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## HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY ON THE EXCLUSION OF DOMESTIC SERVICES, AUTHORIZED AND SUBSIDIZED BY THE DEPARTMENT OF HUMAN SERVICES, FROM THE STATE EMPLOYMENT SECURITY LAW, WORKERS' COMPENSATION LAW, TEMPORARY DISABILITY INSURANCE LAW, AND THE PREPAID HEALTH CARE LAW.

1           WHEREAS, the Department of Human Services contracts with  
2 providers, including corporations, to perform attendant care and  
3 day care authorized under the Social Security Act, as amended;  
4 and

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6           WHEREAS, under the Department of Human Services contracts,  
7 the providers are the recipients of social service payments; and

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9           WHEREAS, the providers subcontract with and employ  
10 individuals to provide attendant care and day care services; and

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12           WHEREAS, sections 386-1, 392-3, and 393-5, Hawaii Revised  
13 Statutes, exclude from the definitions of "employment"  
14 "domestic, which includes attendant care, and day care services  
15 authorized by the department of human services under the Social  
16 Security Act, as amended, performed by an individual in the  
17 employ of a recipient of social service payments"; and

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19           WHEREAS, in 1978, the House of Representatives, in Standing  
20 Committee Report No. 314-78, and the House, in Standing  
21 Committee Report No. 743-78, both found that because the  
22 Department of Labor and industrial Relations and the Internal  
23 Revenue Service had classified this type of domestic service as  
24 an employer-employee relationship, all pertinent employer  
25 contributions relating to Employment Security Law, Workers'  
26 Compensation Law, Temporary Disability Insurance Law, and the  
27 Prepaid Health Care Law would be assessed on and paid for by the  
28 eligible recipients; and

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30           WHEREAS, the Standing Committees of the House of  
31 Representatives and the House also found that domestic  
32 employment should be excluded from the statutory requirements of



1 Employment Security Law, Workers' Compensation Law, Temporary  
2 Disability Insurance Law, and the Prepaid Health Care Law in  
3 order to better facilitate the receipt of social services by  
4 eligible recipients; and

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6 WHEREAS, Act 110, Session Laws of Hawaii 1978, excluded  
7 domestic services from the definitions of employment under State  
8 Workers' Compensation Law, Temporary Disability Insurance Law,  
9 and the Prepaid Health Care Law, no similar exclusion was made  
10 from the Employment Security Law; and

11  
12 WHEREAS, prior to enactment of Act 110, Session Laws of  
13 Hawaii 1978, the House amended the measure to delete a section  
14 that may have been the amendment to the Employment Security Law  
15 to exclude domestic services from the definition of employment;  
16 and

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18 WHEREAS, it is unclear from available information as to why  
19 the services were not excluded from Employment Security Law  
20 requirements; now, therefore,

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22 BE IT RESOLVED by the House of Representatives of the  
23 Twenty-third Legislature of the State of Hawaii, Regular Session  
24 of 2006, that the Department of Labor and Industrial Relations  
25 is requested to conduct a study on the exemptions of domestic  
26 services authorized by the Department of Human Services under  
27 the Social Security Act, as amended, to:

- 28  
29 (1) Provide clarification on the relationship between  
30 providers as recipients of social service payments and  
31 those employed to provide domestic services; and  
32  
33 (2) Analyze the propriety of the exemption of these  
34 domestic services from the Employment Security Law;  
35 and

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37 BE IT FURTHER RESOLVED that the Department of Labor and  
38 Industrial Relations is requested to submit a report to the  
39 Legislature on its findings, recommendations, and proposed  
40 legislation, if appropriate, no later than twenty days prior to  
41 the convening of the Regular Session of 2007; and  
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1 BE IT FURTHER RESOLVED that certified copies of this  
2 Resolution be transmitted to the Director of Labor and  
3 Industrial Relations and the Director of Human Services.  
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OFFERED BY: Alvin A. Curbish

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