SENATE CONCURRENT RESOLUTION

URGING THE GOVERNOR, THE ATTORNEY GENERAL, THE MAYORS OF EACH COUNTY, AND VARIOUS STATE AND COUNTY LEADERS TO FIRMLY UPHOLD BOTH THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA AND HAWAII TO PRESERVE AND PROTECT OUR CIVIL RIGHTS AND TO ENSURE THE SAFETY OF IMMIGRANTS IN OUR COMMUNITIES.

WHEREAS, the United States of America is a country founded on the rule of law and guided by the basic democratic values of justice, freedom, and equality set forth and enshrined in the Constitution of the United States; and

WHEREAS, America is a nation that prides itself on democracy, equality, freedom, and opportunity for all its people, whether or not they were born within the country's borders; and

WHEREAS, the rights and liberties of Americans are not made stronger by excluding others, but rather, the strength of our local communities and our nation is based on embracing people from all over the world, honoring both our native peoples and those who seek refuge here; and

WHEREAS, Hawaii has a long history of accommodating waves of immigrants who have come to these islands searching and yearning for better lives for themselves and their families and is the only state where no racial or ethnic group constitutes a majority; and

WHEREAS, Hawaii has a rich and unique culture, largely because of its immensely diverse population; and

WHEREAS, refugees and immigrants significantly enrich our island state in unique ways and contribute to Hawaii's families, economy, institutions, and communities; and
WHEREAS, immigrants have worked alongside Hawaii's citizens in our hospitals, hotels, restaurants, construction sites, laboratories, educational institutions, and in many other industries and institutions and at all levels; and

WHEREAS, Article I, section 2, of the Hawaii State Constitution maintains that "[a]ll persons are free by nature and are equal in their inherent and inalienable rights"; and

WHEREAS, Article I, section 4 of the Hawaii State Constitution provides that "[n]o law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof"; and

WHEREAS, Article I, section 5, of the Hawaii State Constitution guarantees that "[n]o person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry"; and

WHEREAS, the Fifth and Fourteenth Amendments to the United States Constitution further guarantee that no person shall be "deprived of life, liberty, or property, without due process of law" and no "State [shall] deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws"; and

WHEREAS, adherence to the constitutional protections provided by the Fifth and Fourteenth Amendments of the United States Constitution and Article I, sections 2, 4, and 5 of the Hawaii State Constitution promotes public safety by ensuring trust between Hawaii's people and their government officials; and

WHEREAS, on January 27, 2017, President Donald Trump issued Executive Order 13769, banning the entry of nationals from seven countries that were chosen solely because those countries are predominantly Muslim; and
WHEREAS, Executive Order 13769, which created chaos across our country, was blocked by various courts because of its unconstitutionality; and

WHEREAS, within two days of the issuance of Executive Order 13769, the Hawaii Coalition for Civil Rights — a coalition of twenty-four diverse civic, religious, legal, cultural, and community organizations throughout the State of Hawaii — formed to oppose and reject Executive Order 13769 and any future policies that rely on exclusion and are based on religion and ethnicity; and

WHEREAS, on March 6, 2017, President Trump issued a second edition of the unconstitutional and illegal executive order, which would still suspend immigration from several countries based solely on religion; and

WHEREAS, the new executive order, which mirrors the original order, is antithetical to the beliefs and values of our State and country; and

WHEREAS, these new, drastic federal measures created, and are likely to continue to create, an atmosphere of fear for immigrants, their families, and other members in the community and deprive people of their constitutionally-guaranteed due process protections; and

WHEREAS, it is unconstitutional to strip immigrants of their guaranteed due process rights, and it is un-American to deny assistance to those seeking refuge in a place that has prided itself on being a "melting pot" of immigrant cultures; and

WHEREAS, stringent federal immigration policy is often borne out of fear, prejudice, and stereotypes, rather than factual evidence, and policies aimed at ending illegal immigration have historically been more punitive than rational or practical; and

WHEREAS, despite having long been stigmatized as criminals and threats, immigrants typically commit fewer crimes than citizens born in the United States, and crime rates in sanctuary

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WHEREAS, the Tenth Amendment to the United States Constitution guarantees states' sovereignty and provides that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, the Tenth Amendment further provides that the federal government may not commandeer state and local officials by demanding that they enforce federal laws and regulatory programs; and

WHEREAS, each state and municipalities within each state have the sovereign power to choose how they allocate their resources and cannot be forced to carry out the federal government's agenda; and

WHEREAS, local law enforcement agencies should not be required to bear the immense financial burden of enforcing federal immigration laws; and

WHEREAS, such use of valuable state and county resources would be neither wise nor effective for our local communities; and

WHEREAS, forcing local law enforcement authorities to enforce unjust federal immigration laws will make valued community members vulnerable to discrimination and become targets of suspicion, solely because of their assumed race, language, religion, and skin color; and

WHEREAS, compliance with controversial immigration enforcement practices has contributed to unconstitutional detentions, racial profiling, families torn apart, and the deterrence of immigrants from calling upon law enforcement when they are victims of or witnesses to crimes; and

WHEREAS, local officials from over three hundred fifty United States localities have adopted policies based on their
unique understanding of the specific needs and priorities of
their communities; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-ninth
Legislature of the State of Hawaii, Regular Session of 2017, the
House of Representatives concurring, that the Governor, the
Attorney General, the Mayors of each county, and other state and
county leaders are urged to firmly uphold both the Constitutions
of the United States of America and Hawaii so that the safety
and well-being of our communities are ensured; and

BE IT FURTHER RESOLVED that, as a State, we should lawfully
challenge unconstitutional executive orders in the appropriate
courts of law, and that we should not participate in
unconstitutional federal conduct that leads to the illegal or
unlawful detainment of immigrants; and

BE IT FURTHER RESOLVED that, in the face of discriminatory
policies and the element of uncertainty in the promulgation and
execution of continually evolving orders and policies of the
federal government, the State of Hawaii and its leaders are
encouraged to advocate for the protection of all residents,
including immigrants, and their due process rights, as
guaranteed by both the Constitutions of the United States and
Hawaii; and

BE IT FURTHER RESOLVED that, to protect these inalienable
rights, the Governor, the Attorney General, and the Mayors of
each county are urged to exercise the State's sovereign power
and encourage lawful non-cooperation with federal officials,
such as Immigration and Customs Enforcement officials, who seek
to execute unconstitutional policies by commandeering local and
state law enforcement, state educational officers, and other
state officials; and

BE IT FURTHER RESOLVED that all of Hawaii's residents
should have access to city and state services, including proper
health care and education, without fear of detention,
deportation, or violation of their privacy interests in
protected personal information that may be collected by various
city and state agencies, such as schools or social service
programs; and
BE IT FURTHER RESOLVED that the counties and the State should fulfill their responsibilities of fostering trust and respect between residents and local law enforcement, protecting limited local resources, and ensuring due process and community security for all residents, regardless of immigration status; and

BE IT FURTHER RESOLVED that local and state law enforcement are urged to not detain people based solely on their immigration status and, instead, enforce policies and conduct themselves in ways that will promote trust, participation, and interaction between communities and local and state officials; and

BE IT FURTHER RESOLVED that, in keeping with Article IX, section 10, of the Hawaii Constitution, which recites Kānāwai Māmalahoe, or the "law of the splintered paddle," as decreed by King Kamehameha I, which states, "Let every elderly person, woman and child lie by the roadside in safety," our government officials should work to ensure the safety of all of Hawaii's people consistent with our constitutional values of justice, equality, and due process; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor of the State of Hawaii, the Attorney General of the State of Hawaii, the Mayor of each county, the Chiefs of Police of each county, the Director of Public Safety, the Director of Human Services, the Superintendent of Education, and the President of the University of Hawaii.

OFFERED BY: 

Kal Rhoad

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