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Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

December 5, 2019

Mr. Josiah K. Nishita, County Clerk
Office of the County Clerk
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Nishita:

SUBJECT: 2020 MAUI COUNTY LEGISLATIVE PACKAGE

May I request the attached proposed resolution, entitled "APPROVING PROPOSALS ON HOUSING, ENVIRONMENTAL, GOVERNANCE, AND PUBLIC SAFETY ISSUES FOR INCLUSION IN THE 2020 MAUI COUNTY LEGISLATIVE PACKAGE," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in cursive script that reads "Kelly T. King".

KELLY T. KING
Council Chair

paf:ske:19-368b

Enclosure

RECEIVED
2019 DEC -5 PM 3:04
OFFICE OF THE
COUNTY CLERK

COUNTY COMMUNICATION NO. 19-496

Resolution

No. _____

APPROVING PROPOSALS ON HOUSING,
ENVIRONMENTAL, GOVERNANCE, AND
PUBLIC SAFETY ISSUES FOR INCLUSION IN
THE 2020 MAUI COUNTY LEGISLATIVE
PACKAGE

WHEREAS, each year the Council may compile a package of proposals to be included in the Maui County Legislative Package and presented to the State Legislature; and

WHEREAS, the following proposals have impacts on housing, environmental, governance, and public safety issues being faced by Maui County; now, therefore,

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

1. That it approves the following proposals, attached as Exhibit “A,” for inclusion in the 2020 Maui County Legislative Package:
 - A. House Resolution entitled “STRONGLY URGING THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE UNITED STATES CONGRESS TO ALLOW HAWAIIAN HOMESTEADS TO BE DIRECT RECIPIENTS OF FEDERAL NATIVE HAWAIIAN HOUSING BLOCK GRANTS UNDER THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT” (Exhibit “1”) (housing issues);
 - B. “A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION” (Exhibit “2”) (housing issues);
 - C. “A BILL FOR AN ACT RELATING TO CESSPOOLS” (Tax Credits) (Exhibit “3”) (environmental issues);
 - D. “A BILL FOR AN ACT RELATING TO INVASIVE SPECIES” (Exhibit “4”) (environmental issues);

Resolution No. _____

- E. "A BILL FOR AN ACT RELATING TO CESSPOOLS"
(Cesspool Conversion Working Group) (Exhibit "5")
(environmental issues);
 - F. "A BILL FOR AN ACT RELATING TO COMMUNITY
MEETINGS" (Exhibit "6") (governance issues);
 - G. "A BILL FOR AN ACT RELATING TO THE USE OF
INTOXICANTS WHILE OPERATING A VEHICLE"
(Exhibit "7") (public safety issues);
 - H. "A BILL FOR AN ACT RELATING TO SEA LEVEL RISE"
(Exhibit "8") (environmental issues);
 - I. "A BILL FOR AN ACT RELATING TO HOUSING"
(Exhibit "9") (housing issues);
 - J. "A BILL FOR AN ACT RELATING TO TRANSIENT
ACCOMMODATIONS HOSTING PLATFORMS" (Exhibit
"10") (housing issues);
 - K. "A BILL FOR AN ACT RELATING TO TAXATION"
(Exhibit "11") (governance issues); and
3. That certified copies of this resolution be transmitted to the Governor of the State of Hawaii, the President of the State Senate, the Speaker of the State House of Representatives, the County's delegation to the State Legislature, and the Mayor of the County of Maui.

___H.R. NO. ___

HOUSE RESOLUTION

STRONGLY URGING THE UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT AND THE UNITED STATES CONGRESS TO ALLOW
HAWAIIAN HOMESTEADS TO BE DIRECT RECIPIENTS OF FEDERAL NATIVE
HAWAIIAN HOUSING BLOCK GRANTS UNDER THE NATIVE AMERICAN HOUSING
ASSISTANCE AND SELF-DETERMINATION ACT.

1 WHEREAS, the Native American Housing Assistance and Self-
2 Determination Act (NAHASDA) was passed in 1996 and established a
3 block grant program to transform the way American Indians and
4 Alaska Natives provided affordable housing on rural Indian
5 reservations and Alaska Native villages; and

6 WHEREAS, the United States Congress amended NAHASDA in 2000
7 by adding Title VIII to provide similar funding for Native
8 Hawaiian families whose total household income is at or below 80
9 percent of the established area median income levels for their
10 respective counties, and who are eligible to reside on Hawaiian
11 Home Lands; and

12 WHEREAS, the stated objectives of the NAHASDA are to assist
13 native communities in achieving the goals of economic self-
14 sufficiency and self-determination, which should include
15 recognizing the special and independent nature of each Hawaiian
16 Homestead; and

EXHIBIT " 1 "

____H.R. NO. ____

1 WHEREAS, the federal government's financial investment into
2 affordable housing activities in Hawaiian Homestead communities
3 through the Native Hawaiian Housing Block Grant has been
4 steadily decreasing since its highest award of \$12,700,000 in
5 2010 to only \$2,000,000 in 2019, 2018, and 2017, with no federal
6 appropriations made in 2016; and

7 WHEREAS, Hawaii is experiencing a critical affordable
8 housing shortage and more funding, not less, is needed to
9 support infrastructure development, home construction and
10 rehabilitation programs, direct loans, and housing subsidies for
11 Native Hawaiian families; and

12 WHEREAS, the Department of Hawaiian Home Lands (DHHL) is
13 the designated recipient for the Native Hawaiian Housing Block
14 Grant as administered by the United States Department of Housing
15 and Urban Development; and

16 WHEREAS, designating individual Hawaiian Homesteads in the
17 State of Hawaii to be direct recipients of Native Hawaiian
18 Housing Block Grants, in addition to DHHL, could expedite the
19 effective utilization of these funds and expand affordable
20 housing opportunities for low-income families and individuals
21 living on, or desiring to live on Hawaiian Homesteads; now
22 therefore,

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1 BE IT RESOLVED by the House of the Thirty-First Legislature
2 of the State of Hawaii, Regular Session of 2020, that the United
3 States Department of Housing and Urban Development and the
4 Congress of the United States are strongly urged to provide
5 additional federal funds for Native Hawaiian Housing Block
6 Grants under NAHASDA;

7 BE IT FURTHER RESOLVED that the United States Department of
8 Housing and Urban Development and the Congress of the United
9 States are strongly urged to designate individual Hawaiian
10 Homesteads as direct recipients of Native Hawaiian Housing Block
11 Grants; and

12 BE IT FURTHER RESOLVED that the United States Department of
13 Housing and Urban Development are strongly urged to identify and
14 secure other forms of direct assistance to the State to address
15 affordable housing needs of the Native Hawaiian population; and

16 BE IT FURTHER RESOLVED that certified copies of this
17 Resolution be transmitted to the President of the United States,
18 the United States Secretary of Housing and Urban Development,
19 the United States Secretary of the Interior, the Majority Leader
20 of the United States Senate, the Speaker of the United States
21 House of Representatives, the Director of the Department of
22 Hawaiian Home Lands, the Chairperson of the Board of Trustees of

____H.R. NO. ____

1 the Office of Hawaiian Affairs, and the members of Hawaii's
2 congressional delegation.

3

4

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OFFERED BY: _____

____.B. NO.____

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1 SECTION 1. The legislature finds many affordable-housing
2 projects are delayed because of the State Historic Preservation
3 Division's inability to efficiently and effectively provide
4 necessary reviews to ensure compliance with State historic
5 preservation law. The purpose of this Act is to authorize the
6 counties to employ qualified archaeologists to perform necessary
7 reviews under Chapter 6E, Hawai'i Revised Statutes.

8 SECTION 2. Section 6E-42, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§6E-42 Review of proposed projects**~~[...]~~; **approval,**
11 **expedited hearing.** (a) Except as provided in section 6E-42.2,
12 before any agency or officer of the State or its political
13 subdivisions approves any project involving a permit, license,
14 certificate, land use change, subdivision, or other entitlement
15 for use, which may affect historic property, aviation artifacts,
16 or a burial site, the agency or office shall ~~[advise]~~ give
17 notice to the department ~~[and prior to any approval]~~ of the
18 project to allow the department or a qualified archaeologist

____.B. NO.____

1 employed by the county in which the project is located an
2 opportunity for review and comment on the effect of the proposed
3 project on historic properties, aviation artifacts, or burial
4 sites, consistent with section 6E-43, including those listed in
5 the Hawaii register of historic places. If:

6 (1) The proposed project consists of corridors or large
7 land areas;

8 (2) Access to properties is restricted; or

9 (3) Circumstances dictate that construction be done in
10 stages,

11 the department's or archaeologist's review and comment may be
12 based on a phased review of the project; provided that there
13 shall be a programmatic agreement between the department and the
14 project applicant that identifies each phase and the estimated
15 timelines for each phase.

16 (b) The department shall inform the public of any project
17 proposals submitted to it under this section that are not
18 otherwise subject to the requirement of a public hearing or
19 other public notification.

20 (c) The archaeological review and comment required by this
21 section may be delegated to a qualified archaeologist employed

____.B. NO.____

1 by the county in which the project is located with the approval
2 of the department.

3 (d) As used in this section, "qualified archaeologist"
4 means the principal investigator for the project with the
5 following qualifications:

6 (1) A graduate degree from an accredited institution in
7 archaeology or anthropology, with a specialization in
8 archaeology;

9 (2) At least one year of cumulative archaeological
10 experience in Hawaii or the Pacific region;

11 (3) At least four months of supervised archaeological
12 field and analytic experience in Hawaii; and

13 (4) A demonstrated knowledge of historic preservation
14 laws, rules, and guidelines.

15 (e) The department shall approve, approve with
16 modification, or disapprove an archaeological review within
17 thirty days of submission of a completed review. If, on the
18 thirty-first day, a review is not approved, approved with
19 modification, or disapproved by the department, the review shall
20 be deemed approved.

21 (f) A person aggrieved by the findings and recommendations
22 of an archaeological review may bring an action against the

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1 department. The circuit court in which the complaint is made
2 shall have jurisdiction over the action brought under this
3 section. Except as to cases the court considers of greater
4 importance, proceedings brought under this section shall take
5 precedence and shall be expedited in every way.

6 (g) The department shall adopt rules in accordance with
7 chapter 91 to implement this section."

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

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

11
12 INTRODUCED BY: _____

13 BY REQUEST
14

____.B. NO.____

Report Title:

Employment of archaeologists by the counties for historic preservation reviews and comments.

Description:

The delay in housing projects are often attributable to the inability of the State Historic Preservation Division to efficiently and effectively provide the necessary reviews to ensure compliance with State historic preservation law. The severe shortage of qualified archaeologists at the State level contributes to the delay. Allowing counties to employ qualified archaeologists to handle these reviews will help to address affordable housing projects in a more efficient and effective manner.

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 CESSPOOLS.

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

1 SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-16.5 Cesspool upgrade, conversion, or connection;**
4 **income tax credit.** (a) There shall be allowed to each taxpayer
5 subject to the tax imposed under this chapter, a cesspool
6 upgrade, conversion, or connection income tax credit that shall
7 be deductible from the taxpayer's net income tax liability, if
8 any, imposed by this chapter for the taxable year in which the
9 credit is properly claimed.

10 (b) In the case of a partnership, S corporation, estate,
11 or trust, the tax credit allowable is for qualified expenses
12 incurred by the entity for the taxable year. The expenses upon
13 which the tax credit is computed shall be determined at the
14 entity level. Distribution and share of credit shall be
15 determined by rule.

16 (c) The cesspool upgrade, conversion, or connection income
17 tax credit shall be equal to the qualified expenses of the
18 taxpayer, up to a maximum of \$10,000; provided that, in the case

____.B. NO.____

1 of a qualified cesspool that is a residential large capacity
2 cesspool, the amount of the credit shall be equal to the
3 qualified expenses of the taxpayer, up to a maximum of \$10,000
4 per residential dwelling connected to the cesspool, as certified
5 by the department of health pursuant to subsection (e). There
6 shall be allowed a maximum of one cesspool upgrade, conversion,
7 or connection income tax credit per qualified cesspool or per
8 tax map key number where more than one residence is connected to
9 a residential large-capacity cesspool. The cesspool upgrade,
10 conversion, or connection income tax credit shall be available
11 only for the taxable year in which the taxpayer's qualified
12 expenses are certified by the appropriate government agency.

13 (d) The total amount of tax credits allowed under this
14 section shall not exceed \$5,000,000 for all taxpayers in any
15 taxable year; provided that any taxpayer who is not eligible to
16 claim the credit in a taxable year due to the \$5,000,000 cap
17 having been exceeded for that taxable year shall be eligible to
18 claim the credit in the subsequent taxable year.

19 (e) The department of health shall:

20 (1) Certify all qualified cesspools for the purposes of
21 this section;

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(2) Collect and maintain a record of all qualified expenses certified by an appropriate government agency for the taxable year; and

(3) Certify to each taxpayer the amount of credit the taxpayer may claim; provided that if, in any year, the annual amount of certified credits reaches \$5,000,000 in the aggregate, the department of health shall immediately discontinue certifying credits and notify the department of taxation.

The director of health may adopt rules under chapter 91 as necessary to implement the certification requirements under this section.

(f) The director of taxation:

(1) Shall prepare any forms that may be necessary to claim a tax credit under this section;

(2) May require the taxpayer to furnish reasonable information to ascertain the validity of the claim for the tax credit made under this section; and

(3) May adopt rules under chapter 91 necessary to effectuate the purposes of this section.

(g) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over

____.B. NO.____

1 liability may be used as a credit against the taxpayer's income
2 tax liability in subsequent years until exhausted. All claims
3 for the tax credit under this section, including amended claims,
4 shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the credit may
6 be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the credit.

8 (h) This section shall not apply to taxable years
9 beginning after [~~December 31, 2020.~~] December 31, 2025.

10 (i) As used in this section:

11 "Aerobic treatment unit system" means an individual
12 wastewater system that consists of an aerobic treatment unit
13 tank, aeration device, piping, and a discharge method that is in
14 accordance with rules adopted by the department of health
15 relating to household aerobic units.

16 "Cesspool" means an individual wastewater system
17 consisting of an excavation in the ground whose depth is greater
18 than its widest surface dimension, which receives untreated
19 wastewater, and retains or is designed to retain the organic
20 matter and solids discharged into it, but permits the liquid to
21 seep through its bottom or sides to gain access to the
22 underground geographic formation.

____.B. NO.____

"Qualified cesspool" means a cesspool that is[+]

~~(1) Certified by the department of health to be:~~

~~(A) Located within:~~

~~(i) Five hundred feet of a shoreline, perennial stream, or wetland; or~~

~~(ii) A source water assessment program area (two year time of travel from a cesspool to a public drinking water source);~~

~~(B) Shown to impact drinking water supplies or recreational waters; or~~

~~(C) A] a residential large capacity cesspool; or~~

(2) Certified by a county or private sewer company to be appropriate for connection to its existing sewer system.

"Qualified expenses" means costs that are necessary and directly incurred by the taxpayer for upgrading or converting a qualified cesspool into a septic system or an aerobic treatment unit system, or connecting a qualified cesspool to a sewer system, and that are certified as such by the appropriate government agency.

"Residential large capacity cesspool" means a cesspool that is connected to more than one residential dwelling.

____.B. NO.____

"Septic system" means an individual wastewater system that typically consists of a septic tank, piping, and a drainage field where there is natural biological decontamination as wastewater discharged into the system is filtered through soil.

"Sewer system" means a system of piping, with appurtenances, for collecting and conveying wastewater from source to discharge following treatment.

"Wastewater" means any liquid waste, whether or not treated and whether animal, mineral, or vegetable, including agricultural, industrial, and thermal wastes."

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

SECTION 3. This Act shall take effect upon its approval and shall be repealed on December 31, 2025.

INTRODUCED BY: _____

BY REQUEST

____.B. NO.____

Report Title:

Extends the tax credits for the upgrade, conversion, or connection of a qualified cesspool to a sewer system, and eliminates the geographical limitations for qualified cesspools.

Description:

There are cesspools that are not located within five hundred feet of shorelines, perennial streams, or wetlands. Removing these limitations and extending the tax credit to December 31, 2025, will encourage the conversion of more cesspools.

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 INVASIVE SPECIES.

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

1 SECTION 1. The legislature finds that responding quickly
2 to newly detected invasive species can often prevent the species
3 from becoming firmly established, saving taxpayers money in the
4 long term. State agencies currently lack the resources and
5 response mechanisms to deal with these newly identified threats
6 and may be missing opportunities to eliminate them. This can
7 allow invasive species to become established in the State,
8 making mitigation efforts more protracted and expensive.
9 Accordingly, the purpose of this Act is to create a paid
10 response mechanism for invasive species so that newly detected
11 threats may be immediately addressed.

12 SECTION 2. Chapter 194, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§194- Invasive species rapid response special fund.

16 (a) There is established the invasive species rapid response
17 special fund, into which will be deposited appropriations by the
18 legislature for the purposes of mitigating or eradicating newly

____.B. NO.____

1 detected invasive species threats in the State. All interest
2 earned or accrued on money deposited into the fund will become
3 part of the fund. The council shall administer the special fund
4 and may expend money in accordance with this section.

5 (b) If the council determines that one or more newly
6 detected invasive species pose a substantial threat to the
7 agriculture, commerce, economy, environment, or public health of
8 the State or otherwise warrant immediate action, the council
9 shall submit a request to the governor to declare that there
10 exists an invasive species emergency.

11 (c) Upon declaration by the governor pursuant to
12 subsection (b) that there exists an invasive species emergency,
13 the council may act in response to the emergency and may make
14 expenditures from the fund without legislative approval and
15 without regard to chapters 36, 37, 89, and 103D.

16 (d) The council shall make an account of money expended
17 from the fund and include that information in its annual report
18 to the legislature."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$_____ or so much
21 thereof as may be necessary for fiscal year 2020-2021 for
22 deposit into the invasive species rapid response special fund.

____.B. NO. _____

1 The sums appropriated shall be expended by the department
2 of land and natural resources for the purposes of this Act.

3 SECTION 4. New statutory material is underscored.

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

5 INTRODUCED BY: _____

6 BY REQUEST

7

.B. NO.

Report Title:

Invasive species rapid response fund.

Description:

Establishes a special fund to provide state agencies with the resources to respond to newly detected invasive species.

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 CESSPOOLS.

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

1 SECTION 1. The legislature finds that Act 132, Session
2 Laws of Hawaii 2018, established the cesspool conversion working
3 group to develop a long-range, comprehensive plan for conversion
4 of cesspools statewide by 2050 and commissioned a statewide
5 study of sewage contamination in nearshore marine areas to
6 further supplement studies and reports conducted by the
7 department of health on cesspools. The working group convened
8 in 2018 and has been working to meet the objectives set out in
9 Act 132; however, the working group needs an extension of the
10 lapse date of its funding and additional time to meet its
11 objectives.

12 The purpose of this Act is to:

13 (1) Extend various reporting deadlines and the sunset date
14 of the cesspool conversion working group; and

15 (2) Extend the lapse date of funds appropriated previously
16 for the comprehensive statewide study of sewage
17 contamination in nearshore marine areas and for
18 research and technical assistance necessary for

____.B. NO.____

1 completion of the comprehensive cesspool conversion
2 plan.

3 SECTION 2. Act 132, Session Laws of Hawaii 2018, is
4 amended by adding a new section to read as follows:

5 "SECTION 6. Money appropriated under sections 4 and 5 of
6 this Act shall not lapse at the end of the fiscal year for which
7 the money has been appropriated; except that any money
8 appropriated under sections 4 and 5 of this Act that are
9 unencumbered as of June 30, 2021, shall lapse on that date."

10 SECTION 3. Act 132, Session Laws of Hawaii 2018, section
11 2, is amended as follows:

12 1. By amending subsection (e) to read:

13 "(e) The cesspool conversion working group shall submit an
14 interim report of its progress, including any preliminary
15 findings and recommendations, [including] and any proposed
16 legislation, to the legislature no later than [December 31,
17 2019,] twenty days prior to the convening of the regular session
18 of 2021 and no later than twenty days prior to the convening of
19 the regular session of 2022, and shall submit a final report,
20 including findings, recommendations, and ~~[any]~~ proposed
21 legislation, to the legislature no later than ~~[twenty]~~ sixty

____.B. NO.____

1 days prior to the convening of the regular session of [~~2021.~~]
2 2023."

3 2. By amending subsection (g) to read:

4 "(g) The working group shall be dissolved on January 14,
5 [~~2021.~~] 2023."

6 SECTION 4. Act 132, Session Laws of Hawaii 2018, section
7 3, is amended by amending subsection (b) to read as follows:

8 "(b) The university of Hawaii water resources research
9 center and the department of health shall submit a report of
10 their findings and recommendations, including any proposed
11 legislation, to the cesspool conversion working group and the
12 legislature no later than [~~October 1, 2019.~~] twenty days prior
13 to the convening of the regular session of 2022."

14 SECTION 5. Act 132, Session Laws of Hawaii 2018, is
15 amended by amending section 6 to read as follows:

16 "SECTION [~~6.~~]7. This Act shall take effect on July 1,
17 2018."

18 SECTION 6. Statutory material to be repealed is bracketed
19 and in strikethrough. New statutory material is underscored.

20 SECTION 7. This Act shall take effect upon its approval.

____.B. NO.____

1

INTRODUCED BY: _____

2

BY REQUEST

3

____.B. NO.____

Report Title:

Cesspool conversion working group, extension.

Description:

Extends various reporting deadlines and the sunset date of the cesspool conversion working group; and extends the lapse date of funds appropriated previously for: the comprehensive statewide study of sewage contamination in nearshore marine areas; and for research and technical assistance necessary for completion of the comprehensive cesspool conversion plan.

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 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
16 of the board;

____.B. NO.____

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

(C) Deliberation and decision-making on the matter investigated, if any, occurs only at a duly notice meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or

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

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

(d) Board members present at a meeting that must be canceled for lack of quorum or terminated pursuant to section

____.B. NO.____

92-3.5(c) may nonetheless receive testimony and presentations on items on the agenda and question the testifiers or presenters; provided that:

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

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

(3) Before its deliberation or decision-making at a subsequent meeting, the board shall:

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

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

(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board,

____.B. NO.____

1 may attend an informational meeting or presentation on matters
2 relating to official board business, including a meeting of
3 another entity, legislative hearing, convention, seminar, or
4 community meeting open to the public; provided that the meeting
5 or presentation is not specifically and exclusively organized
6 for or directed toward members of the board. The board members
7 in attendance may participate in discussions, including
8 discussions among themselves; provided that the discussions
9 occur during and as part of the informational meeting or
10 presentation; and provided further that no commitment relating
11 to a vote on the matter is made or sought.

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

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

21 (g) Discussions between two or more members of a board and
22 the head of a department to which the board is administratively

____.B. NO.____

1 assigned may be conducted in private without limitation;
2 provided that the discussion is limited to matters specified in
3 section 26-35.

4 (h) Communications, interactions, discussions,
5 investigations, and presentations described in this section are
6 not meetings for purposes of this part.

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

10 SECTION 2. New statutory material is underscored.

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

12

13 INTRODUCED BY: _____

14 BY REQUEST

15

____.B. NO.____

Report Title:

Council members attendance of informational meetings or presentations.

Description:

Permits two or more members of a county council to attend informational meetings and presentations, allowing more councilmembers to be better informed about the issues affecting their constituents.

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 THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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

1 SECTION 1. The legislature finds that in 2013, the
2 National Transportation Safety Board recommended that all fifty
3 states adopt a Blood Alcohol Concentration (BAC) cutoff of 0.05
4 compared to the 0.08 standard. According to the National
5 Transportation Safety Board, lowering the rate to 0.05 would
6 save about five hundred to eight hundred lives annually.

7 According to the National Transportation Safety Board, a
8 driver with a BAC of 0.05 would be affected by exaggerated
9 behavior, loss of small-muscle control and eye focus, impaired
10 judgment, lowered alertness, and release of inhibition. This
11 would result in reduced coordination, reduced ability to track
12 moving objects, difficulty steering, and reduced response to
13 emergency driving situations.

14 The legislature further finds that lowering the threshold
15 of BAC cutoff to 0.05 would save lives, prevent catastrophic
16 injuries, and decrease medical costs.

17

____.B. NO.____

1 The purpose of this Act is to lower the threshold of blood-
2 alcohol content for the offense of operating a vehicle while
3 under the influence of an intoxicant.

4 SECTION 2. Section 291E-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§291E-3 Evidence of intoxication. (a) In any criminal
7 prosecution for a violation of section 291E-61 or 291E-61.5 or
8 in any proceeding under part III:

9 (1) [~~.08~~] .05 or more grams of alcohol per one hundred
10 milliliters or cubic centimeters of the person's
11 blood;

12 (2) [~~.08~~] .05 or more grams of alcohol per two hundred ten
13 liters of the person's breath; or

14 (3) The presence of one or more drugs in an amount
15 sufficient to impair the person's ability to operate a
16 vehicle in a careful and prudent manner,

17 within three hours after the time of the alleged violation as
18 shown by chemical analysis or other approved analytical

19 techniques of the person's blood, breath, or urine shall be

20 competent evidence that the person was under the influence of an

21 intoxicant at the time of the alleged violation.

____.B. NO.____

1 (b) In any criminal prosecution for a violation of section
2 291E-61 or 291E-61.5, the amount of alcohol found in the
3 defendant's blood or breath within three hours after the time of
4 the alleged violation as shown by chemical analysis or other
5 approved analytical techniques of the defendant's blood or
6 breath shall be competent evidence concerning whether the
7 defendant was under the influence of an intoxicant at the time
8 of the alleged violation and shall give rise to the following
9 presumptions:

10 (1) If there were [~~.05~~] .02 or less grams of alcohol per
11 one hundred milliliters or cubic centimeters of
12 defendant's blood or [~~.05~~] .02 or less grams of
13 alcohol per two hundred ten liters of defendant's
14 breath, it shall be presumed that the defendant was
15 not under the influence of alcohol at the time of the
16 alleged violation; and

17 (2) If there were in excess of [~~.05~~] .02 grams of alcohol
18 per one hundred milliliters or cubic centimeters of
19 defendant's blood or [~~.05~~] .02 grams of alcohol per
20 two hundred ten liters of defendant's breath, but less
21 than [~~.05~~] .05 grams of alcohol per one hundred
22 milliliters or cubic centimeters of defendant's blood

____.B. NO._____

1 or [~~.00~~] .05 grams of alcohol per two hundred ten
2 liters of defendant's breath, that fact may be
3 considered with other competent evidence in
4 determining whether the defendant was under the
5 influence of alcohol at the time of the alleged
6 violation, but shall not of itself give rise to any
7 presumption.

8 (c) Nothing in this section shall be construed as limiting
9 the introduction, in any criminal proceeding for a violation
10 under section 291E-61 or 291E-61.5 or in any proceeding under
11 part III, of relevant evidence of a person's alcohol
12 concentration or drug content obtained more than three hours
13 after an alleged violation; provided that the evidence is
14 offered in compliance with the Hawaii rules of evidence."

15 SECTION 3. Section 291E-61, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A person commits the offense of operating a vehicle
18 under the influence of an intoxicant if the person operates or
19 assumes actual physical control of a vehicle:

20 (1) While under the influence of alcohol in an amount
21 sufficient to impair the person's normal mental

____.B. NO.____

1 faculties or ability to care for the person and guard
2 against casualty;

3 (2) While under the influence of any drug that impairs the
4 person's ability to operate the vehicle in a careful
5 and prudent manner;

6 (3) With [~~0.08~~] 0.05 or more grams of alcohol per two
7 hundred ten liters of breath; or

8 (4) With [~~0.8~~] 0.05 or more grams of alcohol per one
9 hundred milliliters or cubic centimeters of blood."

10 SECTION 4. Section 291E-61.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) A person commits the offense of habitually operating a
13 vehicle under the influence of an intoxicant if:

14 (1) The person is a habitual operator of a vehicle while
15 under the influence of an intoxicant; and

16 (2) The person operates or assumes actual physical control
17 of a vehicle:

18 (A) While under the influence of alcohol in an amount
19 sufficient to impair the person's normal mental
20 faculties or ability to care for the person and
21 guard against casualty;

____.B. NO. _____

- 1 (B) While under the influence of any drug that
2 impairs the person's ability to operate the
3 vehicle in a careful and prudent manner;
4 (C) With [~~0.8~~] 0.05 or more grams of alcohol per two
5 hundred ten liters of breath; or
6 (D) With [~~0.8~~] 0.05 or more grams of alcohol per one
7 hundred milliliters or cubic centimeters of
8 blood."

9 SECTION 5. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15 INTRODUCED BY: _____

16 BY REQUEST

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____.B. NO.____

Report Title:

Lowers the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant.

Description:

A driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition, resulting in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations. Lowering the threshold of Blood Alcohol Concentration to 0.05, from 0.08, would save lives, prevent catastrophic injuries, and decrease medical costs.

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____.B. NO. _____

A BILL FOR AN ACT

RELATING TO SEA LEVEL RISE.

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

1 SECTION 1. The legislature finds that Hawaii is already
2 experiencing the impacts of climate change, including rising sea
3 levels, extreme tides, accelerated coastal erosion, and
4 stronger, more frequent storms. Even with decisive actions to
5 reduce greenhouse gas emissions, many of the impacts of climate
6 change are inescapable, and must be adapted to.

7 The Hawaii Climate Adaptation Initiative was established in
8 2014 with the purpose of protecting the State's economy, health,
9 environment, and way of life by considering how to best adapt to
10 and mitigate the impacts of climate change. In December 2017,
11 the Hawaii climate change mitigation and adaptation commission
12 produced the first Hawaii sea level rise vulnerability and
13 adaptation report. The report identified areas that are
14 susceptible to sea level rise impacts and urged immediate
15 preparation for a 3.2-foot increase in sea level by 2060. The
16 report also made a number of recommendations to state and county
17 agencies based on emerging good practices, designed to

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1 strengthen Hawaii's overall readiness to face sea level rise and
2 climate change.

3 The purpose of this Act is to increase funding and direct
4 the Hawaii climate change mitigation and adaptation commission
5 to address impacted areas, further progress towards addressing
6 the impacts of sea level rise, to identify critical public
7 infrastructure in impacted areas, to create a plan for
8 mitigation and adaptation to sea level rise, and to provide
9 policy direction to the legislature about how to move forward
10 with concrete strategies.

11 SECTION 2. (a) The Hawaii climate change mitigation and
12 adaptation commission shall:

13 (1) Conduct a thorough inventory of critical public
14 infrastructure, existing or planned, both constructed
15 and natural, and determine if the infrastructure is in
16 or near an area that is vulnerable to the impacts of
17 sea level rise, and analyze predicted impacts of sea
18 level rise to identified vulnerable infrastructure;

19 (2) Identify priority areas throughout the State that will
20 be subject to high rates of coastal erosion and sea
21 level rise, including public infrastructure and
22 private properties;

____.B. NO.____

(3) Design and propose sea level rise impact zone maps to be adopted by the legislature and provide a guidepost for future sea level rise adaptation policies;

(4) Work with state and county agencies to develop sea level rise adaptation plans in accordance with the sea level rise vulnerability and adaptation report; and

(5) Make specific recommendations to the legislature for policies that may be adopted for managed retreat, relocation of infrastructure, or mitigation measures to minimize the impacts of sea level rise for public infrastructure and private properties, including information regarding how these recommendations may be funded and consideration of sea level rise policies implemented in other states and nations.

(b) The Hawaii climate change mitigation and adaptation commission shall submit a report of its findings and recommendations to the legislature not later than twenty days prior to the convening of the regular session of 2022.

SECTION 3. 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 2020-2021 to support the Hawaii climate change mitigation and adaptation

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1 commission to conduct its activities as required by section 2 of
2 this Act.

3 The sum appropriated shall be expended by the department of
4 land and natural resources for the purposes of this Act.

5 SECTION 4. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$_____ or so
7 much thereof as may be necessary for fiscal year 2020-2021 to
8 fund the climate change mitigation and adaptation coordinator
9 position established by Act 32, Session Laws of Hawaii 2017.

10 The sum appropriated shall be expended by the department of
11 land and natural resources for the purposes of this Act.

12 SECTION 5. This Act shall take effect on July 1, 2020.

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14 INTRODUCED BY: _____

15 BY REQUEST

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____.B. NO.____

Report Title:

Hawaii climate change mitigation and adaptation commission funding.

Description:

The Hawaii Climate Adaptation Initiative was established in 2014 with the purpose of protecting the State's economy, health, environment, and way of life by considering how to best adapt to and mitigate the impacts of climate change. The Hawaii climate change mitigation and adaptation commission produced the first Hawaii sea level rise vulnerability and adaptation report in 2017, identifying areas that are susceptible to sea level rise impacts and urging immediate preparation for a 3.2-foot increase in sea level by 2060, and recommending actions for state and county agencies designed to strengthen Hawaii's overall readiness to face sea level rise and climate change.

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 HOUSING.

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

1 SECTION 1. The forty-five day window for a legislative
2 body to approve, approve with modification, or disapprove an
3 affordable housing project is too short to have a meaningful
4 discussion of the project. Allowing ninety days will provide an
5 expedited review while allowing the legislative body of a county
6 to do its due diligence in evaluating a project.

7 SECTION 2. Section 201H-38, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 “(a) The corporation may develop on behalf of the State or
10 with an eligible developer, or may assist under a government
11 assistance program in the development of, housing projects that
12 shall be exempt from all statutes, ordinances, charter
13 provisions, and rules of any government agency relating to
14 planning, zoning, construction standards for subdivisions,
15 development and improvement of land, and the construction of
16 dwelling units thereon; provided that:

17 (1) The corporation finds the housing project is
18 consistent with the purpose and intent of this

____.B. NO. _____

chapter, and meets minimum requirements of health and safety;

(2) The development of the proposed housing project does not contravene any safety standards, tariffs, or rates and fees approved by the public utilities commission for public utilities or of the various boards of water supply authorized under chapter 54;

(3) The legislative body of the county in which the housing project is to be situated shall have approved the project with or without modifications:

a. The legislative body shall approve, approve with modification, or disapprove the project by resolution within [~~forty-five~~] ninety days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the [~~forty-sixth~~] ninety-first day a project is not disapproved, it shall be deemed approved by the legislative body;

b. No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving,

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1 modifying, or disapproving the plans and
2 specifications; and

3 c. The final plans and specifications for the project
4 shall be deemed approved by the legislative body if
5 the final plans and specifications do not
6 substantially deviate from the preliminary plans and
7 specifications. The final plans and specifications
8 for the project shall constitute the zoning,
9 building, construction, and subdivision standards
10 for that project. For purposes of sections 501-85
11 and 502-17, the executive director of the
12 corporation or the responsible county official may
13 certify maps and plans of lands connected with the
14 project as having complied with applicable laws and
15 ordinances relating to consolidation and subdivision
16 of lands, and the maps and plans shall be accepted
17 for registration or recordation by the land court
18 and registrar; and

19 (4) The land use commission shall approve, approve with
20 modification, or disapprove a boundary change within
21 forty-five days after the corporation has submitted a
22 petition to the commission as provided in section 205-

____.B. NO. _____

1 4. If, on the forty-sixth day, the petition is not
2 disapproved, it shall be deemed approved by the
3 commission."

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

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

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8 INTRODUCED BY: _____

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____.B. NO. _____

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS.

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

1 SECTION 1. Illegal and unregulated transient
2 accommodations have caused detrimental impacts to the State's
3 housing supply. Accordingly, the purpose of this act is to
4 allow the counties to regulate hosting platforms, thereby
5 preventing further proliferation of illegal transient
6 accommodations and preserving residential housing.

7 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§46-1.5 General powers and limitation of the counties.
10 Subject to general law, each county shall have the following
11 powers and shall be subject to the following liabilities and
12 limitations:

13 (1) Each county shall have the power to frame and adopt a
14 charter for its own self-government that shall establish the
15 county executive, administrative, and legislative structure and
16 organization, including but not limited to the method of
17 appointment or election of officials, their duties,

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1 responsibilities, and compensation, and the terms of their
2 office;

3 (2) Each county shall have the power to provide for and
4 regulate the marking and lighting of all buildings and other
5 structures that may be obstructions or hazards to aerial
6 navigation, so far as may be necessary or proper for the
7 protection and safeguarding of life, health, and property;

8 (3) Each county shall have the power to enforce all claims
9 on behalf of the county and approve all lawful claims against
10 the county, but shall be prohibited from entering into,
11 granting, or making in any manner any contract, authorization,
12 allowance payment, or liability contrary to the provisions of
13 any county charter or general law;

14 (4) Each county shall have the power to make contracts and
15 to do all things necessary and proper to carry into execution
16 all powers vested in the county or any county officer;

17 (5) Each county shall have the power to:

18 (A) Maintain channels, whether natural or artificial,
19 including their exits to the ocean, in suitable
20 condition to carry off storm waters;

21 (B) Remove from the channels, and from the shores and
22 beaches, any debris that is likely to create an

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1 unsanitary condition or become a public nuisance;
2 provided that, to the extent any of the foregoing
3 work is a private responsibility, the
4 responsibility may be enforced by the county in
5 lieu of the work being done at public expense;

6 (C) Construct, acquire by gift, purchase, or by the
7 exercise of eminent domain, reconstruct, improve,
8 better, extend, and maintain projects or
9 undertakings for the control of and protection
10 against floods and flood waters, including the
11 power to drain and rehabilitate lands already
12 flooded;

13 (D) Enact zoning ordinances providing that lands
14 deemed subject to seasonable, periodic, or
15 occasional flooding shall not be used for
16 residence or other purposes in a manner as to
17 endanger the health or safety of the occupants
18 thereof, as required by the Federal Flood
19 Insurance Act of 1956 (chapter 1025, Public Law
20 1016); and

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1 (E) Establish and charge user fees to create and
2 maintain any stormwater management system or
3 infrastructure;

4 (6) Each county shall have the power to exercise the power
5 of condemnation by eminent domain when it is in the public
6 interest to do so;

7 (7) Each county shall have the power to exercise
8 regulatory powers over business activity as are assigned to them
9 by chapter 445 or other general law;

10 (8) Each county shall have the power to fix the fees and
11 charges for all official services not otherwise provided for;

12 (9) Each county shall have the power to provide by
13 ordinance assessments for the improvement or maintenance of
14 districts within the county;

15 (10) Except as otherwise provided, no county shall have
16 the power to give or loan credit to, or in aid of, any person or
17 corporation, directly or indirectly, except for a public
18 purpose;

19 (11) Where not within the jurisdiction of the public
20 utilities commission, each county shall have the power to
21 regulate by ordinance the operation of motor vehicle common
22 carriers transporting passengers within the county and adopt and

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1 amend rules the county deems necessary for the public
2 convenience and necessity;

3 (12) Each county shall have the power to enact and enforce
4 ordinances necessary to prevent or summarily remove public
5 nuisances and to compel the clearing or removal of any public
6 nuisance, refuse, and uncultivated undergrowth from streets,
7 sidewalks, public places, and unoccupied lots. In connection
8 with these powers, each county may impose and enforce liens upon
9 the property for the cost to the county of removing and
10 completing the necessary work where the property owners fail,
11 after reasonable notice, to comply with the ordinances. The
12 authority provided by this paragraph shall not be self-
13 executing, but shall become fully effective within a county only
14 upon the enactment or adoption by the county of appropriate and
15 particular laws, ordinances, or rules defining "public
16 nuisances" with respect to each county's respective
17 circumstances. The counties shall provide the property owner
18 with the opportunity to contest the summary action and to
19 recover the owner's property;

20 (13) Each county shall have the power to enact ordinances
21 deemed necessary to protect health, life, and property, and to
22 preserve the order and security of the county and its

____.B. NO. _____

1 inhabitants on any subject or matter not inconsistent with, or
2 tending to defeat, the intent of any state statute where the
3 statute does not disclose an express or implied intent that the
4 statute shall be exclusive or uniform throughout the State;

5 (14) Each county shall have the power to:

6 (A) Make and enforce within the limits of the county
7 all necessary ordinances covering all:

8 (i) Local police matters;

9 (ii) Matters of sanitation;

10 (iii) Matters of inspection of buildings;

11 (iv) Matters of condemnation of unsafe

12 structures, plumbing, sewers, dairies, milk,

13 fish, and morgues; and

14 (v) Matters of the collection and disposition of
15 rubbish and garbage;

16 (B) Provide exemptions for homeless facilities and
17 any other program for the homeless authorized by
18 part XVII of chapter 346, for all matters under
19 this paragraph;

20 (C) Appoint county physicians and sanitary and other
21 inspectors as necessary to carry into effect
22 ordinances made under this paragraph, who shall

____.B. NO. _____

1 have the same power as given by law to agents of
2 the department of health, subject only to
3 limitations placed on them by the terms and
4 conditions of their appointments; and

5 (D) Fix a penalty for the violation of any ordinance,
6 which penalty may be a misdemeanor, petty
7 misdemeanor, or violation as defined by general
8 law;

9 (15) Each county shall have the power to provide public
10 pounds; to regulate the impounding of stray animals and fowl,
11 and their disposition; and to provide for the appointment,
12 powers, duties, and fees of animal control officers;

13 (16) Each county shall have the power to purchase and
14 otherwise acquire, lease, and hold real and personal property
15 within the defined boundaries of the county and to dispose of
16 the real and personal property as the interests of the
17 inhabitants of the county may require, except that:

18 (A) Any property held for school purposes may not be
19 disposed of without the consent of the
20 superintendent of education;

21 (B) No property bordering the ocean shall be sold or
22 otherwise disposed of; and

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(C) All proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes;

(17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State;

(18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of:

- (A) Community promotion and public celebrations;
- (B) The entertainment of distinguished persons as may from time to time visit the county;
- (C) The entertainment of other distinguished persons, as well as, public officials when deemed to be in the best interest of the community; and
- (D) The rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance;

(19) Each county shall have the power to:

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- (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, waterworks, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings, and manage, regulate, and control the same;
- (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephone, and telecommunications service to the county;
- (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways, and for flushing the sewers; and
- (D) Open, close, construct, or maintain county highways or charge toll on county highways; provided that all revenues received from a toll

____.B. NO. _____

1 charge shall be used for the construction or
2 maintenance of county highways;

3 (20) Each county shall have the power to regulate the
4 renting, subletting, and rental conditions of property for
5 places of abode by ordinance;

6 (21) Unless otherwise provided by law, each county shall
7 have the power to establish by ordinance the order of succession
8 of county officials in the event of a military or civil
9 disaster;

10 (22) Each county shall have the power to sue and be sued
11 in its corporate name;

12 (23) Each county shall have the power to establish and
13 maintain waterworks and sewer works; to collect rates for water
14 supplied to consumers and for the use of sewers; to install
15 water meters whenever deemed expedient; provided that owners of
16 premises having vested water rights under existing laws
17 appurtenant to the premises shall not be charged for the
18 installation or use of the water meters on the premises; to take
19 over from the State existing waterworks systems, including water
20 rights, pipelines, and other appurtenances belonging thereto,
21 and sewer systems, and to enlarge, develop, and improve the
22 same;

____.B. NO. _____

1 (24) (A) Each county may impose civil fines, in addition
2 to criminal penalties, for any violation of
3 county ordinances or rules after reasonable
4 notice and requests to correct or cease the
5 violation have been made upon the violator. Any
6 administratively imposed civil fine shall not be
7 collected until after an opportunity for a
8 hearing under chapter 91. Any appeal shall be
9 filed within thirty days from the date of the
10 final written decision. These proceedings shall
11 not be a prerequisite for any civil fine or
12 injunctive relief ordered by the circuit court;

13 (B) Each county by ordinance may provide for the
14 addition of any unpaid civil fines, ordered by
15 any court of competent jurisdiction, to any
16 taxes, fees, or charges, with the exception of
17 fees or charges for water for residential use and
18 sewer charges, collected by the county. Each
19 county by ordinance may also provide for the
20 addition of any unpaid administratively imposed
21 civil fines, which remain due after all judicial
22 review rights under section 91-14 are exhausted,

____.B. NO. _____

1 to any taxes, fees, or charges, with the
2 exception of water for residential use and sewer
3 charges, collected by the county. The ordinance
4 shall specify the administrative procedures for
5 the addition of the unpaid civil fines to the
6 eligible taxes, fees, or charges and may require
7 hearings or other proceedings. After addition of
8 the unpaid civil fines to the taxes, fees, or
9 charges, the unpaid civil fines shall not become
10 a part of any taxes, fees, or charges. The
11 county by ordinance may condition the issuance or
12 renewal of a license, approval, or permit for
13 which a fee or charge is assessed, except for
14 water for residential use and sewer charges, on
15 payment of the unpaid civil fines. Upon
16 recordation of a notice of unpaid civil fines in
17 the bureau of conveyances, the amount of the
18 civil fines, including any increase in the amount
19 of the fine which the county may assess, shall
20 constitute a lien upon all real property or
21 rights to real property belonging to any person
22 liable for the unpaid civil fines. The lien in

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1 favor of the county shall be subordinate to any
2 lien in favor of any person recorded or
3 registered prior to the recordation of the notice
4 of unpaid civil fines and senior to any lien
5 recorded or registered after the recordation of
6 the notice. The lien shall continue until the
7 unpaid civil fines are paid in full or until a
8 certificate of release or partial release of the
9 lien, prepared by the county at the owner's
10 expense, is recorded. The notice of unpaid civil
11 fines shall state the amount of the fine as of
12 the date of the notice and maximum permissible
13 daily increase of the fine. The county shall not
14 be required to include a social security number,
15 state general excise taxpayer identification
16 number, or federal employer identification number
17 on the notice. Recordation of the notice in the
18 bureau of conveyances shall be deemed, at such
19 time, for all purposes and without any further
20 action, to procure a lien on land registered in
21 land court under chapter 501. After the unpaid
22 civil fines are added to the taxes, fees, or

____.B. NO. _____

1 charges as specified by county ordinance, the
2 unpaid civil fines shall be deemed immediately
3 due, owing, and delinquent and may be collected
4 in any lawful manner. The procedure for
5 collection of unpaid civil fines authorized in
6 this paragraph shall be in addition to any other
7 procedures for collection available to the State
8 and county by law or rules of the courts;

9 (C) Each county may impose civil fines upon any
10 person who places graffiti on any real or
11 personal property owned, managed, or maintained
12 by the county. The fine may be up to \$1,000 or
13 may be equal to the actual cost of having the
14 damaged property repaired or replaced. The
15 parent or guardian having custody of a minor who
16 places graffiti on any real or personal property
17 owned, managed, or maintained by the county shall
18 be jointly and severally liable with the minor
19 for any civil fines imposed hereunder. Any such
20 fine may be administratively imposed after an
21 opportunity for a hearing under chapter 91, but
22 such a proceeding shall not be a prerequisite for

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any civil fine ordered by any court. As used in this subparagraph, "graffiti" means any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances;

(D) At the completion of an appeal in which the county's enforcement action is affirmed and upon correction of the violation if requested by the violator, the case shall be reviewed by the county agency that imposed the civil fines to determine the appropriateness of the amount of the civil fines that accrued while the appeal proceedings were pending. In its review of the amount of the accrued fines, the county agency may consider:

(i) The nature and egregiousness of the violation;

(ii) The duration of the violation;

(iii) The number of recurring and other similar violations;

(iv) Any effort taken by the violator to correct the violation;

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(v) The degree of involvement in causing or continuing the violation;

(vi) Reasons for any delay in the completion of the appeal; and

(vii) Other extenuating circumstances.

The civil fine that is imposed by administrative order after this review is completed and the violation is corrected shall be subject to judicial review, notwithstanding any provisions for administrative review in county charters;

(E) After completion of a review of the amount of accrued civil fine by the county agency that imposed the fine, the amount of the civil fine determined appropriate, including both the initial civil fine and any accrued daily civil fine, shall immediately become due and collectible following reasonable notice to the violator. If no review of the accrued civil fine is requested, the amount of the civil fine, not to exceed the total accrual of civil fine prior to correcting the violation, shall immediately become due and collectible following reasonable

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1 notice to the violator, at the completion of all
2 appeal proceedings;

3 (F) If no county agency exists to conduct appeal
4 proceedings for a particular civil fine action
5 taken by the county, then one shall be
6 established by ordinance before the county shall
7 impose the civil fine;

8 (25) Any law to the contrary notwithstanding, any county
9 mayor, by executive order, may exempt donors, provider agencies,
10 homeless facilities, and any other program for the homeless
11 under part XVII of chapter 346 from real property taxes, water
12 and sewer development fees, rates collected for water supplied
13 to consumers and for use of sewers, and any other county taxes,
14 charges, or fees; provided that any county may enact ordinances
15 to regulate and grant the exemptions granted by this paragraph;

16 (26) Any county may establish a captive insurance company
17 pursuant to article 19, chapter 431; [and]

18 (27) Each county shall have the power to enact and enforce
19 ordinances regulating towing operations[.]; and

20 (28) Any law to the contrary notwithstanding, each county
21 has the power to enact and enforce ordinances regulating the
22 operation of hosting platforms providing booking services for

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1 transient accommodation operators located within the county.

2 For purposes of this section:

3 (A) "Booking service" means any reservation or
4 payment service provided by a person who
5 facilitates a transient accommodations
6 transaction between a prospective transient user
7 and a host.

8 (B) "Hosting platform" means a person who
9 participates in the transient accommodations
10 business by collecting or receiving a fee,
11 directly or indirectly through an agent or
12 intermediary, for conducting a booking
13 transaction using any medium of facilitation."

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

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

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A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§46-16.8 County surcharge on state tax.

4 (a) Each county may establish a surcharge on state tax at
5 the rates enumerated in sections 237-8.6 and 238-2.6. A county
6 electing to establish this surcharge shall do so by ordinance;
7 provided that:

8 (1) No ordinance shall be adopted until the county
9 has conducted a public hearing on the proposed ordinance;

10 (2) The ordinance shall be adopted prior to December
11 31, 2005; and

12 (3) No county surcharge on state tax that may be
13 authorized under this subsection shall be levied prior to
14 January 1, 2007, or after December 31, 2022, unless
15 extended pursuant to subsection (b).

16 Notice of the public hearing required under paragraph (1) shall
17 be published in a newspaper of general circulation within the
18 county at least twice within a period of thirty days immediately
19 preceding the date of the hearing.

20 A county electing to exercise the authority granted under
21 this subsection shall notify the director of taxation within ten
22 days after the county has adopted a surcharge on state tax
23 ordinance and, beginning no earlier than January 1, 2007, the
24 director of taxation shall levy, assess, collect, and otherwise
25 administer the county surcharge on state tax.

26 (b) Each county that has established a surcharge on state
27 tax prior to July 1, 2015, under authority of subsection (a) may
28 extend the surcharge until December 31, 2030, at the same rates.
29 A county electing to extend this surcharge shall do so by
30 ordinance; provided that:

31 (1) No ordinance shall be adopted until the county
32 has conducted a public hearing on the proposed ordinance;
33 and

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(2) The ordinance shall be adopted prior to January 1, 2018.

A county electing to exercise the authority granted under this subsection shall notify the director of taxation within ten days after the county has adopted an ordinance extending the surcharge on state tax. The director of taxation shall levy, assess, collect, and otherwise administer the extended surcharge on state tax.

(c) Each county that has not established a surcharge on state tax prior to July 1, 2015, may establish the surcharge at the rates enumerated in sections 237-8.6 and 238-2.6. A county electing to establish this surcharge shall do so by ordinance; provided that:

(1) No ordinance shall be adopted until the county has conducted a public hearing on the proposed ordinance;

(2) The ordinance shall be adopted prior to ~~[March 31, 2019]~~ June 30, 2021; and

(3) No county surcharge on state tax that may be authorized under this subsection shall be levied prior to January 1, 2019, or after December 31, 2030.

A county electing to exercise the authority granted under this subsection shall notify the director of taxation within ten days after the county has adopted a surcharge on state tax ordinance. Beginning ~~[on]~~ no earlier than January 1, 2019, ~~[or January 1, 2020,]~~ as applicable pursuant to sections 237-8.6 and 238-2.6, the director of taxation shall levy, assess, collect, and otherwise administer the county surcharge on state tax.

(d) Notice of the public hearing required under subsection (b) or (c) before adoption of an ordinance establishing or extending the surcharge on state tax shall be published in a newspaper of general circulation within the county at least twice within a period of thirty days immediately preceding the date of the hearing.

(e) Each county with a population greater than five hundred thousand that adopts or extends a county surcharge on state tax ordinance pursuant to subsection (a) or (b) shall use the surcharge revenues received from the State for capital costs of a locally preferred alternative for a mass transit project; provided that revenues derived from the county surcharge on state tax shall not be used:

(1) To build or repair public roads or highways, bicycle paths, or support public transportation systems already in existence prior to July 12, 2005;

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(2) For operating costs or maintenance costs of the mass transit project or any purpose not consistent with this subsection; or

(3) For administrative or operating, marketing, or maintenance costs, including personnel costs, of a rapid transportation authority charged with the responsibility for constructing, operating, or maintaining the mass transit project; provided further that nothing in this section shall be construed to prohibit a county from using county funds that are not derived from a surcharge on state tax for a purpose described in paragraph (2) or (3).

(f) Each county with a population equal to or less than five hundred thousand that adopts a county surcharge on state tax ordinance pursuant to this section shall use the surcharges received from the State for:

(1) Operating or capital costs of public transportation within each county for public transportation systems, including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths; and

(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to paragraph (1).

(g) As used in this section, "capital costs" means nonrecurring costs required to construct a transit facility or system, including debt service, costs of land acquisition and development, acquiring of rights-of-way, planning, design, and construction, and including equipping and furnishing the facility or system. For a county with a population greater than five hundred thousand, capital costs also include non-recurring personal services and other overhead costs that are not intended to continue after completion of construction of the minimum operable segment of the locally preferred alternative for a mass transit project."

SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is amended to read as follows:

"§237-8.6 County surcharge on state tax; administration.

(a) The county surcharge on state tax, upon the adoption of county ordinances and in accordance with the requirements of section 46-16.8, shall be levied, assessed, and collected as provided in this section on all gross proceeds and gross income taxable under this chapter. No county shall set the surcharge

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1 on state tax at a rate greater than one-half per cent of all
2 gross proceeds and gross income taxable under this chapter. All
3 provisions of this chapter shall apply to the county surcharge
4 on state tax. With respect to the surcharge, the director of
5 taxation shall have all the rights and powers provided under
6 this chapter. In addition, the director of taxation shall have
7 the exclusive rights and power to determine the county or
8 counties in which a person is engaged in business and, in the
9 case of a person engaged in business in more than one county,
10 the director shall determine, through apportionment or other
11 means, that portion of the surcharge on state tax attributable
12 to business conducted in each county.

13 (b) Each county surcharge on state tax that may be adopted
14 or extended pursuant to section 46-16.8 shall be levied
15 beginning in a taxable year after the adoption of the relevant
16 county ordinance; provided that no surcharge on state tax may be
17 levied:

18 (1) Prior to:

19 (A) January 1, 2007, if the county surcharge on
20 state tax was established by an ordinance adopted
21 prior to December 31, 2005;

22 (B) January 1, 2019, if the county surcharge on
23 state tax was established by the adoption of an
24 ordinance after June 30, 2015, but prior to June 30,
25 2018; or

26 (C) January 1, 2020, if the county surcharge on
27 state tax was established by the adoption of an
28 ordinance on or after June 30, 2018, but prior to
29 March 31, 2019; [and]

30 (D) January 1, 2021, if the county surcharge on
31 state tax was established by the adoption of an
32 ordinance on or after March 31, 2019, but prior to
33 June 30, 2020;

34 (E) January 1, 2022, if the county surcharge on
35 state tax was established by the adoption of an
36 ordinance on or after June 30, 2020, but prior to June
37 30, 2021; and

38 (2) After December 31, 2030.

39 (c) The county surcharge on state tax, if adopted, shall be
40 imposed on the gross proceeds or gross income of all written
41 contracts that require the passing on of the taxes imposed under
42 this chapter; provided that if the gross proceeds or gross
43 income are received as payments beginning in the taxable year in
44 which the taxes become effective, on contracts entered into

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1 before June 30 of the year prior to the taxable year in which
2 the taxes become effective, and the written contracts do not
3 provide for the passing on of increased rates of taxes, the
4 county surcharge on state tax shall not be imposed on the gross
5 proceeds or gross income covered under the written
6 contracts. The county surcharge on state tax shall be imposed
7 on the gross proceeds or gross income from all contracts entered
8 into on or after June 30 of the year prior to the taxable year
9 in which the taxes become effective, regardless of whether the
10 contract allows for the passing on of any tax or any tax
11 increases.

12 (d) No county surcharge on state tax shall be established
13 on any:

14 (1) Gross income or gross proceeds taxable under this
15 chapter at the one-half per cent tax rate;

16 (2) Gross income or gross proceeds taxable under this
17 chapter at the 0.15 per cent tax rate; or

18 (3) Transactions, amounts, persons, gross income, or
19 gross proceeds exempt from tax under this chapter.

20 (e) The director of taxation shall revise the general
21 excise tax forms to provide for the clear and separate
22 designation of the imposition and payment of the county
23 surcharge on state tax.

24 (f) The taxpayer shall designate the taxation district to
25 which the county surcharge on state tax is assigned in
26 accordance with rules adopted by the director of taxation under
27 chapter 91. The taxpayer shall file a schedule with the
28 taxpayer's periodic and annual general excise tax returns
29 summarizing the amount of taxes assigned to each taxation
30 district.

31 (g) The penalties provided by section 231-39 for failure to
32 file a tax return shall be imposed on the amount of surcharge
33 due on the return being filed for the failure to file the
34 schedule required to accompany the return. In addition, there
35 shall be added to the tax an amount equal to ten per cent of the
36 amount of the surcharge and tax due on the return being filed
37 for the failure to file the schedule or the failure to correctly
38 report the assignment of the general excise tax by taxation
39 district on the schedule required under this subsection.

40 (h) All taxpayers who file on a fiscal year basis whose
41 fiscal year ends after December 31 of the year prior to the
42 taxable year in which the taxes become effective, shall file a
43 short period annual return for the period preceding January 1 of
44 the taxable year in which the taxes become effective. Each

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1 fiscal year taxpayer shall also file a short period annual
2 return for the period starting on January 1 of the taxable year
3 in which the taxes become effective, and ending before January 1
4 of the following year."

5
6 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§238-2.6 County surcharge on state tax; administration.**

9 (a) The county surcharge on state tax, upon the adoption
10 of a county ordinance and in accordance with the requirements of
11 section 46-16.8, shall be levied, assessed, and collected as
12 surcharge on state tax at a rate greater than one-half per cent
13 of the value of property taxable under this chapter. All
14 provisions of this chapter shall apply to the county surcharge
15 on state tax. With respect to the surcharge, the director shall
16 have all the rights and powers provided under this chapter. In
17 addition, the director of taxation shall have the exclusive
18 rights and power to determine the county or counties in which a
19 person imports or purchases property and, in the case of a
20 person importing or purchasing property in more than one county,
21 the director shall determine, through apportionment or other
22 means, that portion of the surcharge on state tax attributable
23 to the importation or purchase in each county.

24 (b) Each county surcharge on state tax that may be adopted
25 or extended shall be levied beginning in a taxable year after
26 the adoption of the relevant county ordinance; provided that no
27 surcharge on state tax may be levied:

28 (1) Prior to:

29 (A) January 1, 2007, if the county surcharge on
30 state tax was established by an ordinance adopted
31 prior to December 31, 2005;

32 (B) January 1, 2019, if the county surcharge on
33 state tax was established by the adoption of an
34 ordinance after June 30, 2015, but prior to June 30,
35 2018; or

36 (C) January 1, 2020, if the county surcharge on
37 state tax was established by the adoption of an
38 ordinance on or after June 30, 2018, but prior to
39 March 31, 2019; [and]

40 (D) January 1, 2021, if the county surcharge on
41 state tax was established by the adoption of an

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1 ordinance on or after March 31, 2019, but prior to
2 June 30, 2020;

3 (E) January 1, 2022, if the county surcharge on
4 state tax was established by the adoption of an
5 ordinance on or after June 30, 2020, but prior to June
6 30, 2021; and

7 (2) After December 31, 2030.

8 (c) No county surcharge on state tax shall be established
9 upon any use taxable under this chapter at the one-half per cent
10 tax rate or upon any use that is not subject to taxation or that
11 is exempt from taxation under this chapter.

12 (d) The director of taxation shall revise the use tax
13 forms to provide for the clear and separate designation of the
14 imposition and payment of the county surcharge on state tax.

15 (e) The taxpayer shall designate the taxation district to
16 which the county surcharge on state tax is assigned in
17 accordance with rules adopted by the director of taxation under
18 chapter 91. The taxpayer shall file a schedule with the
19 taxpayer's periodic and annual use tax returns summarizing the
20 amount of taxes assigned to each taxation district.

21 (f) The penalties provided by section 231-39 for failure
22 to file a tax return shall be imposed on the amount of surcharge
23 due on the return being filed for the failure to file the
24 schedule required to accompany the return. In addition, there
25 shall be added to the tax an amount equal to ten per cent of the
26 amount of the surcharge and tax due on the return being filed
27 for the failure to file the schedule or the failure to correctly
28 report the assignment of the use tax by taxation district on the
29 schedule required under this subsection.

30 (g) All taxpayers who file on a fiscal year basis whose
31 fiscal year ends after December 31 of the year prior to the
32 taxable year in which the taxes become effective, shall file a
33 short period annual return for the period preceding January 1 of
34 the taxable year in which the taxes become effective. Each
35 fiscal year taxpayer shall also file a short period annual
36 return for the period starting on January 1 of the taxable year
37 in which the taxes become effective, and ending before January 1
38 of the following year.

39
40 SECTION 4. Statutory material to be deleted is bracketed
41 and in strikethrough. New statutory material is underscored.

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

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INTRODUCED BY: _____

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