or may collaborate with
16 other electronic device manufacturers, so long as
17 the program is implemented and fully operational
18 no later than January 1, 2010[-];

19 (3) Each electronic device manufacturer's plan shall
20 provide for recycling covered electronic devices
21 of an amount equal in weight to its market share
22 of covered electronic devices sold in the State

1 each year as determined pursuant to section 339D-

2 A; and

3 (4) Plans that contain only a mail-back option shall
4 not be allowed.

5 (d) By March 31, 2011, and annually thereafter, each
6 electronic device manufacturer shall submit a report to the
7 department of the total weight of all covered electronic devices
8 recycled in the previous year, which may include both an
9 electronic device manufacturer's own covered electronic devices
10 and those of other manufacturers."

11 SECTION 4. Section 339D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~339D-6~~§~~ Department responsibility.

14 (a) Beginning January 1, 2010, the department shall
15 maintain and update a website and a toll-free number with
16 current information on where covered entities can return covered
17 electronic devices for recycling.

18 (b) The department, in consultation with electronic device
19 manufacturers, shall develop an electronic device recycling
20 education program for consumers."

21 SECTION 5. Section 339D-7.5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "[+]§339D-7.5[+] Manufacturer and agent responsibilities;
2 regulatory compliance.

3 Each electronic device manufacturer [~~and television~~
4 ~~manufacturer~~] shall be responsible for ensuring that the
5 electronic device manufacturer and its agents follow all
6 federal, state, and local regulations when collecting,
7 transporting, and recycling covered electronic devices [~~or~~
8 ~~covered televisions~~], and adopt environmentally sound recycling
9 practices for the covered electronic devices [~~or covered~~
10 ~~televisions~~]."

11 SECTION 6. Section 339D-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 §339D-8 Enforcement.

14 (a) The department may conduct audits and inspections to
15 determine compliance under this chapter. Except as provided in
16 subsection (c), the department and the attorney general shall be
17 empowered to enforce this chapter and take necessary action
18 against any electronic device [~~or television manufacturer~~] or
19 retailer for failure to comply with this chapter or rules
20 adopted thereunder.

21 (b) The attorney general may file suit in the name of the
22 State to enjoin an activity related to the sale of covered

1 electronic devices [~~or covered televisions~~] in violation of this
2 chapter.

3 (c) The department shall issue a warning notice to a
4 person for the person's first violation of this chapter. The
5 person shall comply with this chapter within sixty days of the
6 date the warning notice was issued or be subject to the
7 penalties provided by law or rule, including[~~r~~] but not limited
8 to[~~r~~] penalties set forth in subsections (d) through (g). A
9 retailer that receives a warning notice from the department for
10 a violation of section 339D-3(a) [~~or 339D-24(a)~~] shall submit
11 proof to the department, within sixty days from the date the
12 warning notice was issued, that its inventory of covered
13 electronic devices [~~or covered televisions~~] offered for sale is
14 in compliance with this chapter.

15 (d) Any retailer who sells or offers for sale an unlabeled
16 covered electronic device [~~or unlabeled covered television~~] in
17 violation of section 339D-3 [~~or 339D-24, respectively,~~] or any
18 electronic device [~~or television~~] manufacturer that fails to
19 comply with any provision of section 339D-4 [~~or 339D-23,~~
20 ~~respectively,~~] may be assessed a penalty of up to \$10,000 for
21 the first violation and up to \$25,000 for the second and each
22 subsequent violation, in addition to any additional penalties
23 required or imposed pursuant to this chapter.

1 (e) Except as provided in subsection (d), any person who
2 violates any requirement of this chapter may be assessed a
3 penalty of up to \$1,000 for the first violation and up to \$2,000
4 for the second and each subsequent violation, in addition to any
5 additional penalties required or imposed pursuant to this
6 chapter.

7 (f) The department shall determine additional penalties
8 based on adverse impact to the environment, unfair competitive
9 advantage, and other considerations that the department deems
10 appropriate.

11 (g) If [~~a covered television~~] an electronic device
12 manufacturer fails to recycle its market share allocation, the
13 department shall impose a penalty of [~~50 cents~~] \$ _____ per
14 pound for each pound not recycled."

15 SECTION 7. Section 339D-9, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Notwithstanding subsection (a), the department shall
18 not have the authority to assess any fees, including an advanced
19 recycling fee, registration fee, or other fee, on consumers[~~—~~
20 ~~television manufacturers, or retailers for recovery of covered~~
21 ~~televisions except those noted in sections [339D-4] and 339D-~~
22 ~~22~~]."

1 SECTION 8. Section 339D-11, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 (b) The department shall compile the information submitted
4 by ~~[covered television]~~ electronic device manufacturers and
5 issue a report to the legislature no later than April 1, 2012,
6 and annually each year thereafter."

7 SECTION 9. Section 339D-12, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "\$339D-12 Federal preemption.

10 ~~[(a) Part II of this]~~ This chapter shall be deemed
11 repealed if a federal law or a combination of federal laws takes
12 effect that establishes a national program for the collection
13 and recycling of covered electronic devices that substantially
14 meets the intent of ~~[part II of]~~ this chapter, including the
15 creation of a financing mechanism for collection,
16 transportation, and recycling of all covered electronic devices
17 from covered entities in the United States.

18 ~~[(b) {Part IV} of this chapter shall be deemed repealed if~~
19 ~~a federal law or a combination of federal laws takes effect that~~
20 ~~establishes a national program for the recycling of covered~~
21 ~~televisions that substantially meets the intent of [part IV] of~~
22 ~~this chapter.] "~~

1 SECTION 10. Chapter 339D, part IV, Hawaii Revised
2 Statutes, is repealed.

3 SECTION 11. No later than December 31, 2013, the
4 department of health shall adopt rules, pursuant to chapter 91,
5 that authorize the recovery and recycling of cathode ray tubes
6 in Hawaii to safely further the objectives of chapter 339D,
7 Hawaii Revised Statutes.

8 SECTION 12. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 13. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 14. This Act shall take effect upon its approval.

15

16 , INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO TRAFFIC INFRACTIONS.

PURPOSE: Transmits a portion of the fines and forfeitures from uncontested traffic infractions to the Counties.

MEANS: Adding a new Chapter to Hawaii Revised Statutes

JUSTIFICATION: Counties are the entities responsible for enforcing both the statewide traffic code and County traffic ordinances. The costs to the Counties to enforce the state and County traffic laws and prosecute violators are substantial and presently paid primarily from County general funds. However, all fines and forfeitures from the state and County traffic violations are paid wholly to the state and deposited into the state general fund. None of the revenues derived from fines and forfeitures are transmitted to the County, the enforcement entity. A substantial portion of the traffic fines and forfeitures are uncontested and as such, require minimal fund expenditures by the state Judiciary to administer. As such, transferring a portion of uncontested fines and forfeitures stemming from uncontested traffic infractions would be equitable and assist the Counties in covering the costs to enforce state and County traffic laws.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER .
5 TRANSMITTAL OF UNCONTESTED TRAFFIC FINES
6 AND FORFEITURES TO COUNTIES

7 § - 1 Definitions. For purposes of this chapter,
8 unless the context clearly requires otherwise:

9 "Traffic infraction" means the same as defined under
10 section 291D-2.

11 "Uncontested traffic infraction" means a traffic infraction
12 for which the person noticed under section 291D-5 does not
13 contest the infraction. A person "does not contest" an
14 infraction if, in accordance with section 291D-6(b)(1), the
15 person admits the commission of the infraction without
16 requesting a hearing to explain mitigating circumstances and
17 pays or remits bail forfeiture by mail within thirty days.

_____.B. NO. _____

1 § -2 Transmittal of fines and forfeitures. (a) The state
2 director of finance shall transmit to each county not more than
3 thirty days after the end of each fiscal quarter ____ per cent of
4 all the fines and forfeitures collected for uncontested traffic
5 infractions committed in that county which are in excess of
6 amounts required by the State to pay the administrative costs of
7 the traffic violations bureau.

8 (b) Subsection (a) shall not apply to:

9 (1) Fines and forfeitures for violations that occur on
10 state off-street parking facilities, parks, airports,
11 and harbors that are subject to enforcement by the
12 State; and

13 (2) Fines and forfeitures that are required by law to be
14 paid into a special, revolving, or trust fund.

15 No county shall be entitled to any portion of the fines and
16 forfeitures described in this subsection."

17 SECTION 2. Section 291C-171, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) All fines and forfeitures collected upon conviction or
20 upon the forfeiture of bail of any person charged with a
21 violation of any section or provision of the state traffic laws
22 and all assessments collected relating to the commission of

____.B. NO. _____

1 traffic infractions shall be paid to the state director of
2 finance [~~of the State~~].

3 The judiciary shall identify those uncontested traffic
4 infractions as defined in section -1. The disposition of fines
5 and forfeitures paid to the state director of finance shall be
6 subject to section -2."

7 SECTION 3. Statutory material to be deleted is bracketed
8 and stricken. New material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2013.

10 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties (HSAC)

TITLE: Relating to Energy Resources

PURPOSE: To amend the State law (Act 204) that requires solar water heating on all new single-family and duplex homes. The amendment would require that the buyer-owner of a new single-family or duplex home be the applicant for the variance allowing on-demand gas in lieu of a solar water heater; otherwise, a solar water heater will be required. This is a consumer protection measure as well as an energy efficiency and conservation measure.

MEANS: Amend Section 196-6.5, Hawai'i Revised Statutes

JUSTIFICATION: Amendments are necessary to fulfill the intention of the Legislature, as expressed in Act 155, the Clean Energy Initiative, that variances to the requirement of a solar water heater would be "rarely" granted and that the "gas variance" would be considered only if requested by the buyer-owner of a new home who would be ultimately responsible for energy consumption costs. Where there is no buyer occupant at the time of building, the "gas variance" shall not be available. Other variances, however, will remain. For example, if a home is being built where there is little sun and the applicant can show that a solar water heater is not feasible, it will not be required.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Purpose and Findings. The legislature finds that
2 independence from fossil fuels is critical for the security and wellbeing of Hawaii's
3 residents and for the sustainability and vitality of Hawaii's economy. Rising oil
4 costs and increased dependence on foreign oil continue to place Hawaii's families
5 and businesses in a vulnerable position. Continued consumption of fossil fuel will
6 also worsen global warming, which in turn could mean increasing frequency and
7 intensity of storms and rising sea levels in Hawaii. This will cause significant and
8 costly impacts to our island communities as well as to the larger world.

9 The legislature finds that the installation of solar water heaters on new
10 single-family and duplex homes is one of the most cost-effective and efficient ways
11 of moving Hawaii's families off of fossil fuels. A conventional electric water tank
12 accounts for thirty to thirty-five percent of a household's electric bill. It is estimated
13 that by relying on the sun for ninety percent of its hot water demand, a family could
14 save enough money to pay for the solar system in three to five years. After the
15 system is paid off, the heating of water is essentially free. In addition to federal tax

____.B. NO. _____

1 credits, when the cost of a solar water heater is included in the cost of a mortgage
2 there could also be the added value of tax deductions.

3 For the reasons above, the legislature in 2008 passed Act 204 requiring solar
4 water heaters on new single-family homes. However the legislature finds that
5 Act 204 allows variances from this requirement under vague and unjustified
6 circumstances such that the purpose of Act 204 is being thwarted in many instances
7 by the variance that allows tankless gas. Therefore, the legislature finds it is
8 necessary to modify the wording of the law and clarify that the variance allowing
9 tankless gas shall require application by an ultimate occupant of the dwelling unit
10 and only such occupant. If the occupant is not available, then the variance
11 application shall not be accepted for processing and said variance shall not be
12 available.

13 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is amended to read
14 as follows:

15 "§196-6.5 Solar water heater system required for new single-family
16 residential construction.

17 (a) On or after January 1, 2010, no building permit shall be issued for a
18 new single-family or duplex dwelling that does not include a solar water heater
19 system that meets the standards established pursuant to section 269-44, unless the
20 coordinator approves a variance.

____.B. NO. _____

1 (b) ~~[A variance application]~~ Applications for the following variances shall
2 only be accepted if submitted by an architect or mechanical engineer licensed under
3 chapter 464, who attests that:

4 (1) Installation is impracticable due to poor solar resource;

5 (2) Installation is cost-prohibitive based upon a life cycle cost-
6 benefit analysis that incorporates the average residential utility
7 bill and the cost of the new solar water heater system with a life
8 cycle that does not exceed fifteen years; or

9 (3) A renewable energy technology system, as defined in section
10 235-12.5, is substituted for use as the primary energy source for
11 heating water; ~~[or]~~

12 (c) Applications for the following gas variance shall be accepted on the
13 following basis only if the variance applicant is the party who will ultimately control
14 the energy consumption cost, and as part of the application, the applicant signs an
15 affidavit that the applicant will be the buyer-owner of the new house and that the
16 applicant has read a flyer issued by the State of Hawaii Department of Business,
17 Economic Development and Tourism (DBEDT) showing the life cycle cost
18 comparisons of a solar water heater and tankless gas water heater of equivalent
19 capacities.

20 ~~[(4)]~~ (1) A demand water heater device approved by Underwriters
21 Laboratories, Inc., is installed; provided that at least one other

____.B. NO. _____

1 gas appliance is installed in the dwelling. For the purposes of
2 this paragraph, 'demand water heater' means a gas-tankless
3 instantaneous water heater that provides hot water only as it is
4 needed.

5 ~~[(b)]~~ (d) A request for a variance shall be submitted to the coordinator on an
6 application prescribed by the coordinator and shall include a description of the
7 location of the property and justification for the approval of a variance using the
8 criteria established in subsection (a). A variance shall be deemed approved if not
9 denied within thirty working days after receipt of the variance application. The
10 coordinator shall publicize:

11 (1) All applications for a variance within seven days after receipt of
12 the variance application; and

13 (2) The disposition of all applications for a variance within seven
14 days of the determination of the variance application.

15 ~~[(e)]~~ (e) The director of business, economic development, and tourism may
16 adopt rules pursuant to chapter 91 to impose and collect fees to cover the costs of
17 administering variances under this section. The fees, if any, shall be deposited into
18 the energy security special fund established under section 201-12.8.

19 ~~[(d)]~~ (f) Nothing in this section shall preclude any county from establishing
20 procedures and standards required to implement this section.

____.B. NO. ____

1 ~~[(e)]~~ (g) Nothing in this section shall preclude participation in any utility
2 demand-side management program or public benefits fee program under part VII of
3 chapter 269.”

4 SECTION 3. Statutory material to be repealed is bracketed and stricken.
5 New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

8 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO AFFORDABLE HOUSING CREDITS

PURPOSE: This proposed Bill for an Act maintains the intent of Act 98 (12), Session Laws of Hawai'i 2012, by providing affordable housing credits to the department of Hawaiian home lands, while maintaining the integrity of county housing programs throughout the state and preserve the principle of "home rule," allowing the county to serve its residents as it should.

MEANS: Amend Section 46-15.1 (b), Hawai'i Revised Statutes

JUSTIFICATION: Under Act 98 (12), it requires each county to issue affordable housing credits to the Department of Hawaiian Home Lands (DHHL) for each home or lot developed by DHHL. Furthermore, this Act allows DHHL to sell credits to developers to satisfy the developer's affordable housing zoning obligations without income or location restrictions. It will also be more difficult to achieve smart growth land use patterns, where housing is located close to jobs and employment centers. Amendments to Section 46-15.1 (b), Hawai'i Revised Statutes, are necessary to protect each county's ability to provide affordable housing for those who most need such housing, and to enable the county to do its job in a fair and equitable manner.

____.B. NO. ____

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING CREDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of Act 141, Session Laws of Hawaii
2 2009, was to require counties to issue affordable housing
3 credits to the Department of Hawaiian Home Lands for all
4 existing and future Hawaiian home lands projects upon request.
5 Act 141 (09) was then amended to Act 098, Session Laws of
6 Hawai'i 2012, which further defines what the credits shall be
7 issued for, and explicitly releases the Department of Hawaiian
8 Home Lands from any income or other requirements attached to a
9 respective county's affordable housing credits. The legislature
10 finds that the relationship between the Department of Hawaiian
11 Home Lands and the respective counties established by Act 098
12 (12) violates the principles of homerule and does not encourage
13 the kind of working relationship between the counties and the
14 Department of Hawaiian Home Lands necessary to effectively
15 address the affordable housing problem in each county. The
16 legislature also finds that Act 098 (12) could create a racially
17 discriminatory effect by disproportionately allocating more
18 affordable housing resources to one racial group over another.
19 In order to address each county's affordable housing needs based

____.B. NO. ____

1 on fairness and equality, this bill allows each county to
2 address its affordable housing needs, allows the Department of
3 Hawaiian Home Lands to receive county affordable housing credits
4 for mutually beneficial projects on Department of Hawaiian Home
5 Lands, and also supports a good working relationship between the
6 Department of Hawaiian Home Lands and the respective counties.

7 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) ~~[Each county shall issue]~~ By mutual consent, each
10 respective county and the Department of Hawaiian Home Lands
11 shall agree to the issuance of affordable housing credits to the
12 Department of Hawaiian Home Lands with respect to ~~[existing and]~~
13 future Hawaiian home lands projects upon a request for such
14 credits by the Department of Hawaiian Home Lands. The credits
15 shall be transferable and shall be issued on a one-unit for one-
16 unit basis. Credits shall be issued for each single-family
17 residence, multi-family unit, or other residential unit~~[, or if~~
18 ~~allowed under the county's affordable housing programs, vacant~~
19 ~~lot,]~~ developed by the Department of Hawaiian Home Lands.

20 The credits may be applied county-wide within the same
21 county in which the credits were earned to satisfy affordable
22 housing obligations imposed by the county on market priced

____.B. NO. _____

1 residential and non-residential developments. [~~County-wide or~~
2 ~~project-specific requirements for the location of affordable~~
3 ~~housing units; housing class, use, or type; construction time;~~
4 ~~or other county requirements for affordable housing units shall~~
5 ~~not impair, restrict, or condition the county's obligation to~~
6 ~~apply the credits in full satisfaction of all county~~
7 ~~requirements whether by rule, ordinance, or particular zoning~~
8 ~~conditions of a project.]~~

9 For purposes of this section, "affordable housing
10 obligation" means the requirement imposed by a county to develop
11 [~~vacant lots,~~] single-family residences, multi-family
12 residences, or any other type of residence for sale or rent to
13 individuals within a specified income range."

14 SECTION 3. Statutory material to be deleted is bracketed
15 and in strikethrough. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval,
17 and shall be repealed on June 30, 2015; provided that section
18 46-15.1(b), Hawaii Revised Statutes, shall be reenacted pursuant
19 to section 3 of Act 141, Session Laws of Hawaii 2009.

20
21 INTRODUCED BY: _____