

October 10, 2017

MEMO TO: Yuki Lei Sugimura, Chair
Policy, Economic Development, and Agriculture Committee

F R O M: Mike White
Council Chair



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) (2018
HSAC LEGISLATIVE PACKAGE)** (PEA-3(1))

The attached legislative proposal pertains to Item 3(1) on your committee's agenda.

ocs:proj:HSAC:FY2018:Ltr:171006

Attachment

RECEIVED
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OFFICE OF THE
COUNTY COUNCIL

Resolution

No. _____

APPROVING PROPOSALS FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

WHEREAS, the Hawaii State Association of Counties' bylaws provide for the submittal to the State Legislature of an annual HSAC Legislative Package composed of measures approved for inclusion by all four county councils; and

WHEREAS, by Resolution 17-135, adopted on September 8, 2017, the Council approved for inclusion in the 2018 HSAC Legislative Package a proposed State bill, entitled "RELATING TO THE CONVEYANCE TAX," and transmitted this Maui County proposal to the HSAC Executive Committee for approval by the other councils (Exhibit "6"); and

WHEREAS, by Resolution 17-136, adopted on September 8, 2017, the Council approved for inclusion in the 2018 HSAC Legislative Package a proposed State bill, entitled "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," and transmitted this Maui County proposal to the HSAC Executive Committee for approval by the other councils; and

WHEREAS, the HSAC Executive Committee members authorized a correction to the proposed State bill approved by Resolution 17-136, entitled "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," to conform to Act 1 (2017), which was signed into law by the Governor on September 5, 2017, and allocated \$103,000,000 (rather than \$93,000,000) of the transient accommodations taxes to the counties, and the corrected proposed State bill replaces Resolution 17-136 in the attachments (Exhibit "7"); and

WHEREAS, five other proposals were submitted by the County of Kauai for inclusion in the 2018 HSAC Legislative Package, entitled:

"A BILL FOR AN ACT RELATING TO ZONING";

"A BILL FOR AN ACT RELATING TO TAXATION" (Income Tax Credit for Hiring an Individual with a Disability);

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“A BILL FOR AN ACT RELATING TO TAXATION” (Income Tax Credit for Hiring an Elderly Individual);

“A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX”; and

“A BILL FOR AN ACT RELATING TO AUTOMATIC FIRE SUPPRESSION SYSTEMS”; and

WHEREAS, the ten proposals from the 2017 HSAC Legislative Package are proposed for inclusion in the 2018 package, entitled:

“A BILL FOR AN ACT RELATING TO GOVERNMENT RECORDS”;

“A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS”;

“A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING”;

“A BILL FOR AN ACT RELATING TO TORT LIABILITY”;

“A BILL FOR AN ACT RELATING TO UNADJUDICATED TRAFFIC FINES”;

“A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EMERGENCY MEDICAL SERVICES”;

“A BILL FOR AN ACT RELATING TO UNMANNED AERIAL VEHICLES”;

“A BILL FOR AN ACT RELATING TO COMMUNITY MEETINGS”;

“A BILL FOR AN ACT RELATING TO IDENTIFICATION CARDS FOR PERSONS WITH DISABILITIES”; and

“A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX”; and

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WHEREAS, by correspondence dated September 28, 2017, attached as Exhibit “A,” HSAC President Dru Kanuha informed the Council of the seventeen proposals that have been submitted for possible inclusion in the 2018 HSAC Legislative Package; and

WHEREAS, no further action is needed from the Council for the two Maui County proposals; and

WHEREAS, the purpose of this resolution is to approve the other fifteen proposals; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the following proposals, described in Exhibit “A,” for inclusion in the 2018 Hawaii State Association of Counties Legislative Package:
 - A. “A BILL FOR AN ACT RELATING TO ZONING” (proposed by Kauai County), attached as Exhibit “1”;
 - B. “A BILL FOR AN ACT RELATING TO TAXATION” (Income Tax Credit for Hiring an Individual with a Disability) (proposed by Kauai County), attached as Exhibit “2”;
 - C. “A BILL FOR AN ACT RELATING TO TAXATION” (Income Tax Credit for Hiring an Elderly Individual) (proposed by Kauai County), attached as Exhibit “3”;
 - D. “A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX” (proposed by Kauai County), attached as Exhibit “4”;
 - E. “A BILL FOR AN ACT RELATING TO AUTOMATIC FIRE SUPPRESSION SYSTEMS” (proposed by Kauai County), attached as Exhibit “5”;
 - F. “A BILL FOR AN ACT RELATING TO GOVERNMENT RECORDS” (from the 2017 HSAC package), attached as Exhibit “8”;

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- G. "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS" (from the 2017 HSAC package), attached as Exhibit "9";
 - H. "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING" (from the 2017 HSAC package), attached as Exhibit "10";
 - I. "A BILL FOR AN ACT RELATING TO TORT LIABILITY" (from the 2017 HSAC package), attached as Exhibit "11";
 - J. "A BILL FOR AN ACT RELATING TO UNADJUDICATED TRAFFIC FINES" (from the 2017 HSAC package), attached as Exhibit "12";
 - K. "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EMERGENCY MEDICAL SERVICES" (from the 2017 HSAC package), attached as Exhibit "13";
 - L. "A BILL FOR AN ACT RELATING TO UNMANNED AERIAL VEHICLES" (from the 2017 HSAC package), attached as Exhibit "14";
 - M. "A BILL FOR AN ACT RELATING TO COMMUNITY MEETINGS" (from the 2017 HSAC package), attached as Exhibit "15";
 - N. "A BILL FOR AN ACT RELATING TO IDENTIFICATION CARDS FOR PERSONS WITH DISABILITIES" (from the 2017 HSAC package), attached as Exhibit "16";
 - O. "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX" (from the 2017 HSAC package), attached as Exhibit "17"; and
2. That a certified copy of this resolution be transmitted to the HSAC Executive Committee.

Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i and City & County of Honolulu

74-5044 Aiea Kapiolani Highway, Bldg. V, Kapiolani, HI 96710



September 28, 2017

Council Chair Mike White and Members of the Maui County Council
200 South High Street
Kalana O Maui Bldg., #708
Wailuku, HI 96793

Dear Council Chair Mike White and Members of the Maui County Council:

Attached for your consideration are proposals to be included in the 2018 Hawai'i State Association of Counties (HSAC) Legislative Package, which were approved by the HSAC Executive Committee on September 11, 2017. Please note that pursuant to Section 13C of the Bylaws of the Hawai'i State Association of Counties, Inc., proposals must be approved by all four County Counties in order to be included in the final package.

2018 HSAC LEGISLATIVE PACKAGE

1. A Bill For An Act Relating to Zoning (*Proposed by the County of Kaua'i*)
2. A Bill For An Act Relating to Taxation; Income Tax Credit For Hiring An Individual with a Disability (*Proposed by the County of Kaua'i*)
3. A Bill For An Act Relating to Taxation; Income Tax Credit For Hiring An Elderly Individual
4. A Bill For An Act Relating to Transient Accommodations Tax (*Proposed by the County of Kaua'i*)
5. A Bill For An Act Relating to Automatic Fire Suppression Systems (*Proposed by the County of Kaua'i*)
6. A Bill For An Act Relating to the Conveyance Tax (*Proposed by Maui County Council*)
7. A Bill For An Act Relating to Transient Accommodations Tax; to Require Online Travel Companies and other Transient Accommodations Remarketers to Pay Transient Accommodations Tax on their Respective Portions of Gross Rental Proceeds from the Payment of Accommodations (*Proposed by Maui County Council*)
8. A Bill For An Act Relating to Government Records (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)
9. A Bill For An Act Relating to Important Agricultural Lands (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)
10. A Bill For An Act Relating to Collective Bargaining (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)
11. A Bill For An Act Relating to Tort Liability (*Carry over from 2017 HSAC package – proposed originally by Kaua'i County Council*)
12. A Bill For An Act Relating to Unadjudicated Traffic Fines (*Carry over from 2017 HSAC package – proposed originally by Kaua'i County Council*)

EXHIBIT "A"



13. A Bill For An Act Relating to Emergency Medical Services (*Carry over from 2017 HSAC package – proposed originally by Kaua'i County Council*)
14. A Bill For An Act Relating to Unmanned Aerial Vehicles (*Carry over from 2017 HSAC package – proposed originally by City & County of Honolulu*)
15. A Bill For An Act Relating to Community Meetings (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)
16. A Bill For An Act Relating to Identification Cards For Persons With Disabilities (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)
17. A Bill For An Act Relating to Transient Accommodations Tax (*Carry over from 2017 HSAC package – proposed originally by Maui County Council*)

Your attention to this matter is greatly appreciated. Should you have any questions, please feel free to call HSAC President Dru Kanuha's office at 808-323-4267.

Sincerely,

A handwritten signature in black ink that reads "Dru Kanuha". The signature is fluid and cursive, with a long horizontal line extending to the right from the end of the name.

Dru Kanuha
HSAC President

cc: Stacy Crivello, Council Member

___B. NO. ___

A BILL FOR AN ACT

RELATING TO ZONING

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

1 SECTION 1. Section 46-4, Hawai'i Revised Statutes, is amended by
2 amending subsection (a) to read as follows:

3 “(a) This section and any ordinance, rule, or regulation adopted in
4 accordance with this section shall apply to lands not contained within the
5 forest reserve boundaries as established on January 31, 1957, or as
6 subsequently amended.

7 Zoning in all counties shall be accomplished within the framework of a
8 long-range, comprehensive general plan prepared or being prepared to guide
9 the overall future development of the county. Zoning shall be one of the tools
10 available to the county to put the general plan into effect in an orderly
11 manner. Zoning in the counties of Hawai'i, Maui, and Kaua'i means the
12 establishment of districts of such number, shape, and area, and the adoption
13 of regulations for each district to carry out the purposes of this section. In
14 establishing or regulating the districts, full consideration shall be given to all
15 available data as to soil classification and physical use capabilities of the land

EXHIBIT 1

____.B. NO. _____

1 to allow and encourage the most beneficial use of the land consonant with
2 good zoning practices. The zoning power granted herein shall be exercised by
3 ordinance which may relate to:

4 (1) The areas within which agriculture, forestry, industry,
5 trade, and business may be conducted;

6 (2) The areas in which residential uses may be regulated or
7 prohibited;

8 (3) The areas bordering natural watercourses, channels, and
9 streams, in which trades or industries, filling or dumping, erection of
10 structures, and the location of buildings may be prohibited or
11 restricted;

12 (4) The areas in which particular uses may be subjected to
13 special restrictions;

14 (5) The location of buildings and structures designed for
15 specific uses and designation of uses for which buildings and
16 structures may not be used or altered;

17 (6) The location, height, bulk, number of stories, and size of
18 buildings and other structures;

19 (7) The location of roads, schools, and recreation areas;

20 (8) Building setback lines and future street lines;

21 (9) The density and distribution of population;

____.B. NO. _____

1 (10) The percentage of a lot that may be occupied, size of
2 yards, courts, and other open spaces;

3 (11) Minimum and maximum lot sizes; and

4 (12) Other regulations the boards or city council find necessary
5 and proper to permit and encourage the orderly development of land
6 resources within their jurisdictions.

7 The council of any county shall prescribe rules, regulations, and
8 administrative procedures and provide personnel it finds necessary to enforce
9 this section and any ordinance enacted in accordance with this section. The
10 ordinances may be enforced by appropriate fines and penalties, civil or
11 criminal, or by court order at the suit of the county or the owner or owners of
12 real estate directly affected by the ordinances.

13 Any civil fine or penalty provided by ordinance under this section may
14 be imposed by the district court, or by the zoning agency after an opportunity
15 for a hearing pursuant to chapter 91. The proceeding shall not be a
16 prerequisite for any injunctive relief ordered by the circuit court.

17 Nothing in this section shall invalidate any zoning ordinance or
18 regulation adopted by any county or other agency of government pursuant to
19 the statutes in effect prior to July 1, 1957.

20 The powers granted herein shall be liberally construed in favor of the
21 county exercising them, and in such a manner as to promote the orderly

____.B. NO. _____

1 development of each county or city and county in accordance with a long-
2 range, comprehensive general plan to ensure the greatest benefit for the
3 State as a whole. This section shall not be construed to limit or repeal any
4 powers of any county to achieve these ends through zoning and building
5 regulations, except insofar as forest and water reserve zones are concerned
6 and as provided in subsections (c) and (d).

7 Neither this section nor any ordinance enacted pursuant to this section
8 shall prohibit the continued lawful use of any building or premises for any
9 trade, industrial, residential, agricultural, or other purpose for which the
10 building or premises is used at the time this section or the ordinance takes
11 effect; provided that a zoning ordinance may provide for elimination of
12 nonconforming uses as the uses are discontinued, or for the amortization or
13 phasing out of nonconforming uses or signs over a reasonable period of time
14 in commercial, industrial, resort, and apartment zoned areas only[-]; and
15 provided further that a zoning ordinance may provide for the amortization or
16 phasing out of nonconforming single-family transient vacation rental units or
17 nonconforming single-family transient vacation units over a reasonable
18 period of time in an area of any zoning classification. In no event shall such
19 amortization or phasing out of nonconforming uses apply to any existing
20 building or premises used for residential (single-family or duplex) or

____.B. NO. _____

1 agricultural uses. Nothing in this section shall affect or impair the powers
2 and duties of the director of transportation as set forth in chapter 262.”

3 SECTION 2. Statutory material to be repealed is bracketed and
4 stricken. New statutory material is underscored.

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

6 Introduced by:

7

Report Title: County Zoning; Single-Family Transient Vacation Rentals

Description: Clarifies County zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allowing amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

Title: A Bill For An Act Relating to Zoning

Purpose: This proposed Bill for an Act distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by Ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

Means: Amends Section 46-4 of the Hawai'i Revised Statutes

Justification: This proposed Bill was introduced by several Legislators during the 2014 Hawai'i State Legislative Session, addressing the issue regarding Single-Family Transient Vacation Rentals and whether they should be treated as residential or resort units. It is evident that the vacation rental market has grown over the year and has significantly impacted many residential areas. The current statute allows certain vacation rental operations to circumvent many regulatory controls and claim their use is residential. To properly regulate and align non-conforming vacation rentals with other similar uses, this proposal distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

___B. NO. ___

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235, Hawai'i Revised Statutes, is amended by
2 adding a new section to be appropriately designated and to read as follows:

3 "§235- Income tax credit for hiring an individual with a
4 disability. (a) There shall be allowed to each taxpayer subject to the tax
5 imposed by this chapter, a credit for the hiring of an individual with a
6 disability that shall be deductible from the taxpayer's net income tax liability,
7 if any, imposed by this chapter for the taxable year in which the credit is
8 properly claimed.

9 (b) The amount of the credit shall be equal to fifty per cent of the
10 qualified wages for the first six months after an individual with a disability is
11 initially hired. A tax credit that exceeds the taxpayer's income tax liability
12 may be used as a credit against the taxpayer's income tax liability in
13 subsequent years until exhausted; provided that in no taxable year shall the
14 total amount of the tax credit claimed under this section exceed \$ per
15 taxpayer.

EXHIBIT "2"

____.B. NO. _____

1 (c) Certification of an individual with a disability for the purpose of
2 claiming a credit under this section shall be submitted to the department of
3 taxation on forms prescribed by the department of taxation.

4 (d) An individual shall not be treated as an individual with a
5 disability unless, on or before the day on which the individual begins work for
6 the employer, the employer has received certification from a qualified
7 physician. If an individual has been certified as an individual with a
8 disability and the certification is incorrect because it was based on false
9 information provided by the individual, the certification shall be revoked and
10 wages paid by the employer after the date on which notice of revocation is
11 received by the employer shall not be treated as qualified wages.

12 In any request for a certification of an individual as an individual with
13 a disability, the employer shall certify that a good faith effort was made to
14 determine that such individual is an individual with a disability.

15 (e) The following wages paid to an individual with a disability are
16 ineligible to be claimed by the employer for this credit:

17 (1) No wages shall be taken into account under this section
18 with respect to an individual with a disability who:

19 a. Bears any of the relationships described in
20 section 152(d)(2)(A) through (G) of the Internal
21 Revenue Code to the taxpayer, or, if the taxpayer is

____.B. NO. _____

1 a corporation, to an individual who owns, directly
2 or indirectly, more than fifty per cent in value of
3 the outstanding stock of the corporation
4 (determined with the application of Section 267(c)
5 of this Internal Revenue Code);

6 b. If the taxpayer is an estate or trust, is a grantor,
7 beneficiary, or fiduciary of the estate or trust, or is
8 an individual who bears any of the relationships
9 described in Section 152(d)(2)(A) through (G) of the
10 Internal Revenue Code to a grantor, beneficiary or
11 fiduciary of the estate or trust; or

12 c. Is a dependent (described in Section 152(d)(2)(H) of
13 the Internal Revenue Code) of the taxpayer, or, if
14 the taxpayer is an estate or trust, of a grantor,
15 beneficiary, or fiduciary of the estate or trust; and

16 (2) No wages shall be taken into account under this section
17 with respect to any individual with a disability if, prior to
18 the day the individual is hired by the employer, the
19 individual had been employed by the employer at any
20 time.

1 (f) In the case of a successor employer referred to in
2 Section 3306(b)(1) of the Internal Revenue Code, the determination of the
3 amount of the tax credit allowable under this section with respect to wages
4 paid by the successor employer shall be made in the same manner as if the
5 wages were paid by the predecessor employer referred to in the section.

6 (g) Claims for the tax credit under this section, including any
7 amended claims, shall be filed on or before the end of the twelfth month
8 following the taxable year for which the credit may be claimed. Failure to
9 comply with the foregoing provision shall constitute a waiver of the right to
10 claim the tax credit.

11 (h) The Director of Taxation:

12 (1) Shall prepare any forms necessary to claim a credit under
13 this section;

14 (2) May require a taxpayer to furnish reasonable information
15 to ascertain the validity of a claim for credit; and

16 (3) May adopt rules pursuant to Chapter 91 to effectuate the
17 purposes of this Section.

18 (i) For purposes of this section:

19 “Individual with a disability” means an individual having a
20 physical or intellectual impairment that substantially limits one or
21 more major life activities, having a record of that impairment, or being

1 regarded as having that impairment; provided that the disabling
2 impairment is certified by a qualified physician.

3 “Qualified physician” means:

4 (1) A physician or osteopathic physician licensed under
5 Chapter 453;

6 (2) A qualified out-of-state physician who is currently
7 licensed to practice in the state in which the physician resides;
8 or

9 (3) A commissioned medical officer in the United
10 States Army, Navy, Marine Corps, or Public Health Service,
11 engaged in the discharge of one’s official duty.

12 “Qualified wages” means wages attributable to work rendered
13 by an individual with a disability for the six-month period after the
14 individual is initially hired.

15 “Wages” means wages, commissions, fees, salaries, bonuses, and
16 every and all other kinds of remuneration for, or compensation
17 attributable to, services performed by an employee for the employee’s
18 employer, including the cash value of all remuneration paid in any
19 medium other than cash and the cost-of-living allowances and other
20 payments included in gross income by Section 235-7(b), but excluding

____.B. NO. _____

1 income excluded from gross income by Section 235-7 or other
2 provisions of this chapter.”

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act, upon its approval, shall apply to taxable years
5 beginning after December 31, 2017.

6

7

INTRODUCED BY:

____.B. NO. _____

Report Title:

Individual with a Disability; Employment; Income Tax Credit

Description:

Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

___ .B. NO. ___

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235, Hawai'i Revised Statutes, is amended by
2 adding a new section to be appropriately designated and to read as follows:

3 "§235- Income tax credit for hiring an elderly individual.

4 (a) There shall be allowed to each taxpayer subject to the tax
5 imposed by this chapter, a credit for the hiring of an elderly individual that
6 shall be deductible from the taxpayer's net income tax liability, if any,
7 imposed by this chapter for the taxable year in which the credit is properly
8 claimed.

9 (b) The amount of the credit shall be equal to fifty per cent of the
10 qualified wages for the first six months after the elderly individual is initially
11 hired. A tax credit that exceeds the taxpayer's income tax liability may be
12 used as a credit against the taxpayer's income tax liability in subsequent
13 years until exhausted; provided that in no taxable year shall the total
14 amount of the tax credit claimed under this section exceed \$ per
15 taxpayer.

EXHIBIT "3"

____.B. NO. _____

1 (c) The following wages paid to an elderly individual are ineligible
2 to be claimed by the employer for this credit:

3 (1) No wages shall be taken into account under this section
4 with respect to an elderly individual who:

5 a. Bears any of the relationships described in section
6 152(d)(2)(A) through (G) of the Internal Revenue Code
7 to the taxpayer, or, if the taxpayer is a corporation, to
8 an individual who owns, directly or indirectly, more
9 than fifty per cent in value of the outstanding stock of
10 the corporation (determined with the application of
11 section 267(c) of this Internal Revenue Code);

12 b. If the taxpayer is an estate or trust, is a grantor,
13 beneficiary, or fiduciary of the estate or trust, or is an
14 individual who bears any of the relationships
15 described in section 152(d)(2)(A) through (G) of the
16 Internal Revenue Code to a grantor, beneficiary or
17 fiduciary of the estate or trust; or

18 c. Is a dependent (described in section 152(d)(2)(H) of the
19 Internal Revenue Code) of the taxpayer, or, if the
20 taxpayer is an estate or trust, of a grantor, beneficiary,
21 or fiduciary of the estate or trust; and

1 (2) No wages shall be taken into account under this section
2 with respect to any elderly individual if, prior to the day the individual
3 is hired by the employer, the individual had been employed by the
4 employer at any time.

5 (d) In the case of a successor employer referred to in section
6 3306(b)(1) of the Internal Revenue Code, the determination of the amount of
7 the tax credit allowable under this section with respect to wages paid by the
8 successor employer shall be made in the same manner as if the wages were
9 paid by the predecessor employer referred to in the section.

10 (e) Claims for the tax credit under this section, including any
11 amended claims, shall be filed on or before the end of the twelfth month
12 following the taxable year for which the credit may be claimed. Failure to
13 comply with the foregoing provision shall constitute a waiver of the right to
14 claim the tax credit.

15 (f) The director of taxation:

16 (1) Shall prepare any forms necessary to claim a credit under
17 this section;

18 (2) May require a taxpayer to furnish reasonable information
19 to ascertain the validity of a claim for credit; and

20 (3) May adopt rules pursuant to chapter 91 to effectuate the
21 purposes of this section.

1 (f) For purposes of this section:

2 “Elderly individual” means an individual who is sixty-seven
3 years of age or older.

4 “Qualified wages” means wages attributable to work rendered
5 by an elderly individual for the six-month period after the individual is
6 initially hired.

7 “Wages” means wages, commissions, fees, salaries, bonuses, and
8 every and all other kinds of remuneration for, or compensation
9 attributable to, services performed by an employee for the employee’s
10 employer, including the cash value of all remuneration paid in any
11 medium other than cash and the cost-of-living allowances and other
12 payments included in gross income by section 235-7(b), but excluding
13 income excluded from gross income by section 235-7 or other provisions
14 of this chapter.”

15 SECTION 2. New statutory material is underscored.

16 SECTION 3. This Act, upon its approval, shall apply to taxable years
17 beginning after December 31, 2017.

18
19 INTRODUCED BY:

____.B. NO. _____

Report Title:

Taxation; Income Tax Credit; Elderly

Description:

Provides a taxpayer who hires an elderly individual a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

___B. NO. ___

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. The purpose of this Act is to eliminate the cap established
2 for the distribution of transient accommodations tax revenues to the counties.

3 SECTION 2. Section 237D-6.5, Hawai'i Revised Statutes, is amended
4 by amending subsection (b) to read as follows:

5 “(b) Revenues collected under this chapter shall be distributed in the
6 following priority, with the excess revenues to be deposited into the general
7 fund:

8 (1) \$1,500,000 shall be allocated to the Turtle Bay
9 conservation easement special fund beginning July 1, 2015, for the
10 reimbursement to the state general fund of debt service on
11 reimbursable general obligation bonds, including ongoing expenses
12 related to the issuance of the bonds, the proceeds of which were used to
13 acquire the conservation easement and other real property interests in
14 Turtle Bay, O'ahu, for the protection, preservation, and enhancement

EXHIBIT 4

____.B. NO. _____

1 of natural resources important to the State, until the bonds are fully
2 amortized;

3 (2) \$26,500,000 shall be allocated to the convention center
4 enterprise special fund established under section 201B-8;

5 (3) \$82,000,000 shall be allocated to the tourism special fund
6 established under section 201B-11; provided that:

7 (A) Beginning on July 1, 2012, and ending on
8 June 30, 2015, \$2,000,000 shall be expended from the tourism
9 special fund for development and implementation of initiatives
10 to take advantage of expanded visa programs and increased
11 travel opportunities for international visitors to Hawaii;

12 (B) Of the \$82,000,000 allocated:

13 (i) \$1,000,000 shall be allocated for the
14 operation of a Hawaiian center and the museum of
15 Hawaiian music and dance at the Hawaii Convention
16 Center; and

17 (ii) 0.5 per cent of the \$82,000,000 shall be
18 transferred to a sub-account in the tourism special fund to
19 provide funding for a safety and security budget, in
20 accordance with the Hawai'i Tourism Strategic
21 Plan 2005-2015; and

____.B. NO. _____

1 (C) Of the revenues remaining in the tourism special
2 fund after revenues have been deposited as provided in this
3 paragraph and except for any sum authorized by the legislature
4 for expenditure from revenues subject to this paragraph,
5 beginning July 1, 2007, funds shall be deposited into the tourism
6 emergency special fund, established in section 201B-10, in a
7 manner sufficient to maintain a fund balance of \$5,000,000 in
8 the tourism emergency special fund;

9 (4) [\$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal
10 year 2015-2016, \$103,000,000 for fiscal year 2016-2017, and \$93,000,000 for
11 each fiscal year thereafter] 44.8 percent of the revenues collected under this
12 chapter after revenues have been deposited as provided in this section shall
13 be allocated to the counties and distributed as follows: Kaua'i County shall
14 receive 14.5 per cent, Hawai'i County shall receive 18.6 per cent, City and
15 County of Honolulu shall receive 44.1 per cent, and Maui County shall
16 receive 22.8 per cent; provided that commencing with Fiscal Year 2018-2019,
17 a sum that represents the difference between a County public employer's
18 annual required contribution for the separate trust fund established under
19 Section 87A-42 and the amount of the County public employer's contributions
20 into that trust fund shall be retained by the State Director of Finance and
21 deposited to the credit of the County public employer's annual required

____.B. NO. _____

1 contribution into that trust fund in each fiscal year, as provided in
2 Section 87A-42, if the respective county fails to remit the total amount of the
3 county's required annual contributions, as required under Section 87A-43;

4 (5) \$3,000,000 shall be allocated to the special land and
5 development fund established under Section 171-19; provided that the
6 allocation shall be expended in accordance with the Hawaii tourism
7 authority strategic plan for:

8 (A) The protection, preservation, maintenance, and
9 enhancement of natural resources, including beaches, important
10 to the visitor industry;

11 (B) Planning, construction, and repair of facilities; and

12 (C) Operation and maintenance costs of public lands,
13 including beaches, connected with enhancing the visitor
14 experience; and

15 All transient accommodations taxes shall be paid into the state
16 treasury each month within ten days after collection and shall be kept by the
17 State Director of Finance in special accounts for distribution as provided in
18 this subsection.

19 As used in this subsection, "Fiscal Year" means the twelve month
20 period beginning on July 1 of a calendar year and ending on June 30 of the
21 following calendar year."

____.B. NO. _____

1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

5

INTRODUCED BY:

____.B. NO. _____

Report Title:

Transient Accommodations Tax

Description:

Removes the cap for distribution of transient accommodations tax revenues to the counties.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO AUTOMATIC FIRE SUPPRESSION SYSTEMS.

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

1 SECTION 1. The legislature finds that an automatic fire suppression
2 system in one- or two-family dwellings are rare in the State. One reason for the
3 lack of an automatic fire suppression system in one- or two-family dwellings is the
4 cost of installing automatic fire suppression systems. The legislature finds that an
5 incentive is needed to promote the installation of automatic fire suppression system
6 in one- or two-family dwellings in the State.

7 The purpose of this Act is to provide an incentive to install an automatic fire
8 suppression system in any new detached one- or two-family dwelling unit that is in
9 a structure which is used only for residential purposes by establishing a tax credit
10 comprising a percentage of the actual costs of the system, including installation.

11 SECTION 2. Section 235, Hawai'i Revised Statutes, is amended by
12 adding a new section to be appropriately designated and to read as follows:

13 "§235-_____ Tax credit to promote the installation of an
14 automatic fire suppression system in residences. (a) Any qualifying
15 taxpayer who files an individual income tax return for a taxable year may

____.B. NO. _____

1 claim an income tax credit under this section against the Hawai'i state
2 individual net income tax.

3 (b) The tax credit may be claimed for every eligible automatic fire
4 suppression system that is installed and placed in service by the taxpayer
5 during the taxable year in any new detached one- or two-family dwelling unit
6 that is in a structure which is used only for residential purposes. For each
7 automatic fire suppression system, the tax credit that may be claimed shall
8 be twenty-five per cent of the actual cost of the system, including installation
9 costs; provided that multiple owners of a single automatic fire suppression
10 system shall be entitled to a single tax credit; and provided further that the
11 tax credit shall be apportioned between the owners in proportion to their
12 contribution to the cost of the automatic fire suppression system.

13 (c) If the tax credit claimed by the taxpayer under this section
14 exceeds the amount of the income tax payments due from the taxpayer, the
15 excess of credit over payments due shall be refunded to the taxpayer;
16 provided that the tax credit properly claimed by a taxpayer who has no
17 income tax liability shall be paid to the taxpayer; and provided that no
18 refunds or payments on account of the tax credit allowed by this section shall
19 be made for amounts less than \$1.

____.B. NO. _____

1 (d) The director of taxation shall prepare such forms as may be
2 necessary to claim a credit under this section, may require proof of the claim
3 for the tax credit, and may adopt rules pursuant to chapter 91.

4 (e) All of the provisions relating to assessments and refunds under
5 this chapter and under section 231-23(c)(1) shall apply to the tax credit under
6 this section.

7 (f) Claims for the tax credit under this section, including any
8 amended claims, shall be filed on or before the end of the twelfth month
9 following the taxable year for which the credit may be claimed.”

10 SECTION 2. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval and shall
12 apply to taxable years beginning after December 31, 2017; provided that this Act
13 shall be repealed on June 30, 2025.

14

15

INTRODUCED BY:

____.B. NO. ____

Report Title:

Automatic Fire Suppression System; Tax Credit

Description:

Establishes a tax credit of twenty-five per cent of the total cost, including installation, of an automatic fire suppression system in any new detached one- or two-family dwelling unit in a structure used only for residential purposes. Sunsets on June 30, 2025.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

Resolution

No. 17-135

APPROVING FOR INCLUSION IN THE 2018
HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A STATE BILL TO
INCREASE REVENUE FOR EACH COUNTY'S
AFFORDABLE HOUSING FUND THROUGH A
ONE PERCENT CONVEYANCE TAX

WHEREAS, the lack of affordable housing in every county in the State is a crisis; and

WHEREAS, each county's affordable housing situation is unique, and solutions and funding are best managed locally; and

WHEREAS, a statewide mechanism to allow each county to increase revenue for its affordable housing fund is needed; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase revenue for each county's affordable housing fund through a one percent conveyance tax on the sale of residential properties over \$2,000,000, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui
2017-0098
PEA-3(1) 2017-08-28 Reso HSAC Affordable Housing Fund

EXHIBIT "6"

A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

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

1 SECTION 1. Section 247-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§247-2 Basis and rate of tax. The tax imposed by section
4 247-1 shall be based on the actual and full consideration
5 (whether cash or otherwise, including any promise, act,
6 forbearance, property interest, value, gain, advantage, benefit,
7 or profit), paid or to be paid for all transfers or conveyance
8 of realty or any interest therein, that shall include any liens
9 or encumbrances thereon at the time of sale, lease, sublease,
10 assignment, transfer, or conveyance, and shall be at the
11 following rates:

12 (1) Except as provided in paragraph (2):

13 (A) Ten cents per \$100 for properties with a value of
14 less than \$600,000;

15 (B) Twenty cents per \$100 for properties with a value
16 of at least \$600,000, but less than \$1,000,000;

____.B. NO. _____

- 1 (C) Thirty cents per \$100 for properties with a value
- 2 of at least \$1,000,000, but less than \$2,000,000;
- 3 (D) Fifty cents per \$100 for properties with a value
- 4 of at least \$2,000,000, but less than \$4,000,000;
- 5 (E) Seventy cents per \$100 for properties with a
- 6 value of at least \$4,000,000, but less than
- 7 \$6,000,000;
- 8 (F) Ninety cents per \$100 for properties with a value
- 9 of at least \$6,000,000, but less than
- 10 \$10,000,000; and
- 11 (G) One dollar per \$100 for properties with a value
- 12 of \$10,000,000 or greater; and
- 13 (2) For the sale of a condominium or single family
- 14 residence for which the purchaser is ineligible for a
- 15 county homeowner's exemption on property tax:
- 16 (A) Fifteen cents per \$100 for properties with a
- 17 value of less than \$600,000;
- 18 (B) Twenty-five cents per \$100 for properties with a
- 19 value of at least \$600,000, but less than
- 20 \$1,000,000;
- 21 (C) Forty cents per \$100 for properties with a value
- 22 of at least \$1,000,000, but less than \$2,000,000;

____.B. NO. _____

1 (D) Sixty cents per \$100 for properties with a value
2 of at least \$2,000,000, but less than \$4,000,000;

3 (E) Eighty-five cents per \$100 for properties with a
4 value of at least \$4,000,000, but less than
5 \$6,000,000;

6 (F) One dollar and ten cents per \$100 for properties
7 with a value of at least \$6,000,000, but less
8 than \$10,000,000; and

9 (G) One dollar and twenty-five cents per \$100 for
10 properties with a value of \$10,000,000 or
11 greater[7]; and

12 (3) In addition to the rate established by paragraph (1)
13 or (2), for the sale of a condominium or single family
14 residence: One dollar per \$100 for properties with a
15 value of more than \$2,000,000,

16 of such actual and full consideration; provided that in the case
17 of a lease or sublease, this chapter shall apply only to a lease
18 or sublease whose full unexpired term is for a period of five
19 years or more, and in those cases, including (where appropriate)
20 those cases where the lease has been extended or amended, the
21 tax in this chapter shall be based on the cash value of the
22 lease rentals discounted to present day value and capitalized at

1 the rate of six per cent, plus the actual and full consideration
2 paid or to be paid for any and all improvements, if any, that
3 shall include on-site as well as off-site improvements,
4 applicable to the leased premises; and provided further that the
5 tax imposed for each transaction shall be not less than \$1."

6 SECTION 2. Section 247-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§247-7 Disposition of taxes. All taxes collected under
9 this chapter shall be paid into the state treasury to the credit
10 of the general fund of the State, to be used and expended for
11 the purposes for which the general fund was created and exists
12 by law; provided that of the taxes collected each fiscal year:

13 (1) Ten per cent of the revenue from application of the
14 rates established in paragraph (1) and (2) of section
15 247-2, or \$6,800,000, whichever is less, shall be paid
16 into the land conservation fund established pursuant
17 to section 173A-5; [~~and~~]

18 (2) Fifty per cent of the revenue from application of the
19 rates established in paragraph (1) and (2) of section
20 247-2, or \$38,000,000, whichever is less, shall be
21 paid into the rental housing revolving fund
22 established by section 201H-202 [~~-~~]; and

____.B. NO. _____

1 (3) One hundred percent of the revenue generated in each
2 county from application of the rate established in
3 paragraph (3) of section 247-2 shall be paid into the
4 respective county's affordable housing fund and shall
5 only be used to increase the supply of affordable
6 housing by the following means:

7 (A) the purchase of existing housing units and other
8 interests in real property;

9 (B) the planning, design, or construction of housing
10 units;

11 (C) making grants or loans to nonprofit
12 organizations, including community land trusts;
13 or

14 (D) investment in public infrastructure."

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

17 SECTION 4. This Act shall take effect upon its approval;
18 provided that this Act shall be repealed on June 30, 2023.

INTRODUCED BY: _____

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 17-135 was adopted by the Council of the County of Maui, State of Hawaii, on the 8th day of September, 2017, by the following vote:

| | | | | | | | | | |
|------------------|-----------------------------------|--------------------------------------|-------------------|-------------------------|--------------------------|-------------------------|-----------------------|----------------------|-----------------------------|
| MEMBERS | Michael B. WHITE Chair | Robert CARROLL Vice-Chair | Allka ATAY | Eleanora COCHRAN | S. Stacy CRIVELLO | Donald S. GUZMAN | G. Riki HOKAMA | Kelly T. KING | Yuki Lei K. SUGIMURA |
| ROLL CALL | Aye | Aye | Aye | Aye | Aye | Aye | Aye | Aye | Aye |



COUNTY CLERK

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1

PART I

2

SECTION 1. Since the enactment of Act 340 in 1986,

3

visitors to Hawaii have paid a tax on the retail value of their

4

lodging. Known as the "transient accommodations tax," or "TAT,"

5

the tax is assessed and collected by the operator on the gross

6

rental proceeds derived from furnishing transient accommodations

7

to visitors. Operators are obligated to impose the TAT, collect

8

it from visitors, and pay the tax to the State each month. TAT

9

revenues are then used to support the Hawaii Convention Center;

10

allocated to a special fund to protect, preserve, and maintain

11

natural resources, including beaches, important to the visitor

12

industry; and distributed to the counties to help support

13

services relied upon by tourists such as police and fire

14

protection, ocean safety personnel, parks, water, sewer, and

15

roadways.

16

Act 340 was written prior to the explosion of internet

17

sales of hotel rooms and fails to capture all required TAT owed

18

to the State. There are a variety of ways visitors can book

EXHIBIT "7"

____.B. NO. _____

1 hotel rooms, such as pre-paying their hotel stays through Online
2 Travel Companies ("OTCs"). Wholesale travel companies and OTCs
3 contract for rooms with hotels at wholesale rates, add their
4 mark-up, and then resell rooms to guests. Hotels may only know
5 the wholesale, or net, rental rate paid for the room by the OTCs
6 and not the full retail rate paid by the guest. OTCs are billed
7 for rooms at the wholesale rate and the TAT is collected by
8 hotels and paid to the State based on this discounted rate.
9 With each online transaction processed in this way, the State
10 loses the difference in tax between the wholesale or net rental
11 rate and the full retail or gross rental rate.

12 The purpose of this Act is to ensure the State receives the
13 full amount of TAT calculated based upon the full or gross
14 rental price paid by the visitor, whether that amount is
15 collected by the local Hawaii operator, travel agent, wholesale
16 travel company, or online by an OTC.

17 PART II

18 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§237D-1 Definitions. Whenever used in this chapter,
21 unless the context otherwise requires:

22 "Department" means the department of taxation.

____.B. NO. _____

1 "Director" means the director of taxation.

2 "Fair market rental value" means an amount equal to
3 one-half of the gross daily maintenance fees that are paid by
4 the owner and are attributable to the time share unit located in
5 Hawaii. Gross daily maintenance fees include maintenance costs,
6 operational costs, insurance, repair costs, administrative
7 costs, taxes, other than transient accommodations taxes, resort
8 fees, and other costs including payments required for reserves
9 or sinking funds. Amounts paid for optional goods and services
10 such as food and beverage services or beach chair or umbrella
11 rentals shall be excluded from fair market rental value.

12 "Gross rental" or "gross rental proceeds" means the
13 gross receipts, cash or accrued, of the taxpayer received as
14 compensation for the furnishing of transient accommodations and
15 the value proceeding or accruing from the furnishing of such
16 accommodations without any deductions on account of the cost of
17 property or services sold, the cost of materials used, labor
18 cost, taxes, royalties, interest, discounts, or any other
19 expenses whatsoever. Every taxpayer shall be presumed to be
20 dealing on a cash basis unless the taxpayer proves to the
21 satisfaction of the department of taxation that the taxpayer is
22 dealing on an accrual basis and the taxpayer's books are so

____.B. NO. _____

1 kept, or unless the taxpayer employs or is required to employ
2 the accrual basis for the purposes of the tax imposed by chapter
3 237 for any taxable year in which event the taxpayer shall
4 report the taxpayer's gross income for the purposes of this
5 chapter on the accrual basis for the same period.

6 The words "gross rental" or "gross rental proceeds"
7 shall not be construed to include the amounts of taxes imposed
8 by chapter 237 or this chapter on operators of transient
9 accommodations and passed on, collected, and received from the
10 consumer as part of the receipts received as compensation for
11 the furnishing of transient accommodations. Where transient
12 accommodations are furnished through arrangements made by a
13 transient accommodations remarketer or travel agency [~~or tour~~
14 ~~packager~~] as defined under section 468L-1 at noncommissioned
15 negotiated contract rates and the gross income is divided
16 between the operator of transient accommodations on the one hand
17 and the transient accommodations remarketer, or travel agency
18 [~~or tour packager~~] on the other hand, [~~gross rental or gross~~
19 ~~rental proceeds to the operator means only the respective~~
20 ~~portion allocated or distributed to the operator,~~] the tax
21 imposed by this chapter shall apply to each such person with
22 respect to such person's respective portion of the proceeds, and

____.B. NO. _____

1 no more. For purposes of this definition, where the operator
2 maintains a schedule of rates for identifiable groups of
3 individuals, such as kamaainas, upon which the accommodations
4 are leased, let, or rented, gross rental or gross rental
5 proceeds means the receipts collected and received based upon
6 the scheduled rates and recorded as receipts in its books and
7 records.

8 "Lease", "let", or "rental" means the leasing or
9 renting of living quarters or sleeping or housekeeping
10 accommodations in hotels, apartment hotels, motels, condominium
11 property regimes or apartments defined in chapter 514A or units
12 defined in chapter 514B, cooperative apartments, rooming houses,
13 or other places in which lodgings are regularly furnished to
14 transients for a consideration, without transfer of the title of
15 such property.

16 "Local contact" means an individual residing on the
17 same island as the transient accommodation or resort time share
18 vacation unit or an entity with a place of business and at least
19 one employee, officer, partner, member, or other person working
20 on behalf of the company who is residing on the same island as
21 the transient accommodation or resort time share vacation unit.

_____ .B. NO. _____

1 "Occupant" means an owner of a resort time share
2 vacation plan or other person occupying the resort time share
3 vacation unit.

4 "Operator" means any person operating a transient
5 accommodation, whether as owner or proprietor or as lessee,
6 sublessee, mortgagee in possession, licensee, or otherwise, or
7 engaging or continuing in any service business which involves
8 the actual furnishing of transient accommodation.

9 "Owner" means any person who owns a resort time share
10 vacation interest; provided that to the extent and for those
11 purposes provided in an agreement of sale, the vendee under the
12 agreement of sale shall be considered the owner of the resort
13 time share vacation interest.

14 "Plan manager" means a person who undertakes the
15 duties, responsibilities, and obligations of managing a resort
16 time share vacation plan or is required to act for a resort time
17 share vacation plan under this chapter.

18 "Resort time share vacation interest" means any
19 interest in a resort time share vacation unit or plan which
20 entitles the owner thereof to the use, occupancy, or possession
21 of a resort time share vacation unit on a periodically recurring
22 basis.

1 "Resort time share vacation plan" means any plan or
2 program subject to chapter 514E in which the use, occupancy, or
3 possession of one or more resort time share vacation units
4 circulates among various persons for less than a sixty-day
5 period in any year, for any occupant. The term resort time
6 share vacation plan includes both resort time share vacation
7 ownership plans and resort time share vacation use plans, as
8 follows:

9 (1) "Resort time share vacation ownership plan" means
10 any arrangement whether by tenancy in common,
11 sale, deed, or by other means, whereby the
12 purchaser receives an ownership interest and the
13 right to use the property for a specific or
14 discernible period by temporal division.

15 (2) "Resort time share vacation use plan" means any
16 arrangement, excluding normal hotel operations,
17 whether by membership agreement, lease, rental
18 agreement, license, use agreement, security, or
19 other means, whereby the purchaser receives a
20 right to use accommodations or facilities, or
21 both, in a resort time share vacation unit for a
22 specific or discernible period by temporal

1 division, but does not receive an ownership
2 interest.

3 "Resort time share vacation unit" means the actual and
4 promised accommodations, and related facilities, which are the
5 subject of a resort time share vacation plan.

6 "Transient accommodations" means the furnishing of a
7 room, apartment, suite, single family dwelling, or the like to a
8 transient for less than one hundred eighty consecutive days for
9 each letting in a hotel, apartment hotel, motel, condominium
10 property regime or apartment as defined in chapter 514A or unit
11 as defined in chapter 514B, cooperative apartment, dwelling
12 unit, or rooming house that provides living quarters, sleeping,
13 or housekeeping accommodations, or other place in which lodgings
14 are regularly furnished to transients.

15 "Transient accommodations [~~broker~~] remarketer" means
16 any person or entity, including but not limited to persons who
17 operate online websites, online travel agencies, or online
18 booking agencies, that offers, lists, advertises, or accepts
19 reservations or collects whole or partial payment for transient
20 accommodations or resort time share vacation interests, units,
21 or plans."

1 SECTION 3. Section 237D-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Every operator, transient accommodations remarketer
4 or travel agency, who collect whole or partial payment for
5 transient accommodations shall pay to the State the tax imposed
6 by subsection (a), as provided in this chapter."

7 SECTION 4. Section 237D-4, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Failure to meet the requirements of subsection (c)
10 shall be unlawful. The department may issue citations to any
11 person, including operators, plan managers, travel agencies and
12 transient accommodations [~~brokers~~] remarketers, who violates
13 subsection (c). A citation issued pursuant to this subsection
14 for each transient accommodation or resort time share vacation
15 interest, plan, or unit in violation of subsection (c) shall
16 include a monetary fine of not less than:

- 17 (1) \$500 per day, for a first violation for which a
18 citation is issued;
- 19 (2) \$1,000 per day, for a second violation for which
20 a citation is issued; and
- 21 (3) \$5,000 per day, for a third and any subsequent
22 violation for which a citation is issued."

1 SECTION 5. Section 237D-6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) On or before the twentieth day of each calendar
4 month, every [~~operator taxable, or plan manager~~] taxpayer liable
5 under this chapter during the preceding calendar month shall
6 file a sworn return with the director in such form as the
7 director shall prescribe together with a remittance for the
8 amount of the tax in the form required by section 237D-6.5.
9 Sections 237-30 and 237-32 shall apply to returns and penalties
10 made under this chapter to the same extent as if the sections
11 were set forth specifically in this section."

12 SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§237D-6.5 Remittances; distribution to counties.** (a)
15 All remittances of taxes imposed under this chapter shall be
16 made by cash, bank drafts, cashier's check, money order, or
17 certificate of deposit to the office of the taxation district to
18 which the return was transmitted.

19 (b) Except for the revenues collected pursuant to
20 section 237D-2(e), revenues collected under this chapter shall
21 be distributed in the following priority, with the excess
22 revenues to be deposited into the general fund:

____.B. NO. _____

1 (1) \$1,500,000 shall be allocated to the Turtle Bay
2 conservation easement special fund beginning July
3 1, 2015, for the reimbursement to the state
4 general fund of debt service on reimbursable
5 general obligation bonds, including ongoing
6 expenses related to the issuance of the bonds,
7 the proceeds of which were used to acquire the
8 conservation easement and other real property
9 interests in Turtle Bay, Oahu, for the
10 protection, preservation, and enhancement of
11 natural resources important to the State, until
12 the bonds are fully amortized;

13 (2) \$26,500,000 shall be allocated to the convention
14 center enterprise special fund established under
15 section 201B-8;

16 (3) \$82,000,000 shall be allocated to the tourism
17 special fund established under section 201B-11;
18 provided that:

19 (A) Beginning on July 1, 2012, and ending on
20 June 30, 2015, \$2,000,000 shall be expended
21 from the tourism special fund for
22 development and implementation of

____.B. NO. _____

1 initiatives to take advantage of expanded
2 visa programs and increased travel
3 opportunities for international visitors to
4 Hawaii;

5 (B) Of the \$82,000,000 allocated:

6 (i) \$1,000,000 shall be allocated for the
7 operation of a Hawaiian center and the
8 museum of Hawaiian music and dance at
9 the Hawaii convention center; and

10 (ii) 0.5 per cent of the \$82,000,000 shall
11 be transferred to a sub-account in the
12 tourism special fund to provide funding
13 for a safety and security budget, in
14 accordance with the Hawaii tourism
15 strategic plan 2005-2015; and

16 (C) Of the revenues remaining in the tourism
17 special fund after revenues have been
18 deposited as provided in this paragraph and
19 except for any sum authorized by the
20 legislature for expenditure from revenues
21 subject to this paragraph, beginning July 1,
22 2007, funds shall be deposited into the

____.B. NO. ____

1 tourism emergency special fund, established
2 in section 201B-10, in a manner sufficient
3 to maintain a fund balance of \$5,000,000 in
4 the tourism emergency special fund;

5 (4) \$103,000,000 shall be allocated as follows:
6 Kauai county shall receive 14.5 per cent, Hawaii
7 county shall receive 18.6 per cent, city and
8 county of Honolulu shall receive 44.1 per cent,
9 and Maui county shall receive 22.8 per cent;
10 provided that commencing with fiscal year 2018-
11 2019, a sum that represents the difference
12 between a county public employer's annual
13 required contribution for the separate trust fund
14 established under section 87A-42 and the amount
15 of the county public employer's contributions
16 into that trust fund shall be retained by the
17 state director of finance and deposited to the
18 credit of the county public employer's annual
19 required contribution into that trust fund in
20 each fiscal year, as provided in section 87A-42,
21 if the respective county fails to remit the total
22 amount of the county's required annual

____.B. NO. _____

1 contributions, as required under section 87A-43;

2 and

3 (5) \$3,000,000 shall be allocated to the special land
4 and development fund established under section
5 171-19; provided that the allocation shall be
6 expended in accordance with the Hawaii tourism
7 authority strategic plan for:

8 (A) The protection, preservation, maintenance,
9 and enhancement of natural resources,
10 including beaches, important to the visitor
11 industry;

12 (B) Planning, construction, and repair of
13 facilities; and

14 (C) Operation and maintenance costs of public
15 lands, including beaches, connected with
16 enhancing the visitor experience.

17 All transient accommodations taxes shall be paid into
18 the state treasury each month within ten days after collection
19 and shall be kept by the state director of finance in special
20 accounts for distribution as provided in this subsection.

____.B. NO.____

1 As used in this subsection, "fiscal year" means the
2 twelve-month period beginning on July 1 of a calendar year and
3 ending on June 30 of the following calendar year.

4 (c) In addition to the taxes apportioned to the
5 counties in subsection (b) (4), any TAT collected from transient
6 accommodations remarketers or travel agencies shall be paid to
7 the counties in the same percentage as set forth in subsection
8 (b) (4).

9 [~~(e)~~] (d) On or before January or July 1 of each year
10 or after the disposition of any tax appeal with respect to an
11 assessment for periods after June 30, 1990, the state director
12 of finance shall compute and pay the amount due as provided in
13 subsection (b) to the director of finance of each county to
14 become a general realization of the county expendable as such,
15 except as otherwise provided by law."

16 SECTION 7. Section 237D-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§237D-7 Annual return.** On or before the twentieth day of
19 the fourth month following the close of the taxable year, every
20 person who has become liable for the payment of the taxes under
21 this chapter during the preceding tax year shall file a return
22 summarizing that person's liability under this chapter for the

____.B. NO. _____

1 year, in such form as the director prescribes. The [~~operator or~~
2 ~~plan manager~~] taxpayer shall transmit with the return a
3 remittance covering the residue of the tax chargeable to the
4 [~~operator or plan manager~~] taxpayer, if any, to the office of
5 the appropriate state district tax assessor designated in
6 section 237D-8. The return shall be signed by the taxpayer, if
7 made by an individual, or by the president, vice-president,
8 secretary, or treasurer of a corporation, if made on behalf of a
9 corporation. If made on behalf of a partnership, firm, society,
10 unincorporated association, group, hui, joint adventure, joint
11 stock company, corporation, trust estate, decedent's estate,
12 trust, or other entity, any individual delegated by the entity
13 shall sign the same on behalf of the taxpayer. If for any
14 reason it is not practicable for the individual taxpayer to sign
15 the return, it may be done by any duly authorized agent. The
16 department, for good cause shown, may extend the time for making
17 the return on the application of any taxpayer and grant such
18 reasonable additional time within which to make the return as
19 the department may deem advisable.

20 Section 232-2 applies to the annual return, but not to a
21 monthly return."

1 SECTION 8. Section 237D-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) If any [~~operator or plan manager~~] taxpayer fails to
4 make a return as required by this chapter, the director shall
5 make an estimate of the tax liability of the [~~operator or plan~~
6 ~~manager~~] taxpayer from any information the director obtains, and
7 according to the estimate so made, assess the taxes, interest,
8 and penalty due the State from the [~~operator or plan manager~~]
9 taxpayer, give notice of the assessment to the [~~operator or plan~~
10 ~~manager~~] taxpayer, and make demand upon the [~~operator or plan~~
11 ~~manager~~] taxpayer for payment. The assessment shall be presumed
12 to be correct until and unless, upon an appeal duly taken as
13 provided in section 237D-11, the contrary shall be clearly
14 proved by the person assessed, and the burden of proof upon such
15 appeal shall be upon the person assessed to disprove the
16 correctness of assessment."

17 SECTION 9. Section 237D-10, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§237D-10 Overpayment; refunds.** Upon application by [~~an~~
20 ~~operator or plan manager~~] a taxpayer, if the director determines
21 that any tax, interest, or penalty has been paid more than once,
22 or has been erroneously or illegally collected or computed, the

____.B. NO. _____

1 tax, interest, or penalty shall be credited by the director on
2 any taxes then due from the [~~operator or plan manager~~] taxpayer
3 under this chapter. The director shall refund the balance to
4 the [~~operator or plan manager~~] taxpayer or the [~~operator's or~~
5 ~~plan manager's~~] taxpayer's successors, administrators,
6 executors, or assigns in accordance with section 231-23. No
7 credit or refund shall be allowed for any tax imposed by this
8 chapter, unless a claim for such credit or refund is filed as
9 follows:

10 (1) If an annual return is timely filed, or is filed
11 within three years after the date prescribed for
12 filing the annual return, then the credit or
13 refund shall be claimed within three years after
14 the date the annual return was filed or the date
15 prescribed for filing the annual return,
16 whichever is later.

17 (2) If an annual return is not filed, or is filed
18 more than three years after the date prescribed
19 for filing the annual return, a claim for credit
20 or refund shall be filed within:

21 (A) Three years after the payment of the tax; or

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1 (B) Three years after the date prescribed for
2 the filing of the annual return, whichever
3 is later.

4 Paragraphs (1) and (2) are mutually exclusive. The
5 preceding limitation shall not apply to a credit or refund
6 pursuant to an appeal, provided for in section 237D-11.

7 As to all tax payments for which a refund or credit is
8 not authorized by this section (including, without prejudice to
9 the generality of the foregoing, cases of unconstitutionality),
10 the remedies provided by appeal or by section 40-35 are
11 exclusive."

12 SECTION 10. Section 237D-12, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§237D-12 Records to be kept; examination.** Every
15 [~~operator and plan manager~~] taxpayer shall keep in the English
16 language within the State, and preserve for a period of three
17 years, suitable records of gross rental, gross rental proceeds,
18 or fair market rental value relating to the business taxed under
19 this chapter, and such other books, records of account, and
20 invoices as may be required by the department, and all such
21 books, records, and invoices shall be open for examination at
22 any time by the department or the Multistate Tax Commission

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1 pursuant to chapter 255, or the authorized representative
2 thereof."

3 SECTION 11. Statutory material to be deleted is bracketed
4 and in strike through. New statutory material is underscored.

5 SECTION 12. This Act shall take effect on July 1, 2018.

6

7

INTRODUCED BY: _____

8

A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"Permitted interactions of members.** (a) Two members of a
4 board may discuss between themselves matters relating to
5 official board business to enable them to perform their duties
6 faithfully, as long as no commitment to vote is made or sought
7 and the two members do not constitute a quorum of their board.

8 (b) Two or more members of a board, but less than the
9 number of members [~~which~~] that would constitute a quorum for the
10 board, may be assigned to:

11 (1) Investigate a matter relating to the official business
12 of their board; provided that:

13 (A) The scope of the investigation and the scope of
14 each member's authority are defined at a meeting of the
15 board;

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1 (B) All resulting findings and recommendations are
2 presented to the board at a meeting of the board; and

3 (C) Deliberation and decisionmaking on the matter
4 investigated, if any, occurs only at a duly noticed meeting
5 of the board held subsequent to the meeting at which the
6 findings and recommendations of the investigation were
7 presented to the board; or

8 (2) Present, discuss, or negotiate any position [~~which~~]
9 that the board has adopted at a meeting of the board; provided
10 that the assignment is made and the scope of each member's
11 authority is defined at a meeting of the board prior to the
12 presentation, discussion, or negotiation.

13 (c) Discussions between two or more members of a board, but less
14 than the number of members which would constitute a quorum for
15 the board, concerning the selection of the board's officers may
16 be conducted in private without limitation or subsequent
17 reporting.

18 (d) Board members present at a meeting that must be canceled for
19 lack of quorum or terminated pursuant to section 92-3.5(c) may

____.B. NO. _____

1 nonetheless receive testimony and presentations on items on the
2 agenda and question the testifiers or presenters; provided that:

3 (1) Deliberation or decisionmaking on any item, for which
4 testimony or presentations are received, occurs only at a duly
5 noticed meeting of the board held subsequent to the meeting at
6 which the testimony and presentations were received;

7 (2) The members present shall create a record of the oral
8 testimony or presentations in the same manner as would be
9 required by section 92-9 for testimony or presentations heard
10 during a meeting of the board; and

11 (3) Before its deliberation or decisionmaking at a
12 subsequent meeting, the board shall:

13 (A) Provide copies of the testimony and presentations
14 received at the canceled meeting to all members of the
15 board; and

16 (B) Receive a report by the members who were present
17 at the canceled or terminated meeting about the testimony
18 and presentations received.

1 (e) Two or more members of a board, but less than the number of
2 members [~~which~~] that would constitute a quorum for the board,
3 may attend an informational meeting or presentation on matters
4 relating to official board business, including a meeting of
5 another entity, legislative hearing, convention, seminar, or
6 community meeting; provided that the meeting or presentation is
7 not specifically and exclusively organized for or directed
8 toward members of the board. The board members in attendance may
9 participate in discussions, including discussions among
10 themselves; provided that the discussions occur during and as
11 part of the informational meeting or presentation; and provided
12 further that no commitment relating to a vote on the matter is
13 made or sought.

14 At the next duly noticed meeting of the board, the board members
15 shall report their attendance and the matters presented and
16 discussed that related to official board business at the
17 informational meeting or presentation.

18 (f) Discussions between the governor and one or more members of
19 a board may be conducted in private without limitation or
20 subsequent reporting; provided that the discussion does not
21 relate to a matter over which a board is exercising its
22 adjudicatory function.

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1 (g) Discussions between two or more members of a board and the
2 head of a department to which the board is administratively
3 assigned may be conducted in private without limitation;
4 provided that the discussion is limited to matters specified in
5 section 26-35.

6 (h) A member of a board may provide, by memorandum or other
7 means of transmittal, other members of the board any government
8 record for which disclosure is required by section 92F-12;
9 provided that:

10 (1) No commitment relating to a vote on the matter is made
11 or sought by the board member in the means of transmittal; and

12 (2) No additional discussion other than a statement
13 describing the government record and the issue related to the
14 government record shall be included in the transmittal.

15 ~~(h)~~ (i) Communications, interactions, discussions,
16 investigations, and presentations described in this section are
17 not meetings for purposes of this part."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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

____.B. NO. _____

INTRODUCED BY: _____

____.B. NO.____

A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1 SECTION 1. Article XI, section 3 of the Hawaii State
2 Constitution establishes the State's duty to "conserve and
3 protect agricultural lands, promote diversified agriculture,
4 increase agricultural self-sufficiency and assure the
5 availability of agriculturally suitable lands" and provides
6 protections for lands identified as important agricultural
7 lands. In service of this duty, the legislature enacted Act
8 183, Session Laws of Hawaii 2005, which was codified in part III
9 of chapter 205, Hawaii Revised Statutes.

10 Act 183 directed each county to work with government and
11 community stakeholders to, within sixty months of receipt of
12 State funds for the purpose, identify and map potential
13 important agricultural lands within its jurisdiction and make
14 recommendations to the State Land Use Commission for the
15 designation of these lands as important agricultural
16 lands. Once designated, agricultural operations on important
17 agricultural lands are eligible for a variety of State and

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____.B. NO. _____

1 county assistance and incentive programs including grants and
2 other funding assistance, tax incentives, favorable
3 infrastructure and permit requirements, and farm and business
4 education assistance. The legislature finds that, to date, most
5 counties have not received State funds to assist with their
6 identification and mapping duties under Act 183.

7 The purpose of this Act is to implement Act 183 in
8 accordance with the State's constitutional duty to protect
9 important agricultural lands by providing funds to the counties
10 for the identification and mapping of important agricultural
11 lands.

12 SECTION 2. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$250,000, or so much
14 thereof as may be necessary for fiscal year 2017-2018, and the
15 same sum or so much thereof as may be necessary for fiscal year
16 2018-2019, for grants-in-aid to the counties for the
17 identification and mapping of important agricultural lands
18 pursuant to section 205-47, Hawaii Revised Statutes, to be
19 allocated as follows:

- 20 (1) \$ 62,500 to the County of Hawaii;
- 21 (2) \$ 62,500 to the City and County of Honolulu;
- 22 (3) \$ 62,500 to the County of Kauai; and

____.B. NO. _____

1 (4) \$ 62,500 to the County of Maui.

2 The sums appropriated shall be expended by the department
3 of business, economic development, and tourism for the purposes
4 of this Act.

5 SECTION 3. This Act shall take effect on July 1, 2017.

INTRODUCED BY: _____

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. The purpose of this Act is to allow a
2 representative of each county council to be present as a non-
3 voting participant in negotiations with bargaining units if the
4 relevant county has employees in the particular bargaining unit.

5 County councils have the duty to appropriate funds for
6 their counties. Councils' knowledge of bargaining unit
7 negotiations and associated costs is essential to enable
8 effective financial planning for the counties.

9 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) For the purpose of negotiating a collective
12 bargaining agreement, the public employer of an appropriate
13 bargaining unit shall mean the governor together with the
14 following employers:

15 (1) For bargaining units (1), (2), (3), (4), (9), (10),
16 (13), and (14), the governor shall have six votes and
17 the mayors, the chief justice, and the Hawaii health
18 systems corporation board shall each have one vote if

___**.B. NO.**___

1 they have employees in the particular bargaining unit;
2 and one representative from each county council shall
3 be allowed to attend as a non-voting participant
4 during negotiations if their county has employees in
5 the particular bargaining unit;

6 (2) For bargaining units (11) and (12), the governor shall
7 have [~~four votes~~]one vote and the mayors shall each
8 have one vote; and one representative from each county
9 council shall be allowed to attend as a non-voting
10 participant during negotiations if their county has
11 employees in the particular bargaining unit;

12 (3) For bargaining units (5) and (6), the governor shall
13 have three votes, the board of education shall have
14 two votes, and the superintendent of education shall
15 have one vote; and

16 (4) For bargaining units (7) and (8), the governor shall
17 have three votes, the board of regents of the
18 University of Hawaii shall have two votes, and the
19 president of the University of Hawaii shall have one
20 vote.

21 (5) The mayor or the mayor's representative shall provide
22 timely updates relating to bargaining unit

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1 negotiations to the county councils in an executive
2 meeting.

3 Any decision to be reached by the applicable employer group
4 shall be on the basis of simple majority, except when a
5 bargaining unit includes county employees from more than one
6 county. In that case, the simple majority shall include at
7 least one county."

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

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

INTRODUCED BY: _____

____. B. NO. _____

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1 SECTION 1. Act 170, Session Laws of Hawai'i 2002, as
2 amended by section 4 of Act 152, Session Laws of Hawaii 2007, as
3 amended by section 2 of Act 81, Session Laws of Hawai'i 2009, as
4 amended by section 1 of Act 98, Session Laws of Hawai'i 2014, is
5 amended by amending section 5 to read as follows:

6 "SECTION 5. This Act shall take effect upon its approval.
7 [~~; provided that section 1 of this Act shall be repealed on June~~
8 ~~30, 2017]."~~

9 SECTION 2. Statutory material to be repealed is
10 bracketed and stricken.

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

13

14 INTRODUCED

15 BY: _____

___ .B. NO. ___

A BILL FOR AN ACT

RELATING TO UNADJUDICATED TRAFFIC FINES.

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

SECTION 1. Chapter 291C, Hawai'i Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . TRANSMITTAL OF TRAFFIC FINES

AND FORFEITURES TO COUNTIES

§291C-A Definitions. As used in this part, unless the context clearly requires otherwise:

"Traffic infractions" 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-6(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, via the Internet, or by telephone within thirty days.

EXHIBIT 4/2

HSAC-05

____.B. NO. _____

§291C-B Transmittal of fines and forfeitures from July 1, 2017. (a) Beginning July 1, 2017, the director of finance shall transmit to each county, not more than thirty days after the end of each fiscal quarter, all the fines and forfeitures collected for uncontested traffic infractions committed in that county that are in excess of amounts required by the State to pay the administrative costs of the traffic violations bureau. The fines and forfeitures shall be directed to the county in which the citations were issued. This section 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, Hawai'i 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

____.B. NO. _____

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 director of finance of the State. The judiciary shall identify those fines paid for uncontested traffic infractions as defined in section 291C-A. The disposition of fines and forfeitures paid to the director of finance shall be subject to sections 291C-B."

SECTION 3. 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 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2017.

INTRODUCED BY: _____

____.B. NO.____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR EMERGENCY MEDICAL SERVICES.

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

SECTION 1. The purpose of this Act is to appropriate funds to the department of health for the purchase of an ambulance vehicle and the operational costs for one ambulance unit, including equipment, supplies, and personnel costs for state-certified emergency medical services personnel, for a twenty-four-hour, seven-days-a-week, ambulance unit for the county of Kaua'i.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2017 - 2018 for the purchase of an ambulance vehicle and the operational costs for one ambulance unit, including equipment, supplies, and personnel costs for state-certified emergency medical services personnel, for a twenty-four-hour, seven-days-a-week, ambulance units for the counties of Kaua'i and Hawai'i.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

EXHIBIT "13"

HSAC-06

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SECTION 3. This Act shall take effect on July 1, 2017.

INTRODUCED BY: _____

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1 "Department" means the department of commerce and consumer
2 affairs.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Operator" means any person using or operating an unmanned
6 aerial vehicle.

7 "Personal information" means all information that:

8 (1) Describes, locates, or indexes information or data
9 relating to a person, including but not limited to
10 physical location, social security number, driver's
11 license number, government-issued identification
12 number, student identification number, real or
13 personal property holdings identified in tax filings,
14 educational records, financial transactions, medical
15 history, ancestry, religious affiliation, political
16 ideology or affiliation, criminal record, or
17 employment history;

18 (2) Affords a basis for inferring personal
19 characteristics, such as facial recognition and other
20 biometric identification technology, fingerprints,
21 voiceprints, or photographs; or

22

1 (3) Indicates a person's membership in or association with
2 an organization, participation in an activity, or
3 admission or entrance to an institution or facility.

4 "Unmanned aerial vehicle" means a powered vehicle that does
5 not carry a human operator, uses aerodynamic forces to provide
6 vehicle lift, can fly autonomously or be piloted remotely, and
7 can be expendable or recoverable. "Unmanned aerial vehicle"
8 does not include a remote controlled airplane.

9 § -2 **Powers and duties of the director.** In addition to
10 any other powers and duties authorized by law, the director
11 shall:

12 (1) Adopt, amend, or repeal rules as the director deems
13 proper to fully effectuate this chapter;

14 (2) Impose a fine on an operator for any cause prescribed
15 by this chapter, or for any violation of this chapter
16 or any rule adopted pursuant to this chapter; and

17 (3) Investigate the use of any unmanned aerial vehicle
18 reported to be in violation of this chapter or any
19 rule adopted pursuant to this chapter.

20 § -3 **Prohibited acts; penalty.** (a) No person shall
21 operate an unmanned aerial vehicle:

____.B. NO. _____

- 1 (1) In violation of chapter 263 or any applicable federal
2 law and Federal Aviation Administration regulations
3 relating to the operation of unmanned aerial vehicles;
- 4 (2) Within five miles of an airport;
- 5 (3) Within five hundred feet of an emergency response
6 vehicle or first responder during an emergency, unless
7 the unmanned aerial vehicle is operated pursuant to
8 section -4(b);
- 9 (4) To intentionally collect personal information or
10 intentionally publish or distribute personal
11 information acquired through the operation of an
12 unmanned aerial vehicle without express written
13 consent from the person whose personal information is
14 acquired;
- 15 (5) At an altitude higher than four hundred feet above
16 ground level;
- 17 (6) Outside the visual line of sight of the operator. The
18 operator shall use natural vision to maintain at all
19 times an unobstructed view of the unmanned aerial
20 vehicle without the use of vision enhancing devices,
21 including but not limited to binoculars, night vision

____.B. NO. _____

1 goggles, powered vision magnifying devices, or similar
2 devices;

3 (7) In a manner that interferes with, or fails to give way
4 to, any manned aircraft;

5 (8) Whenever weather conditions impair the operator's
6 ability to safely operate the unmanned aerial vehicle;

7 (9) Over any open air assembly unit, school, school yard,
8 hospital, place of worship, prison, or police station
9 without the property owner's written consent and
10 subject to any restrictions that the property owner
11 may impose on the operation of the unmanned aerial
12 vehicle;

13 (10) (A) Within five hundred feet of any water intake
14 facility or any electric generating facility,
15 substation, or control center;

16 (B) Within one hundred feet of any electric
17 transmission facility;

18 (C) Within twenty-five feet of any electric
19 distribution facility or of any overhead cable,
20 wire, conveyor, or similar equipment for the
21 transmission of sounds or signals, or of heat,
22

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1 light, or power, or of data, upon or along any
2 public way,

3 without the facility or equipment owner's written
4 consent and subject to any restrictions that the
5 facility or equipment owner may impose on the
6 operation of the unmanned aerial vehicle;

7 (11) While under the influence of any intoxicating liquor
8 as defined in section 281-1, intoxicating compound as
9 defined in section 712-1240, or other drug, or any
10 combination thereof;

11 (12) With the intent to use the unmanned aerial vehicle or
12 anything attached to it to cause harm to persons or
13 property;

14 (13) In a reckless or careless manner; or

15 (14) In violation of any federal or state law.

16 (b) All data and personal information collected through
17 the use of an unmanned aerial vehicle shall not be use or
18 repurposed for any purpose other than the original purpose for
19 which the data or personal information was collected.

20

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1 (c) Any person who operates an unmanned aerial vehicle in
2 violation of this chapter shall pay a civil penalty of
3 \$ for each separate offense.

4 (d) All penalties collected by the department shall be
5 deposited into the compliance resolution fund under section
6 26-9(o) for the purpose of enforcing this chapter.

7 **§ -4 Prohibited uses by law enforcement agencies;**

8 **exceptions.** (a) No law enforcement agency shall use an
9 unmanned aerial vehicle to gather evidence or other information
10 pertaining to criminal conduct or conduct in violation of a
11 statute, ordinance, or administrative rule without first
12 obtaining a warrant.

13 (b) Notwithstanding subsection (a) and in addition to the
14 authorized activities under section -5, a law enforcement or
15 public safety agency may deploy an unmanned aerial vehicle for
16 the following purposes:

17 (1) When there is a reasonable belief that an emergency
18 situation exists, whether or not the situation
19 involves criminal activity, and the use of an unmanned
20 aerial vehicle is necessary to prevent immediate

21

- 1 danger of death or serious physical injury to any
- 2 person;
- 3 (2) To conduct a search and rescue operation where the use
- 4 of an unmanned aerial vehicle is determined to be
- 5 necessary to alleviate an immediate danger to any
- 6 person;
- 7 (3) To respond to a hostage situation; or
- 8 (4) To conduct training exercises related to any purposes
- 9 in this subsection.

10 § -5 **Public agency exceptions.** Nothing in this chapter
11 shall prohibit the use of unmanned aerial vehicles by a public
12 agency:

- 13 (1) To conduct environmental or disaster response,
- 14 including but not limited to disaster relief, victim
- 15 recovery or search and rescue, and monitoring,
- 16 inspection, underwater repair, or structural damage
- 17 assessments;
- 18 (2) To dispose of a suspected or actual explosive device;
- 19 (3) To monitor plant or animal populations;
- 20 (4) To conduct atmospheric testing or monitoring;
- 21 (5) For farming and agricultural uses;

22

____.B. NO. _____

- 1 (6) To review traffic congestion and conditions;
- 2 (7) To survey or inspect public lands and property; or
- 3 (8) To survey the ocean and coastline.

4 § -6 **Weapons; prohibited.** In no case shall a person or
5 public agency equip an unmanned aerial vehicle with a weapon or
6 or deploy an unmanned aerial vehicle that is equipped with a
7 weapon.

8 For the purpose of this section, "weapon" means any device
9 designed to harm or incapacitate a human being by use of a
10 projectile, explosive, biological or chemical agent,
11 electricity, visible or invisible directed energy, radiation, or
12 any other means.

13 § -7 **Civil cause of action; remedies.** (a) An
14 individual shall have a civil cause of action against any person
15 that collects, publishes, or distributes the individual's
16 personal information in violation of this chapter.

17 (b) In any civil action brought under this section, if the
18 court finds a violation, the court may award:

- 19 (1) Injunctive relief;
- 20 (2) Equitable relief;
- 21 (3) Compensatory damages;

22

- 1 (4) Punitive damages, except as prohibited by section
- 2 662-2;
- 3 (5) Costs of the action; and
- 4 (6) Reasonable attorney's fees."

5 SECTION 3. Chapter 711, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "711- _____ Unmanned aerial vehicles; prohibited acts. (1)
9 It shall be unlawful for any person to intentionally, knowingly,
10 or recklessly use an unmanned aerial vehicle to record or
11 photograph a person in a private place without the consent of
12 the person for the purpose of spying on the person or invading
13 the privacy of another person with an unlawful purpose, under
14 circumstances in which a reasonable person in the private place
15 would not expect to be observed.

16 (2) Violation of this section is a misdemeanor. In
17 addition to any penalties the court may impose, the court may
18 order the destruction of any recording or photograph made in
19 violation of this section."

20 SECTION 4. Section 711-1100, Hawaii Revised Statutes, is
21 amended as follows:

1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 ""Unmanned aerial vehicle" means a powered vehicle that
4 does not carry a human operator, uses aerodynamic forces to
5 provide vehicle lift, can fly autonomously or be piloted
6 remotely, and can be expendable or recoverable."

7 2. By the definition of "record" to read:

8 ""Record", for the purposes of section 711-1110.9 [and],
9 711-1111, and 711-_____ , means to videotape, film, photograph, or
10 archive electronically or digitally."

11 SECTION 5. Section 711-1110.9, Hawaii Revised Statutes, is
12 amended by amending subsection (1) to read as follows:

13 "(1) A person commits the offense of violation of privacy
14 in the first degree if, except in the execution of a public duty
15 or as authorized by law:

16 (a) The person intentionally or knowingly installs or
17 uses, or both, in any private place, without consent
18 of the person or persons entitled to privacy therein,
19 any device, including an unmanned aerial vehicle, for
20 observing, recording, amplifying, or broadcasting

21

1 another person in a stage of undress or sexual
2 activity in that place; or
3 (b) The person knowingly discloses an image or video of
4 another identifiable person either in the nude, as
5 defined in section 712-1210, or engaging in sexual
6 conduct, as defined in section 712-1210, without the
7 consent of the depicted person, with intent to harm
8 substantially the depicted person with respect to that
9 person's health, safety, business, calling, career,
10 financial condition, reputation, or personal
11 relationships; provided that:
12 (i) This paragraph shall not apply to images or
13 videos of the depicted person made:
14 (A) When the person was voluntarily nude in
15 public or voluntarily engaging in sexual
16 conduct in public; or
17 (B) Pursuant to a voluntary commercial
18 transaction; and
19 (ii) Nothing in this paragraph shall be construed to
20 impose liability on a provider of "electronic
21 communication service" or "remote computing

1 service" as those terms are defined in section
2 803-41, for an image or video disclosed through
3 the electronic communication service or remote
4 computing service by another person."

5 SECTION 6. Section 711-1111, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of violation of privacy
8 in the second degree if, except in the execution of a public
9 duty or as authorized by law, the person intentionally:

10 (a) Trespasses on property for the purpose of subjecting
11 anyone to eavesdropping or other surveillance in a
12 private place;

13 (b) Peers or peeps into a window or other opening of a
14 dwelling or other structure adapted for sojourn or
15 overnight accommodations for the purpose of spying on
16 the occupant thereof or invading the privacy of
17 another person with a lewd or unlawful purpose, under
18 circumstances in which a reasonable person in the
19 dwelling or other structure would not expect to be
20 observed;

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____.B. NO. _____

- 1 (c) Trespasses on property for the sexual gratification of
2 the actor;
- 3 (d) Installs or uses, or both, in any private place,
4 without consent of the person or persons entitled to
5 privacy therein, any means or device, including an
6 unmanned aerial vehicle, for observing, recording,
7 amplifying, or broadcasting sounds or events in that
8 place other than another person in a stage of undress
9 or sexual activity; provided that this paragraph shall
10 not prohibit a person from making a video or audio
11 recording or taking a photograph of a law enforcement
12 officer while the officer is in the performance of the
13 officer's duties in a public place or under
14 circumstances in which the officer has no reasonable
15 expectation of privacy and the person is not
16 interfering with the officer's ability to maintain
17 safety and control, secure crime scenes and accident
18 sites, protect the integrity and confidentiality of
19 investigations, and protect the public safety and
20 order;
- 21 (e) Installs or uses outside a private place any device,
22 including an unmanned aerial vehicle, for hearing,

1 recording, amplifying, or broadcasting sounds
2 originating in that place which would not ordinarily
3 be audible or comprehensible outside, without the
4 consent of the person or persons entitled to privacy
5 therein;

6 (f) Covertly records or broadcasts an image of another
7 person's intimate area underneath clothing, by use of
8 any device, including an unmanned aerial vehicle, and
9 that image is taken while that person is in a public
10 place and without that person's consent;

11 (g) Intercepts, without the consent of the sender or
12 receiver, a message or photographic image by
13 telephone, telegraph, letter, electronic transmission,
14 or other means of communicating privately; but this
15 paragraph does not apply to:

16 (i) Overhearing of messages through a regularly
17 installed instrument on a telephone party line or
18 an extension; or

19 (ii) Interception by the telephone company, electronic
20 mail account provider, or telephone or electronic
21 mail subscriber incident to enforcement of

1 regulations limiting use of the facilities or
 2 incident to other operation and use;

3 (h) Divulges, without the consent of the sender or the
 4 receiver, the existence or contents of any message or
 5 photographic image by telephone, telegraph, letter,
 6 electronic transmission, or other means of
 7 communicating privately, if the accused knows that the
 8 message or photographic image was unlawfully
 9 intercepted or if the accused learned of the message
 10 or photographic image in the course of employment with
 11 an agency engaged in transmitting it; or

12 (i) Knowingly possesses materials created under
 13 circumstances prohibited in section 711-1110.9."

14 SECTION 7. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

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

19 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

A BILL FOR AN ACT

RELATING TO COMMUNITY MEETINGS.

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

1 SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§92-2.5 Permitted interactions of members.** (a) Two
4 members of a board may discuss between themselves matters
5 relating to official board business to enable them to perform
6 their duties faithfully, as long as no commitment to vote is
7 made or sought and the two members do not constitute a quorum of
8 their board.

9 (b) Two or more members of a board, but less than the
10 number of members which would constitute a quorum for the board,
11 may be assigned to:

12 (1) Investigate a matter relating to the official business
13 of their board; provided that:

14 (A) The scope of the investigation and the scope of
15 each member's authority are defined at a meeting of the board;

____.B. NO. _____

1 (B) All resulting findings and recommendations are
2 presented to the board at a meeting of the board; and

3 (C) Deliberation and decisionmaking on the matter
4 investigated, if any, occurs only at a duly noticed meeting of
5 the board held subsequent to the meeting at which the findings
6 and recommendations of the investigation were presented to the
7 board; or

8 (2) Present, discuss, or negotiate any position which the
9 board has adopted at a meeting of the board; provided that the
10 assignment is made and the scope of each member's authority is
11 defined at a meeting of the board prior to the presentation,
12 discussion, or negotiation.

13 (c) Discussions between two or more members of a board,
14 but less than the number of members which would constitute a
15 quorum for the board, concerning the selection of the board's
16 officers may be conducted in private without limitation or
17 subsequent reporting.

18 (d) Board members present at a meeting that must be
19 canceled for lack of quorum or terminated pursuant to section
20 92-3.5(c) may nonetheless receive testimony and presentations on
21 items on the agenda and question the testifiers or presenters;
22 provided that:

1 (1) Deliberation or decisionmaking on any item, for which
2 testimony or presentations are received, occurs only at a duly
3 noticed meeting of the board held subsequent to the meeting at
4 which the testimony and presentations were received;

5 (2) The members present shall create a record of the oral
6 testimony or presentations in the same manner as would be
7 required by section 92-9 for testimony or presentations heard
8 during a meeting of the board; and

9 (3) Before its deliberation or decisionmaking at a
10 subsequent meeting, the board shall:

11 (A) Provide copies of the testimony and presentations
12 received at the canceled meeting to all members of the board;
13 and

14 (B) Receive a report by the members who were present
15 at the canceled or terminated meeting about the testimony and
16 presentations received.

17 (e) Two or more members of a board, but less than the
18 number of members which would constitute a quorum for the board,
19 may attend an informational meeting or presentation on matters
20 relating to official board business, including a meeting of
21 another entity, legislative hearing, convention, seminar, or
22 community meeting open to the public; provided that the meeting

____.B. NO. _____

1 or presentation is not specifically and exclusively organized
2 for or directed toward members of the board. The board members
3 in attendance may participate in discussions, including
4 discussions among themselves; provided that the discussions
5 occur during and as part of the informational meeting or
6 presentation; and provided further that no commitment relating
7 to a vote on the matter is made or sought.

8 At the next duly noticed meeting of the board, the board
9 members shall report their attendance and the matters presented
10 and discussed that related to official board business at the
11 informational meeting or presentation.

12 (f) Discussions between the governor and one or more
13 members of a board may be conducted in private without
14 limitation or subsequent reporting; provided that the discussion
15 does not relate to a matter over which a board is exercising its
16 adjudicatory function.

17 (g) Discussions between two or more members of a board and
18 the head of a department to which the board is administratively
19 assigned may be conducted in private without limitation;
20 provided that the discussion is limited to matters specified in
21 section 26-35.

____.B. NO. _____

1 (h) Communications, interactions, discussions,
2 investigations, and presentations described in this section are
3 not meetings for purposes of this part.

4 (i) Notwithstanding section 92-3.1(b) of this chapter, for
5 meetings described in subsection (e), the limitation on number
6 of attendees shall not apply to members of a county council."

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

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

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INTRODUCED BY: _____

12

____.B. NO.____

A BILL FOR AN ACT

RELATING TO IDENTIFICATION CARDS FOR PERSONS WITH DISABILITIES.

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

1 SECTION 1. This legislature finds that persons with
2 disabilities have the desire to indicate on their identification
3 cards, such as the State of Hawaii identification card, driver's
4 license, or an identification card for persons with
5 disabilities, their disability.

6 Because not all disabilities are outwardly visible, the
7 disclosure of a disability on a driver's license or
8 identification card can assist first responders in determining
9 the best way to treat, assist, or communicate with the person.

10 Having a license or identification card clearly indicating
11 a person's disability will allow the person access to certain
12 services such as special seating on public transit or at public
13 events. The "disabled" notification on the card indicates that
14 a person has a disability and does not take the place of
15 existing public service qualification procedures.

EXHIBIT "16"

1 To mitigate potential abuse, medical documentation is
2 required to support a person's request for indication of a
3 disability on their identification card.

4 Those who choose to include information about their
5 disability on their driver's license, State identification card,
6 and identification card for persons with disabilities may do so
7 under this Act.

8 SECTION 2. Section 286-2, Hawaii Revised Statutes, is
9 amended by adding new definitions to be appropriately inserted
10 and to read as follows:

11 "Disability" means any physical, mental, or neurological
12 impairment that severely restricts a person's mobility, manual
13 dexterity, or ability to climb stairs; substantial loss of sight
14 or hearing; loss of one or more limbs or use thereof; or
15 significantly diminished reasoning capacity.

16 "Person with disabilities" means any person with a
17 permanent or temporary disability.

18 SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended
19 by adding a new section to part VI to be appropriately
20 designated and to read as follows:

21 **"§286- Driver's license for persons with disabilities.**

1 Persons with disabilities may opt to identify their
2 disability on their driver's license upon receipt of the
3 required documentation as stated in this section, from the
4 person requesting its inclusion. The driver's license shall
5 display the "disabled" notation on a location designated by the
6 department."

7 SECTION 4. Section 286-305, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§286-305 Contents and characteristics; form.** (a) Each
10 identification card issued by the examiner of drivers shall
11 display a distinguishing number assigned to the cardholder, and
12 shall display the following inscription:

13 "STATE OF HAWAII IDENTIFICATION CARD"

14 (b) The examiner of drivers, after obtaining the
15 fingerprint of the applicant as provided in this part and after
16 obtaining the information required by or pursuant to this part,
17 shall issue to each applicant an identification card in a form
18 and with identifying information that the director deems
19 necessary and appropriate, including a notation of veteran
20 status, if desired by the applicant, on the front of the card
21 where applicable; provided that such notation shall not include
22 any designation other than the term "veteran". As used in this

1 subsection, "veteran" means any person who served in any of the
2 uniformed services of the United States and was discharged under
3 conditions other than dishonorable.

4 (c) The identification card shall not display the
5 cardholder's social security number.

6 (d) The identification card shall be designed to prevent
7 its reproduction or alteration without ready detection.

8 (e) The identification card for individuals under twenty-
9 one years of age shall have characteristics prescribed by the
10 examiner distinguishing it from that issued to [a] an individual
11 who is twenty-one years of age or older.

12 (f) Persons with disabilities may opt to identify their
13 disability on their identification card upon receipt of the
14 required documentation from the person requesting its inclusion.
15 The identification card shall display a notation of disability
16 status, if desired by the applicant, on the front of the card
17 where applicable; except that such notation shall not include
18 any designation other than the term "disabled."

19 SECTION 5. Chapter 286, Hawaii Revised Statutes, is amended
20 by adding a new section to part XVI to be appropriately
21 designated and to read as follows:

1 "§286- Identification card for persons with
 2 disabilities. (a) The department shall issue identification
 3 cards to persons with disabilities pursuant to section 286-305.

4 (b) The identification card for persons with disabilities
 5 shall include characteristics and content pursuant to section
 6 286-305. On the reverse side of the identification card shall be
 7 a space within which the department shall enter such disability
 8 information the applicant may request.

9 (c) The department may include a notation of disability
 10 status, if desired by the applicant, on the front and may print
 11 the disability information on the reverse on any driver's
 12 license or identification card issued pursuant to the provisions
 13 of this chapter upon receipt of the required documentation from
 14 the person requesting its inclusion.

15 (d) Temporary disabilities. An identification card for
 16 persons with a temporary disability shall be issued upon
 17 presentation of a sworn affidavit of at least one medical doctor
 18 attesting to such disability and estimating the duration of the
 19 disability. Identification cards indicating temporary
 20 disabilities shall be issued for periods of one year, and a
 21 current affidavit of a medical doctor attesting to the

____.B. NO. _____

1 continuance of such disability shall be presented at each
2 request thereafter."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on January 2, 2018.

INTRODUCED BY: _____

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1

PART I

2

SECTION 1. (a) The legislature finds that:

3

(1) Pursuant to Act 174, Session Laws of Hawaii 2014, the state-county functions working group was convened to evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services and to recommend an appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services;

11

12

(2) Though the transient accommodations tax has evolved to meet the needs and purposes of the times, its structure and frequent amendment, combined with the cyclical nature of the visitor industry and the tax revenues it generates, has resulted in ongoing discussions among the various stakeholders, including the State, the counties, the visitor industry, the Hawaii tourism authority, and other recipients or potential recipients of transient accommodations tax revenues;

20

21

(3) The state-county functions working group, composed of state, county, and visitor industry representatives and other knowledgeable and concerned citizens, and which has been aided by experts, considered the legislature's assignment for over a year and delivered to the legislature its final unanimous report, inclusive of analysis, findings, conclusions, and recommendations;

28

29

(4) In particular, the state-county functions working group found and concluded that:

31

32

33

(A) The application of the transient accommodations tax and the allocation of its revenues should be simplified

____.B. NO. _____

1 and stabilized so as to be clear, consistent, and
2 predictable over time, in view of the need to invest in
3 tourism as a premier industry;
4

5 (B) The tourism special fund should be provided a
6 priority distribution of the transient accommodations tax
7 revenues at an assured minimum level, adjusted for
8 inflation, and regardless of overall transient
9 accommodations tax collections;
10

11 (C) After the priority distribution of the transient
12 accommodations tax revenues to the tourism special fund,
13 existing allocations to the Turtle Bay conservation
14 easement special fund, convention center enterprise special
15 fund, and special land and development fund should be
16 maintained at their current levels, with any additional
17 state funding of these efforts made out of state general
18 funds by separate appropriation;
19

20 (D) Based on a review of state and county functions,
21 including tourism expenditures, an appropriate allocation
22 of the remaining transient accommodations tax revenues is
23 fifty-five percent to the state general fund and forty-five
24 percent to the counties; and
25

26 (E) There should be no fixed dollar amounts, caps,
27 floors, or similar restrictions on allocations to the State
28 and counties of the remaining revenues; instead, both the
29 State and the county allocations should increase or
30 decrease proportionately with increasing or decreasing
31 transient accommodations tax revenues; and
32

33 (5) The state-county functions working group
34 recommendations reflect a fair, balanced, and reasonable
35 compromise of competing needs for scarce resources and provide a
36 sound policy base for the further administration of the
37 transient accommodations tax and its revenues.
38

39 (b) The purpose of this Act is to:
40

41 (1) Provide a fair, consistent, and predictable priority
42 allocation of transient accommodations tax revenues, of an
43 assured minimum amount, to the tourism special fund;
44

1 (2) Maintain allocation of transient accommodations tax
2 revenues to existing obligations at present levels;

3
4 (3) Provide a fair, consistent, and predictable allocation
5 of the balance of the transient accommodations tax revenues
6 between the State and the counties; and

7
8 (4) Provide flexibility to the tourism special fund,
9 State, and counties in the utilization of their respective
10 allocations.

11
12 PART II

13
14 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16
17 "(b) Revenues collected under this chapter shall be
18 distributed in the following priority, with the excess revenues
19 to be deposited into the general fund:

20
21 [~~(1) \$1,500,000 shall be allocated to the Turtle Bay
22 conservation easement special fund beginning July 1, 2015, for
23 the reimbursement to the state general fund of debt service on
24 reimbursable general obligation bonds, including ongoing
25 expenses related to the issuance of the bonds, the proceeds of
26 which were used to acquire the conservation easement and other
27 real property interests in Turtle Bay, Oahu, for the protection,
28 preservation, and enhancement of natural resources important to
29 the State, until the bonds are fully amortized;~~]

30
31 (1) \$82,000,000 shall be allocated to the tourism special
32 fund established under section 201B-11; provided that, beginning
33 July 1, 2017, and in each fiscal year thereafter, the dollar
34 amount of revenues allocated to the tourism special fund under
35 this paragraph shall be adjusted by an amount equal to the
36 dollar amount multiplied by the percentage, if any, by which the
37 Honolulu region consumer price index for all urban consumers
38 (CPI-U), or a successor index, as calculated by the United
39 States Department of Labor, for the preceding calendar year
40 exceeds the consumer price index for the calendar year 2016;
41 provided further that:

42
43 (A) Of the revenues allocated to the tourism special
44 fund:

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(i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and

(ii) 0.5 percent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan; and

(B) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund;

(2) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

~~[(3) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:~~

~~(A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;~~

~~(B) Of the \$82,000,000 allocated:~~

~~(i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and~~

~~(ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and~~

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1 ~~(C) Of the revenues remaining in the tourism special~~
2 ~~fund after revenues have been deposited as provided in this~~
3 ~~paragraph and except for any sum authorized by the legislature~~
4 ~~for expenditure from revenues subject to this paragraph,~~
5 ~~beginning July 1, 2007, funds shall be deposited into the~~
6 ~~tourism emergency special fund, established in section 201B-10,~~
7 ~~in a manner sufficient to maintain a fund balance of \$5,000,000~~
8 ~~in the tourism emergency special fund;]~~

9
10 (3) \$3,000,000 shall be allocated to the special land and
11 development fund established under section 171-19; provided that
12 the allocation shall be expended in accordance with the Hawaii
13 tourism authority strategic plan for:

14
15 (A) The protection, preservation, maintenance, and
16 enhancement of natural resources, including beaches,
17 important to the visitor industry;

18
19 (B) Planning, construction, and repair of facilities;
20 and

21
22 (C) Operation and maintenance costs of public lands,
23 including beaches, connected with enhancing the visitor
24 experience;

25
26 (4) \$1,500,000 shall be allocated to the Turtle Bay
27 conservation easement special fund beginning July 1, 2017, for
28 the reimbursement to the state general fund of debt service on
29 reimbursable general obligation bonds, including ongoing
30 expenses related to the issuance of the bonds, the proceeds of
31 which were used to acquire the conservation easement and other
32 real property interests in Turtle Bay, Oahu, for the protection,
33 preservation, and enhancement of natural resources important to
34 the State, until the bonds are fully amortized; and

35
36 [4] (5) [~~\$103,000,000 for fiscal year 2014-2015,~~
37 ~~\$103,000,000 for fiscal year 2015-2016, \$103,000,000 for fiscal~~
38 ~~year 2016, 2017, and \$93,000,000 for each fiscal year~~
39 ~~thereafter] Of the remaining revenues collected under this~~
40 chapter, forty-five percent shall be allocated to the counties
41 and shall be distributed as follows: Kauai county shall receive
42 14.5 per cent, Hawaii county shall receive 18.6 per cent, city
43 and county of Honolulu shall receive 44.1 per cent, and Maui
44 county shall receive 22.8 per cent; provided that commencing

1 with fiscal year 2018-2019, a sum that represents the difference
 2 between a county public employer's annual required contribution
 3 for the separate trust fund established under section 87A-42 and
 4 the amount of the county public employer's contributions into
 5 that trust fund shall be retained by the state director of
 6 finance and deposited to the credit of the county public
 7 employer's annual required contribution into that trust fund in
 8 each fiscal year, as provided in section 87A-42, if the
 9 respective county fails to remit the total amount of the
 10 county's required annual contributions, as required under
 11 section 87A-43[~~and~~

12
 13 ~~[(5) \$3,000,000 shall be allocated to the special land and~~
 14 ~~development fund established under section 171-19, provided that~~
 15 ~~the allocation shall be expended in accordance with the Hawaii~~
 16 ~~tourism authority strategic plan for:~~

17
 18 ~~(A) The protection, preservation, maintenance, and~~
 19 ~~enhancement of natural resources, including beaches, important~~
 20 ~~to the visitor industry;~~

21
 22 ~~(B) Planning, construction, and repair of facilities;~~
 23 ~~and~~

24
 25 ~~(C) Operation and maintenance costs of public lands,~~
 26 ~~including beaches, connected with enhancing the visitor~~
 27 ~~experience.]~~

28
 29 All transient accommodations taxes shall be paid into the
 30 state treasury each month within ten days after collection and
 31 shall be kept by the state director of finance in special
 32 accounts for distribution as provided in this subsection.

33
 34 As used in this subsection, "fiscal year" means the twelve-
 35 month period beginning on July 1 of a calendar year and ending
 36 on June 30 of the following calendar year."

37
 38 PART III

39
 40 SECTION 3. Section 87A-42, Hawaii Revised Statutes, is
 41 amended by amending subsection (d) to read as follows:

42
 43 "(d) In any fiscal year subsequent to the 2017-2018 fiscal
 44 year in which a county public employer's contributions into the

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1 fund are less than the amount of the annual required
2 contribution, the amount that represents the excess of the
3 annual required contribution over the county public employer's
4 contributions shall be deposited into the fund from a portion of
5 all transient accommodations tax revenues collected by the
6 department of taxation under section [~~237D-6.5(b)(4)~~] 237D-
7 6.5(b)(5). The director of finance shall deduct the amount
8 necessary to meet the county public employer's annual required
9 contribution from the revenues derived under section [~~237D-~~
10 ~~6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the board
11 for deposit into the appropriate account of the separate trust
12 fund."

13

14 SECTION 4. Section 171-19, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16

17 "(a) There is created in the department a special fund to
18 be designated as the "special land and development fund".
19 Subject to the Hawaiian Homes Commission Act of 1920, as
20 amended, and section 5(f) of the Admission Act of 1959, all
21 proceeds of sale of public lands, including interest on deferred
22 payments; all moneys collected under section 171-58 for mineral
23 and water rights; all rents from leases, licenses, and permits
24 derived from public lands; all moneys collected from lessees of
25 public lands within industrial parks; all fees, fines, and other
26 administrative charges collected under this chapter and chapter
27 183C; a portion of the highway fuel tax collected under chapter
28 243; all moneys collected by the department for the commercial
29 use of public trails and trail accesses under the jurisdiction
30 of the department; transient accommodations tax revenues
31 collected pursuant to section [~~237D-6.5(b)(5)~~] 237D-6.5(b)(3);
32 and private contributions for the management, maintenance, and
33 development of trails and accesses shall be set apart in the
34 fund and shall be used only as authorized by the legislature for
35 the following purposes:

36

37 (1) To reimburse the general fund of the State for
38 advances made that are required to be reimbursed from the
39 proceeds derived from sales, leases, licenses, or permits of
40 public lands;

41

42 (2) For the planning, development, management, operations,
43 or maintenance of all lands and improvements under the control
44 and management of the board pursuant to title 12, including but

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1 not limited to permanent or temporary staff positions who may be
2 appointed without regard to chapter 76; provided that transient
3 accommodations tax revenues allocated to the fund shall be
4 expended as provided in section [~~237D-6.5(b)(5)~~] 237D-
5 6.5(b)(3);
6

7 (3) To repurchase any land, including improvements, in the
8 exercise by the board of any right of repurchase specifically
9 reserved in any patent, deed, lease, or other documents or as
10 provided by law;
11

12 (4) For the payment of all appraisal fees; provided that
13 all fees reimbursed to the board shall be deposited in the fund;
14

15 (5) For the payment of publication notices as required
16 under this chapter; provided that all or a portion of the
17 expenditures may be charged to the purchaser or lessee of public
18 lands or any interest therein under rules adopted by the board;
19

20 (6) For the management, maintenance, and development of
21 trails and trail accesses under the jurisdiction of the
22 department;
23

24 (7) For the payment to private land developers who have
25 contracted with the board for development of public lands under
26 section 171-60;
27

28 (8) For the payment of debt service on revenue bonds
29 issued by the department, and the establishment of debt service
30 and other reserves deemed necessary by the board;
31

32 (9) To reimburse the general fund for debt service on
33 general obligation bonds issued to finance departmental
34 projects, where the bonds are designated to be reimbursed from
35 the special land and development fund;
36

37 (10) For the protection, planning, management, and
38 regulation of water resources under chapter 174C; and
39

40 (11) For other purposes of this chapter."
41

____.B. NO. _____

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PART IV

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

SECTION 6. This Act shall take effect on July 1, 2017.

INTRODUCED BY: _____