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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Agriculture
Wednesday, February 3, 2021
10:00 a.m.
Via Videoconference**

**On the following measure:
H.B. 549, RELATING TO MEASUREMENT STANDARDS**

Chair Hashem and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department opposes this bill, which transfers the oversight and regulation of Hawaii Revised Statutes chapter 486 (Measurement Standards) in the State from the Department of Agriculture to the DCCA.

A cursory review of chapter 486 and its administrative rules reveals both the breadth and complexity of the work that must be performed to implement the measurement standards laws. The Department of Agriculture currently implements chapter 486 through its Quality Assurance Division, Commodities Branch and Measurement Standards Branch. The Commodities Branch assists in the development of agricultural industries through, among other things, quality assurance of agricultural commodities. The Measurement Standards Branch includes the Standards and Technical Services Section and the Standards and Trade Standards Section. The Standards and Technical Services Section provides the technical assistance and

traceability of standards that make the enforcement of measurement standards laws possible. This branch is composed of a metrology laboratory and a petroleum analysis laboratory. The Standards and Trade Standards Section enforces the laws regarding commercial measuring devices, such as scales, taximeters, odometers, and gas pumps.

The DCCA opposes this bill because the Department of Agriculture has the knowledge, expertise, and resources needed to oversee chapter 486 as part of its larger oversight of agricultural industries and commodities through, for example, chapter 145 (Regulation of Farm Produce), chapter 147 (Grades and Standards), and chapter 148 (Advertising and Marketing).

These matters are outside the jurisdiction of the DCCA, which protects consumers through business registration and professional licensure, monitoring the financial solvency of local financial institutions and insurance companies, and investigating complaints of unfair business practices and license violations. Given the tailored mission of the DCCA, it would be challenging for the Department to also ensure the accuracy of measurements, packaging, labeling, and pricing of commercial goods.

Thirty-seven states regulate measurement standards through their departments of agriculture. In contrast, only two states, Connecticut and Minnesota, and the District of Columbia, regulate these standards through a department of consumer protection or a department of commerce. The remaining 11 states regulate these standards through other departments. Based on this information¹, it would be appropriate for the Department of Agriculture to continue overseeing and regulating measurement standards in Hawaii.

The Department also opposes this bill because transferring all chapter 486 regulation and oversight, appropriations, and personnel from the Department of Agriculture to the DCCA will be disruptive and time-consuming for both departments, with no budgetary or organizational benefit.

Finally, as a special-funded department, the DCCA expects its regulatory divisions to generate sufficient revenue to cover its personnel and operational costs, a

¹ See National Institute of Standards and Technology's Directory of Weights and Measures Officials in the United States and Territories, available at: <https://www.nist.gov/system/files/documents/2020/07/13/WMD-Directory-July-2020.pdf>.

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contingency reserve, and an equitable share of the Department's administrative expenses. If this is envisioned as a separate program, the Department is unsure how a general-funded division will be able to contribute to the DCCA's administrative costs.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 3, 2021
10:00 A.M.
VIA VIDEO CONFERENCE

HOUSE BILL NO. 549
RELATING TO MEASUREMENT STANDARDS

Chairperson Hashem and Members of the Committee:

Thank you for the opportunity to testify on House Bill 549. This measure transfers the oversight and regulation of Measurement Standards Branch in the State from the Department of Agriculture (DOA) to the Department of Commerce and Consumer Affairs (DCCA). The DOA acknowledges the effort to improve state government efficiencies and offers the following comments and defers to DCCA regarding the impacts of this measure to its operations.

The work of the Measurement Standards Branch in the Quality Assurance Division of DOA provides quality assurance to consumers that taxi meters, scales and petroleum pumps are calibrated accurately to protect consumers from underweights and overpayments for the goods they purchase. The enforcement of labeling and packing requirements are also important services to protect against counterfeit goods, correct weights and volume, and inform consumers about the origin of the product.

The Measurement Standards Branch function is a Weights and Measures program that is highly technical and based on scientific data. Throughout the United States and many other countries, Weights and Measures programs provide a uniform means to conduct commerce in a manner which protects consumers from fraud and misrepresentation and is fair to all parties involved.

~~Moving~~ If this Committee is inclined to move this measure forward, the Departments notes that moving the Measurement Standards Branch to a new location could be costly due to specialized requirements for building space and parking areas, a

calibrated taxi course, National Institute of Standards and Technology (NIST) requirements in order to be certified as a laboratory suitable for calibrating and certifying Secondary Standards, and a laboratory exhaust hood for inspecting various chemical and food products.

Keeping the Measurement Standards Branch at the current location on Sand Island while placing it under DCCA's oversight will also impact DOA's operations and limited resources. Program funding for the branch includes both General and Special Funds. General funds support 6 Oahu staff: 3 inspectors, 1 meteorologist, 2 office assistants. Special funds support 4 staff: Branch manager (Oahu), 3 inspectors (Hilo, Maui, Oahu). Maui staff and equipment are in the DOA building. Hilo staff and equipment are in a DOA office in a state building.

In view of the above specialized requirements and considerations, the transfer of measurement standards from DOA to DCCA during this period of COVID-19 pandemic may impose additional burdens that may and regulatory enforcement by the Measurement Standards Branch.

Thank you for the opportunity to testify on this measure.