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:

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 HAWAI‘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.
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 HAWAI'I:

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

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

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

Honey, macadamia nuts, coffee, tea, vanilla, and any other plant or animal products for which any information or name indicating "Hawai'i", "Hawaiian", or any region of Hawai'i, and where the product is less than 100% grown in Hawai'i, shall after the word "Contains:" list on the front label the country or region of origin and the percentage of each country's or region's portion of the product in descending order of percentage and in font size at least equal to one-half the size of the largest font on the front label.
(Spices are exempted unless spice is the major portion of
the product.)

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

(1) A minimum of 100% Hawai‘i-grown product shall be

 included in the package for the front label to say,

with or without Hawaiian okinas, in a font size at

least equal to one-half the size of the largest font:

“100% Hawai‘i (product)” or “Hawai‘i (product)”

“100% Hawai‘i-Grown (product)” or “Hawai‘i-Grown

(product)”;

“100% Grown in Hawai‘i”;

“100% Hawai‘i-Made (product)” or “Hawai‘i-Made

(product)”;

“100% Hawaiian-Made (product)” or “Hawaiian-Made

(product)”;

“100% Made in Hawai‘i”; or

“100% Hawaiian (product)” or “Hawaiian (product)”.

(2) Spices are exempted unless spice is the major portion

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

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

(A) Regional names:

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

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

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

"100% (Region) (product)".

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

"100% Hawaiian Islands (product) Blend" or "100% Hawai'i Islands (product) Blend".
(2) Spices are exempted unless spice is the major portion of the product.

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

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

(A) Contain a minimum of 75% of that named region’s agricultural or animal product, and shall use the word “Blend” in the identification of the product;

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

(C) List after the word “Contains:" in descending order, and after the majority content, the remainder of the product by percentage and country or Hawaiian region of origin, with or without okinas, for example:
"15% Argentina (product)" and "10% Congo (product)";

"15% Argentina (product)" and "10% Mau‘i (product)"; or

"25% Mau‘i and Kaua‘i (product)” (The bulk listing of percentages shall be allowed for Hawaiian regions only); and

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

(2) Any blended product that contains less than 75% of a Hawaiian product shall not use the names “Hawai‘i” “Hawaiian” or any Hawaiian regional name on the front label, except in the contents list which shall identify on the front label the countries or geographic regions of origin for the entire product with the percentage for each country’s or region’s portion of the product in a font size at least equal to one-half the size of the largest font on the front label.”
SECTION 2. Nothing stated on side or back labels on any product subject to this section shall be inconsistent with statements appearing on the front label.

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

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

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

INTRODUCED BY: ____________________________
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 delineate 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;
(b) Establish indigency at one hundred twenty-five percent (125%) or less of the current federally established poverty level;
(c) Include a “partly indigent” designation, which requires criminal defendants to reimburse the state for a portion or all of the cost of court-appointed counsel;
(d) 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;
(e) Require that “indigency” should be performed by an independent board, agency, or committee, or by judges not directly involved in the case;
(f) 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.
A BILL FOR AN ACT

RELATING TO THE DEFINITION OF INDIGENT AND PARTIALLY INDIGENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

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

"§802-4 Determination of indigency. (a) Unless otherwise ordered by the court, the determination of indigency shall be made by [a public defender subject to review by the court] an independent board, agency, or committee, or by judges not directly involved in the case and shall be known as the verification officers. Such determination shall be based upon an appropriate and thorough inquiry into the financial circumstances of the person seeking legal representation and an affidavit or a certificate signed by such person demonstrating the person's financial inability to obtain legal counsel. A person shall waive the person's right to counsel by refusing to furnish any information pertinent to the determination of indigency."
(b) The definition of "indigent" shall be based on an objective determination of annual income and other resources, and shall comply with the following:

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

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

(c) Financial Standards for Determining Indigence.

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

(2) A defendant is considered indigent if:
1. The defendant's net household income does not exceed 125% of the Poverty Guidelines as established and revised annually by the United States Department of Health and Human Services and published in the Federal Register; and

2. The value of the non-exempt assets and property owned by the defendant:

   (i) does not exceed $2,500.00;

   (ii) 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

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

(C) The following table indicates income levels:

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,500.00</td>
<td>Low</td>
</tr>
<tr>
<td>$5,000.00</td>
<td>Medium</td>
</tr>
<tr>
<td>$10,000.00</td>
<td>High</td>
</tr>
</tbody>
</table>

The income levels in the following table represent 125% of the U.S. Department of
<table>
<thead>
<tr>
<th>Health and Human Services Poverty Guidelines for 2008.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. ........................................... $10,400</td>
</tr>
<tr>
<td>2. ........................................... 14,000</td>
</tr>
<tr>
<td>3. ........................................... 17,600</td>
</tr>
<tr>
<td>4. ........................................... 21,200</td>
</tr>
<tr>
<td>5. ........................................... 24,800</td>
</tr>
<tr>
<td>6. ........................................... 28,400</td>
</tr>
<tr>
<td>7. ........................................... 32,000</td>
</tr>
<tr>
<td>8. ........................................... 35,600</td>
</tr>
</tbody>
</table>

For family units with more than eight members, add $3,600 for each additional member in the family when determining 125% of Poverty.

(D) A defendant is considered indigent if, at the time of requesting appointed counsel, the defendant or the defendant’s dependents have been determined to be eligible to receive food stamps,
Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing.

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

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

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

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

(A) A defendant determined to be partially indigent shall be eligible for appointment of counsel only upon payment to the county of an appointment fee
of $100 if charged with one or more misdemeanors or $250 if charged with one or more felonies. If a defendant determined to be partially indigent pleads or is found guilty, the court may order the defendant to comply with a payment schedule to reimburse the county for all indigent defense costs in the case.

(B) A defendant shall be considered partially indigent if the defendant does not meet any of the standards for indigence set forth in (b)(2)(B) above and:

(i) The defendant's net household income is greater than 125% but does not exceed 175% of the Poverty Guidelines as established and revised annually by the United States Department of Health and Human Services and published in the Federal Register; and

(ii) The value of the non-exempt assets and property owned by the defendant:

a. Does not exceed $2,500.00;
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.
Only the defendant’s financial circumstances as measured by the financial standards stated in this rule shall be used as the basis for determining indigence.

(5) Payment by defendant

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

(B) Upon a determination of indigency, the Judge presiding over the case shall sign the form indicating the accused is indigent and shall
immediately appoint an attorney pursuant to the
approved attorney appointment list plan.

(d) A uniform, well-defined screening process to gather and
verify substantial financial data shall include 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. The
following is the minimum required information:

(1) obtain biographical information;

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

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

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

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

(6) list other debts;
(7) other persons living in the household (including children, dependants and contributing members of the household);

(8) list all jobs;

(9) list income provided to criminal defendant by individuals other than himself and his spouse;

(10) list retirement benefits;

(11) list any alimony/child support received or paid, or owed;

(12) list sports equipment (such as boats and motorcycles);

(13) list money owed to the criminal defendant;

(14) list personal property of worth (such as appliances);

(15) list other valuable property (such as gold, precious stones, jewelry, works of art, farm equipment, etc.);

and

(16) list the amount of cash a criminal defendant has on hand.
(e) Fees.

(1) An application fee of $100.00 for one or more misdemeanors and $250 for one or more felonies shall be charged for 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.

(2) For those defendants who are partially indigent, a contribution plan shall be devised to contribute to the cost of their counsel. 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.

(3) The Office of the Public Defender shall report and furnish the criminal defendant's request forms to the
Office of the Prosecutor or the 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.”

Click here and insert text of bill

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

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

INTRODUCED BY: ____________________________
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.
A BILL FOR AN ACT

RELATING TO GALLONAGE TAX ON LIQUOR.

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

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

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

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

(1) $5.92 per wine gallon on distilled spirits;
(2) $2.09 per wine gallon on sparkling wine;
(3) $1.36 per wine gallon on still wine;
(4) $0.84 per wine gallon on cooler beverages;
(5) $0.92 per wine gallon on beer other than draft beer;
(6) $0.53 per wine gallon on draft beer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and at a proportionate rate for any other quantity so sold or used.
(b) Beginning July 1, 2014, the increase in the gallonage tax shall begin and the additional thirty percent per gallon collected shall be reimbursed to each county by the amount of additional gallonage tax collected from that county; however, fines on the increased tax revenue shall be retained by the State of Hawai‘i to compensate it for the expense of collection. Tax revenues from this Act shall be kept by the respective counties in a special fund, and be accounted for as a separate line item in their respective budgets.

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

(d) The tax levied pursuant to subsection (a) shall be paid only once upon the same liquor; provided further that the tax shall not apply to:

1 Liquor held for sale by a permittee but not yet sold;
(2) Liquor sold by one permittee to another permittee;

(3) Liquor which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;

(4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33; and

(5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes."

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

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

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 and 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 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

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

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

WHEREAS, this event has damaged the public’s confidence in the electoral process; and

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

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

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

WHEREAS, it is of utmost importance to pursue a remedy to restore and assure confidence in the electoral process; and
WHEREAS, a strong partnership between the State and the County, formed through effective communication, is critical to ensure a well-run election; and

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

BE IT RESOLVED by the House of Representatives of the Twenty-seventh Legislature of the State of Hawai‘i, Regular Session of 2013, the Senate concurring, that the State Legislature requests 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; and

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

OFFERED BY: __________________________
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.
A BILL FOR AN ACT

RELATING TO PSEUDOEPHEDRINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

1. SECTION 1. The legislature finds that methamphetamine is a highly addictive drug with dangerous long-term side effects including addiction, anxiety, insomnia, and violent behavior.

2. The legislature also finds that pseudoephedrine, a safe, effective, and widely-used over the counter decongestant, is an essential ingredient used to make methamphetamine.

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

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

"§329-22 Schedule V."
(a) The controlled substances listed in this section are included in schedule V.

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

1. Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

2. Not more than 100 milligrams of hydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

3. Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

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

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

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

(d) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central
nervous system, including its salts, isomers, and salts of isomers:

(1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide], (Vimpat); and

(2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

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

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

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

(1) [1a] For purposes of a controlled substance in schedule II or pseudoephedrine, in the case of an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II or pseudoephedrine upon receiving oral authorization from a prescribing practitioner; provided that:
(A) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing practitioner);

(B) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include a callback to the prescribing practitioner using the phone number in the telephone directory or other good faith efforts to identify the prescriber; and

(C) Within seven days after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing
pharmacist. In addition to conforming to
the requirements of this subsection, the
prescription shall have written on its face
"Authorization for Emergency Dispensing".
The written prescription may be delivered to
the pharmacist in person or by mail, and if
by mail, the prescription shall be
postmarked within the seven-day period.
Upon receipt, the dispensing pharmacist
shall attach this prescription to the oral
emergency prescription, which had earlier
been reduced to writing. The pharmacist
shall notify the administrator if the
prescribing practitioner fails to deliver a
written prescription to the pharmacy within
the allotted time. Failure of the
pharmacist to do so shall void the authority
conferred by this paragraph to dispense
without a written prescription of a
prescribing individual practitioner. Any
practitioner who fails to deliver a written prescription within the seven-day period shall be in violation of section 329-41(a)(1); or

(2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in schedule II shall affix to the package a label showing:

(A) The date of dispensing;

(B) The name, strength, and quantity of the drug dispensed;

(C) The dispensing practitioner's name and address;

(D) The name of the patient;

(E) The "use by" date for the drug, which shall be:

(i) The expiration date on the [manufacturer's] or principal labeler's container; or
(ii) One year from the date the drug is dispensed, whichever is earlier; and

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

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

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

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

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian;
(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to patients;

(3) Any manufacturer or wholesaler licensed by the State who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; and

(4) Any sale, transfer, furnishing, or receipt of any drug that contains pseudoephedrine or norpseudoephedrine that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 United States Code section 301 et seq.) or regulations adopted thereunder as long as it complies with the requirements of sections [329-73, 329-74, and 329-75.] 329-38."
SECTION 5. Section 329-75, Hawaii Revised Statutes, is amended to read as follows:

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

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

1. The product, mixture, or preparation shall be sold or distributed from an area not accessible by customers or the general public, such as behind the counter or in a locked display case, and where the pharmacy or retailer delivers the product directly into the custody of the person purchasing or obtaining the substances, ...
(2) Any person purchasing or otherwise obtaining any product, mixture, or preparation shall produce valid, government-issued identification containing the photograph, date of birth, printed name, signature, and address of the person purchasing or obtaining the substance.

(3) The pharmacy or retailer shall maintain a written or electronic log of required information for each sale of a nonprescription product containing pseudoephedrine, including:

(A) The date and time of any transaction under paragraph (2);

(B) The name, address, and date of birth of the person purchasing or obtaining the substance;

(C) The type of identification provided by the person purchasing or obtaining the substance and identification number;

(D) The agency issuing the identification used; and
(E) The name of the compound, mixture, or preparation, and the amount, and

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

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

(b) Beginning January 1, 2013, before completing a sale of an over-the-counter product containing pseudoephedrine, a pharmacy or retailer shall electronically submit the information required pursuant to subsection (a) to the National Precursor Log-Exchange administered by the National Association of Drug Diversion Investigators, provided that the National Precursor Log-Exchange is available to pharmacies or retailers in the
State without a charge for accessing the system. The pharmacy
or retailer shall not complete the sale if the system generates
a stop sale alert. Except in the case of negligence,
wantonness, recklessness, or deliberate misconduct, any pharmacy
or retailer using the electronic sales tracking system in
accordance with this subsection shall not be civilly liable as a
result of any act or omission in carrying out the duties
required by this subsection and shall be immune from liability
to any third party, unless the pharmacy or retailer has violated
this subsection, in relation to a claim brought for such
violation.

(c) If a pharmacy or retailer selling an over-the-counter
product containing pseudoephedrine experiences mechanical or
electronic failure of the electronic sales tracking system and
is unable to comply with the electronic sales tracking
requirement under this section, the pharmacy or retailer shall
maintain a written log or an alternative electronic
recordkeeping mechanism until such time as the pharmacy or
retailer is able to comply with the electronic sales tracking
requirement.
(d) A pharmacy or retailer selling an over-the-counter product containing pseudoephedrine may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the administrator stating the reasons therefore. The administrator may grant an exemption for good cause shown, but in no event shall the exemption exceed one hundred eighty days. Any pharmacy or retailer that receives an exemption shall maintain a hard copy log and shall require the person purchasing or obtaining the substance to provide the information required under this section before completion of any sale. The log shall be maintained as a record of each sale for inspection by any law enforcement officer or inspector of the board of pharmacy during normal business hours.

(e) The National Association of Drug Diversion Investigators shall forward Hawaii transaction records in the National Precursor Log Exchange to the narcotics enforcement division of the department of public safety weekly and provide real-time access to National Precursor Log Exchange information through the National Precursor Log Exchange online portal to law enforcement in the State as authorized by the narcotics...
enforcement division, provided that the narcotics enforcement division executes a memorandum of understanding with the National Association of Drug Diversion Investigators governing access to the information, provided further that the department of public safety narcotics enforcement division shall establish the electronic tracking system in conjunction with the State's existing narcotics tracking system beginning no later than January 1, 2015.

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

(g) No person shall knowingly purchase, receive, or otherwise acquire products containing more than 3.6 grams per...
day or more than nine grams per thirty-day period of

pseudoephedrine, except that this limit shall not apply to any
quantity of such product, mixture, or preparation dispensed
pursuant to a valid prescription.

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

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

(j) Notwithstanding any other provision of this chapter
to the contrary, every wholesaler shall report to the
administrator all sales made to any retailer, of any product,
mixture, or preparation containing any detectable quantity of
pseudoephedrine, its salts, optical isomers, or salts of optical
isomers, as the only active ingredient or in combination with
other active ingredients. The department shall provide a common
reporting form that contains at least the following information
about the product, mixture, or preparation:

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

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

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

["§329-73—Pseudoephedrine permit"]
(a) Beginning January 1, 2006, any person transporting by any means more than three packages of any product the sale of which is restricted by section 329-75 shall obtain a pseudoephedrine permit.

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

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

"§329-74 Unlawful transport of pseudoephedrine."

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

(b) For purposes of this section, "transportation" means the transfer of a pseudoephedrine product by a person other than
a wholesaler, distributor, or retailer of such product.

authorized to conduct business as such by the State.

(c) Unlawful transport of pseudoephedrine is a

misdemeanor."

SECTION 8. This Act does not affect the rights and duties

that matured, penalties that were incurred, and proceedings that

were begun before its effective date.

SECTION 9. Statutory material to be repealed is bracketed

and stricken. New statutory material is underscored.

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

INTRODUCED BY:________________________
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:

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

§663- Liability for maintenance of property nuisance.

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

(b) If a person engages in conduct that constitutes the maintenance of a property nuisance involving three or more residentially zoned separate properties within a one mile radius from a claim arising pursuant to this section and judgment is entered for the person who is asserting the claim under this section, the person shall be awarded a sum equal to threefold damages sustained by that person.
(c) For purposes of this section, "maintenance of a property nuisance" means owning, leasing, occupying, or having charge, possession, or control of any property and maintaining that property in a manner in which any one or more of the following conditions or activities is allowed to exist or continue:

(1) Keeping, storing, depositing, or accumulating on improved or unimproved real property any personal property that constitutes visual blight. Personal property includes:

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

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

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

(D) Any material that constitutes an offense of displaying indecent matter under section 712-1211;
(2) Keeping, storing, depositing, or accumulating
dirt, sand, gravel, concrete, or other similar
materials that constitute visual blight;

(3) Operating a junk yard or automobile dismantling
yard, except as a permitted use;

(4) Permitting standing or stagnant water to
accumulate, allowing vermin and insects to live,
breed, and multiply;

(5) Creating, permitting, or maintaining any
dangerous or unsightly condition that constitutes
visual blight;

(6) Attracting and providing a place of temporary
abode for vagrants, interlopers, or trespassers;

(7) Creating, permitting, or maintaining any
condition recognized in law or in equity as
constituting a public nuisance.

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

(1) If the defendant's property or properties are not
zoned exclusively for residential use;
(2) If the defendant's property use is a permitted non-conforming use;
(3) For any public use or public works;
(4) For any publicly funded project;
(5) For agricultural use;
(6) For vacant property that has never been built on that is in a predominantly natural state; and
(7) For construction and demolition activity pursuant to a permit, law, ordinance, regulation, or an emergency and for the presence of equipment and material for a reasonable time after that construction and demolition activity has ceased.
(e) For purposes of this section, "visual blight" means any unreasonable or unlawful condition, or use of premises or of a building exterior or interior that by reason of its appearance as viewed at ground level from the public right-of-way or from the neighboring premises, is detrimental to:

(1) The surrounding areas and the valuation of the property of another; or
(2) The health, safety, and welfare of individuals residing within that community."
B. NO.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

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.

EXHIBIT G
A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

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

"§11- Election day voter registration.

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

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

(2) Completing a voter registration application;

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

(4) Providing proof of residency;

provided that in the case of an election conducted by mail, an individual who is eligible to vote may register at the walk-in locations in the same manner as prescribed in paragraphs (1) through (4).
(b) An individual may prove residency for purposes of this section by presenting:

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

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

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

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

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

SECTION 3. New statutory material is underscored.

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

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.
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.

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

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

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

WHEREAS, the progeny of these humble but determined Chinese immigrants rose quickly through the ranks of Hawaii's educational, political, and business communities, and would leave lasting impacts on Hawaii and even the world—the most
famous of whom is referred to as "The Forerunner of the
Revolution," Dr. Sun Yat-sen; and

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

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

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

WHEREAS, the summit demonstrated that China will continue
to embrace our open door policy and fortified our understanding
of each other's needs in the areas of cultural exchange,
economic development, trade, tourism, and education; and
WHEREAS, recently, members of Hawaii's business and government communities welcomed 271 passengers at Honolulu International Airport from China Eastern Airlines' inaugural direct flight from Shanghai, heralding a new era for Honolulu's economic growth and forging closer ties between the United States and China; and

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

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

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

WHEREAS, China is now a major trade partner with the United States and force for stability and peace in Asia, and has become
a world leader in the auto market and the world's largest 
producer of energy; and 

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

WHEREAS, a Chinese citizen who wishes to visit the United 
States 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 People's Republic of China; and 

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

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

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

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

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

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

WHEREAS, the Travel and Tourism Advisory Board, a newly created industry group appointed by the U.S. Secretary of Commerce, recommended measures that can be taken to increase travel to the U.S. from China, which include: (1) raising the visa refusal rate from three to 10 percent; (2) establishing a maximum wait time for in-person visa interviews of five days; (3) adding four to six visa processing locations and several
hundred consulate officers to process visas; and (4) allowing
non-immigrant visas to last 10 years for Chinese visitors, which
is permitted in other countries; now, therefore

BE IT RESOLVED by the House of Representatives/Senate of
the Twenty-seventh Legislature of the State of Hawaii, Regular
Session of 2013, the Senate/House concurring, that it urges the
United States Department of State, the Department of Homeland
Security, and the United States Attorney General to include the
People's Republic of China in the Visa Waiver Program and
support the recommendations of the Travel and Tourism Advisory
Board to ease visa restrictions and the visa application and
approval process for business and tourist travelers from the
People's Republic of China; and
BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Honorable Hillary Clinton, Secretary of the U.S. Department of State; Secretary Janet Napolitano, Secretary of the Department of Homeland Security; U.S. Attorney General Eric H. Holder Jr.; Secretary Rebecca Blank, Acting Secretary, U.S. Department of Commerce; China's Ambassador to the United States, 2201 Wisconsin Avenue, N.W., Suite 110, Washington, D.C. 20007; the members of Hawai'i's Congressional delegation; the Hawaii Tourism Authority; the Director of the Hawaii State Department of Business, Economic Development and Tourism; the Asian American Institute, 4753 North Broadway, Suite 904, Chicago, Illinois 60640; the Organization of Chinese Americans, 1322 18th Street, NW, Washington, D.C. 20036-1803; and the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.

OFFERED BY:
JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties


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

MEANS: Resolution and Concurrent Resolution

JUSTIFICATION: Act 185 (1980) 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.

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

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

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

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

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

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<th>County</th>
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<td>Maui County</td>
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and
WHEREAS, the transient accommodations tax revenues account for a significant portion of the counties' general fund budgets; and

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

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

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

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor, the Speaker of the House, the President of the Hawaii State Association of Counties, and the Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.

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.

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

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

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

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<td>Total</td>
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and
WHEREAS, the transient accommodations tax revenues account for a significant portion of the counties' general fund budgets; and

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

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

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BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor, the Speaker of the House, the President of the Hawaii State Association of Counties, and the Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.

OFFERED BY: ___________________________
H.C.R. NO.____

HOUSE CONCURRENT RESOLUTION

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

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

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

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

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

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

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

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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.
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:

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

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

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

"§87A-5 Composition of board."
The board of trustees of the employer-union health benefits
trust fund shall consist of ten trustees appointed (by the
governor) in accordance with the following procedure:

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

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

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

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

(2) Five trustees to represent public employers[—],
four of whom shall be appointed by the governor,
and one of whom shall be appointed by unanimous
agreement of the mayors of each of the four
counties and approved by the Hawaii State
Association of Counties to represent the city and
county of Honolulu and the counties of Hawaii,
Maui, and Kauai; provided that if the counties do
not make an appointment within sixty days, the
governor may fill the vacancy.

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

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

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

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

INTRODUCED BY:________
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.
A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

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

The purpose of this Act is to include county representation on the membership of the board of trustees of the employees' retirement system.
SECTION 2. Section 88-24, Hawaii Revised Statutes, is amended to read as follows:

§88-24 Composition of board. The board of trustees shall consist of [eight] ten members as follows:

(1) The director of finance of the State, ex officio;

(2) [Four] Five members of the system, [two] three of whom shall be general employees, one of whom shall be a teacher, and one of whom shall be a retirant to be elected by the members and retirants of the system under rules adopted by the board governing the election to serve for terms of six years each, one of the terms to expire on January 1 of each even-numbered year; provided that, if after the close of filing of petitions for candidacy, a member is unopposed for election to a trustee position, the member shall be deemed and declared to be duly and legally elected to the position of trustee without an election; and

(3) Three citizens of the State who are not employees, two of whom have at least three years of experience providing financial services, including investments, to public, corporate, or private institutional clients, to be appointed by the governor, with the
advice and consent of the senate, to serve for a term
of six years each, one of the terms to expire
January 1 of each odd-numbered year[-]; and

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

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

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 4. This Act shall take effect on July 1, 2030.

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.
A BILL FOR AN ACT

RELATING TO ELECTRONIC WASTE RECYCLING.

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

SECTION 1. Chapter 339D, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

339D-A Annual reporting; determination of market share.

(a) Each electronic device manufacturer shall report annually to the department its sales, by weight, of the manufacturer's covered electronic devices in the State, categorized by type, to the extent known. If the electronic device manufacturer is unable to provide accurate sales data, it shall explain why the data cannot be provided and estimate its sales data using a method established by the department by rule.

(b) The department shall determine annually an electronic device manufacturer's market share. An electronic device
manufacturer's market share shall be the percentage of the
weight of all covered electronic devices sold in the State
comprised of covered electronic devices sold by the electronic
device manufacturer.

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

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

§339D-B Liability for stored information.
An electronic device manufacturer shall not be liable for
any loss or misuse of electronic data or other information that
a consumer may have stored on a covered electronic device that
is recovered or recycled by the electronic device manufacturer.

§339D-C Environmental management.

(a) All covered electronic devices shall be recycled
pursuant to this chapter, in a manner that complies with
applicable federal, state, and county laws and requirements.
(b) The department shall adopt rules, pursuant to chapter 91, that include the Institute of Scrap Recycling Industries, Inc.'s Electronics Recycling Operating Practices as requirements for recycling covered electronic devices.

§339D-D State procurement.

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

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

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

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

"Covered electronic device":

(1) Means [a]:

(A) A computer, computer printer, computer monitor, or portable computer with a screen size greater than four inches measured diagonally; [and] or
(B) A television with a screen size of nine inches or larger as measured diagonally; and

(2) Shall not include:

(A) A covered electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a motor vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(B) A covered electronic device that is functionally or physically required as a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment;

(C) A covered electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven
or range, dishwasher, room air conditioner,
dehumidifier, or air purifier; or

(D) A telephone of any type."

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

"Covered television"

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

(2) Shall not include:

(A) A computer, computer printer, computer-
    monitor, or portable computer.
(B) A television that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(C) A television that is functionally or physically required as a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment.

(D) A telephone of any type, including a mobile telephone.

(E) A global positioning system.

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

"Retailer" means any person who offers covered electronic devices [or - covered televisions] for sale, other than for resale
by the purchaser, through any means, including sales outlets, catalogs, or the Internet."

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

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

"Market-share".

(1) Means the calculation of a television manufacturer's prior year's sales of televisions divided by all manufacturers' prior year's sales for all televisions, as determined by the department.

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

"Television manufacturer" means a person who

(1) Manufactures for sale in the State a covered television under a brand that it licenses or

owner

(2) Manufactures for sale in the State covered televisions without affixing a brand,
(3) Resells into the State a covered television manufactured by others under a brand that the seller owns or is licensed to use.

(4) Imports into the United States or exports from the United States a covered television for sale in the State.

(5) Sells at retail a covered television acquired from an importer described in paragraph (4), and elects to register as the manufacturer for those products.

(6) Manufactures covered televisions and supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State, or

(7) Assumes the responsibilities and obligations of a television manufacturer under this chapter.

In the event the television manufacturer is one who manufactures, sells, or resells covered televisions under a brand for which it has obtained the license, then the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under paragraph (1) or (3).
SECTION 3. Section 339D-4, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

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

(1) The plan shall not permit the charging of a fee at the point of recycling if the covered electronic device is brought by the covered electronic device owner to a central location for recycling, provided that the plan may include a reasonable transportation fee if the electronic device manufacturer or electronic device manufacturer's agent removes the covered electronic device from the owner's premises at the owner's request and if the removal is not in conjunction with delivery of a new electronic device to the owner, and"

(1) The plan shall include a description of the methods for the convenient collection of covered electronic devices at no cost to the covered
entities. The recycling plan shall provide

collection services of covered electronic devices

in each county of the state. In addition, for

United States Postal Zip Code areas with a

population greater than twenty-five thousand, the

plan shall provide at least one of the following

services:

(A) A staffed drop-off site;

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

(C) Collection events which are periodically

held at an easily accessible, central

location;

(2) Each electronic device manufacturer may develop

its own recycling program or may collaborate with

other electronic device manufacturers, so long as

the program is implemented and fully operational

no later than January 1, 2010[\(\text{-}\)].

(3) Each electronic device manufacturer's plan shall

provide for recycling covered electronic devices

of an amount equal in weight to its market share

of covered electronic devices sold in the State.
each year as determined pursuant to section 339D-
A; and

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

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

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

"§339D-6 Department responsibility.

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

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

SECTION 5. Section 339D-7.5, Hawaii Revised Statutes, is
amended to read as follows:
(a) The department may conduct audits and inspections to determine compliance under this chapter. Except as provided in subsection (c), the department and the attorney general shall be empowered to enforce this chapter and take necessary action against any electronic device [and television manufacturer] or retailer for failure to comply with this chapter or rules adopted thereunder.

(b) The attorney general may file suit in the name of the State to enjoin an activity related to the sale of covered
electronic devices [or covered televisions] in violation of this chapter.

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

(d) Any retailer who sells or offers for sale an unlabeled covered electronic device [or unlabeled covered television] in violation of section 339D-3 [or 339D-24, respectively] or any electronic device [or television] manufacturer that fails to comply with any provision of section 339D-4 [or 339D-23, respectively] may be assessed a penalty of up to $10,000 for the first violation and up to $25,000 for the second and each subsequent violation, in addition to any additional penalties required or imposed pursuant to this chapter.
(e) Except as provided in subsection (d), any person who violates any requirement of this chapter may be assessed a penalty of up to $1,000 for the first violation and up to $2,000 for the second and each subsequent violation, in addition to any additional penalties required or imposed pursuant to this chapter.

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

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

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

"(b) Notwithstanding subsection (a), the department shall not have the authority to assess any fees, including an advanced recycling fee, registration fee, or other fee, on consumers[7--television manufacturers, or retailers for recovery of covered--television except those noted in sections {339D-4 and 339D--22}."
SECTION 8. Section 339D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

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

"§339D-12 Federal preemption.

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

[(b) Part IV of this chapter shall be deemed repealed if- a federal law or a combination of federal laws takes effects that-establishes a national program for the recycling of covered-televisions that substantially meets the intent of [part IV of this chapter]."]"
SECTION 10. Chapter 339D, part IV, Hawaii Revised Statutes, is repealed.

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

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

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

SECTION 14. This Act shall take effect upon its approval.
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.
A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

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

"CHAPTER .

TRANSMITTAL OF UNCONTESTED TRAFFIC FINES
AND FORFEITURES TO COUNTIES

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

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

"Uncontested traffic infraction" means a traffic infraction
for which the person noticed under section 291D-5 does not
contest the infraction. A person "does not contest" an
infraction if, in accordance with section 291D-5(b)(1), the
person admits the commission of the infraction without
requesting a hearing to explain mitigating circumstances and
pays or remits bail forfeiture by mail within thirty days.
§ 2-2 Transmittal of fines and forfeitures. (a) The state director of finance shall transmit to each county not more than thirty days after the end of each fiscal quarter ___ per cent of all the fines and forfeitures collected for uncontested traffic infractions committed in that county which are in excess of amounts required by the State to pay the administrative costs of the traffic violations bureau.

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

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

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

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

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

"(a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the state traffic laws and all assessments collected relating to the commission of
traffic infractions shall be paid to the state director of finance [of the State].

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

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

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

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.
A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

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

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

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

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

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

(a) On or after January 1, 2010, no building permit shall be issued for a
new single-family or duplex dwelling that does not include a solar water heater
system that meets the standards established pursuant to section 269-44, unless the
coordinator approves a variance."
(b) Applications for the following variances shall only be accepted if submitted by an architect or mechanical engineer licensed under chapter 464, who attests that:

1. Installation is impracticable due to poor solar resource;
2. Installation is cost-prohibitive based upon a life cycle cost-benefit analysis that incorporates the average residential utility bill and the cost of the new solar water heater system with a life cycle that does not exceed fifteen years; or
3. A renewable energy technology system, as defined in section 235-12.5, is substituted for use as the primary energy source for heating water; or

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

[(4)] (1) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other
gas appliance is installed in the dwelling. For the purposes of
this paragraph, 'demand water heater' means a gas-tankless
instantaneous water heater that provides hot water only as it is
needed.

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

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

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

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

[(f)] (f) Nothing in this section shall preclude any county from establishing
procedures and standards required to implement this section.
Nothing in this section shall preclude participation in any utility demand-side management program or public benefits fee program under part VII of chapter 269.

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

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

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.
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING CREDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The purpose of Act 141, Session Laws of Hawaii 2009, was to require counties to issue affordable housing credits to the Department of Hawaiian Home Lands for all existing and future Hawaiian home lands projects upon request. Act 141 (09) was then amended to Act 098, Session Laws of Hawai'i 2012, which further defines what the credits shall be issued for, and explicitly releases the Department of Hawaiian Home Lands from any income or other requirements attached to a respective county's affordable housing credits. The legislature finds that the relationship between the Department of Hawaiian Home Lands and the respective counties established by Act 098 (12) violates the principles of home rule and does not encourage the kind of working relationship between the counties and the Department of Hawaiian Home Lands necessary to effectively address the affordable housing problem in each county. The legislature also finds that Act 098 (12) could create a racially discriminatory effect by disproportionately allocating more affordable housing resources to one racial group over another. In order to address each county's affordable housing needs based
on fairness and equality, this bill allows each county to
address its affordable housing needs, allows the Department of
Hawaiian Home Lands to receive county affordable housing credits
for mutually beneficial projects on Department of Hawaiian Home
Lands, and also supports a good working relationship between the
Department of Hawaiian Home Lands and the respective counties.

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

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

The credits may be applied county-wide within the same
county in which the credits were earned to satisfy affordable
housing obligations imposed by the county on market priced
residential and non-residential developments. [County-wide or
project-specific requirements for the location of affordable
housing units; housing class, use, or type; construction time;
or other county requirements for affordable housing units shall
not impair, restrict, or condition the county's obligation to
apply the credits in full satisfaction of all county
requirements whether by rule, ordinance, or particular zoning
conditions of a project.]

For purposes of this section, "affordable housing
obligation" means the requirement imposed by a county to develop
single-family residences, multi-family residences, or any other type of residence for sale or rent to
individuals within a specified income range."

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

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

INTRODUCED BY: ____________________
RESOLUTION 12-319

Introduced: 11/21/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS AND LEGAL AFFAIRS

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

Links: RES12-319 CR-390

Voting Legend: Y = Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

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NOTE: COUNCILMEMBER FUKUNAGA TOOK OFFICE ON TUESDAY, NOVEMBER 27, 2012 FILLING THE VACANCY FOR DISTRICT VI.

EXECUTIVE MATTERS AND LEGAL AFFAIRS 11/27/12 CR-390 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.

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NOTE: COUNCILMEMBERS MANAHAN, MENOR AND PINE TOOK OFFICE ON WEDNESDAY, JANUARY 2, 2013.

SPECIAL COUNCIL 01/09/13 CR-390 AND RESOLUTION 12-319 WERE ADOPTED.

ANDERSON Y CHANG Y FUKUNAGA Y HARIMOTO Y KOBAYASHI Y*
MANAHAN Y* MARTIN Y MENOR Y* PINE Y*

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

BERNICE K. N. MAU, CITY CLERK

ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER