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# A BILL FOR AN ACT

RELATING TO NEEDS ALLOWANCE.

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

1           SECTION 1. The Social Security Administration currently  
2 requires \$30 of monthly benefits be set aside for social  
3 security recipients who reside in certain institutional care  
4 settings. The \$30 is used for the individual's needs. The  
5 personal needs allowance is intended to pay for clothing,  
6 toiletries, bus fare, personal postage costs, snacks, and other  
7 incidental expenses of day-to-day living.

8           In 1974, the federal government established the minimum  
9 needs allowance for a nursing home resident to be \$25, which was  
10 raised in 1988 to \$30 which still is in effect today. In 2004,  
11 only eleven states remained at \$30, the other states having  
12 since raised their minimum allowance. If the needs allowance  
13 was pegged to the Consumer Price Index with 1974 as a baseline,  
14 it would have taken \$115.19 in 2004 to match the buying power of  
15 \$25 in 1974.

16           Raising the needs allowance may require the use of general  
17 funds. However, the legislature finds that it is unconscionable  
18 to fail to raise the \$30 to allow residents of long-term care



1 facilities and community care home residents to enjoy a  
2 minimally acceptable daily quality of life.

3 The purpose of this Act is to establish a needs allowance  
4 for persons residing in community care homes and other long-term  
5 care facilities.

6 SECTION 2. Chapter 346D, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 **"§346D- Needs allowance; waiver program individuals.**

10 (a) There shall be established a monthly needs allowance for  
11 individuals living in:

12 (1) Adult residential care home type I and type II  
13 facilities;

14 (2) Licensed developmental disabilities domiciliary homes  
15 as defined in section 321-15.9;

16 (3) Community care foster family homes as defined in  
17 section 346-331;

18 (4) Certified adult foster homes as defined in section  
19 321-11.2;

20 (5) Domiciliary care as defined in section 346-1;

21 (6) A nursing facility as defined in section 346E-1; or



1       (7) A community-based residence as part of the residential  
2       alternatives community care program.

3       (b) The needs allowance shall be administered by the  
4       department of human services to pay for clothing and other  
5       personal miscellaneous needs such as bus fare, personal postage  
6       costs, haircuts, and other costs of day-to-day living.

7       (c) The State's supplemental payment for a needs allowance  
8       under subsection (a) shall be increased by an amount necessary  
9       to bring the allowance up to \$50 per month, to be increased  
10       annually in an amount equal to the Social Security income  
11       benefit increase. The payment under this section shall be  
12       afforded to an individual notwithstanding that the individual is  
13       incapacitated; provided that the moneys may be spent on behalf  
14       of the client, with a written accounting, by the operator of the  
15       residence or facility.

16       (d) The needs allowance payment shall not replace or  
17       affect the funds received from the federal supplemental security  
18       income program and shall be supplemental to any funds provided  
19       to a recipient by the federal supplemental security income  
20       program.

21       (e) The facility operator shall pay for generic toiletries  
22       (toilet paper, hand soap, paper towels), use of linens (bedding,



1 sheets, blankets, towels, bath rugs), and meals and snacks for  
2 outings (prorated to be equal to the cost of the meal and snack  
3 or the cost of laundry services and supplies).

4 (f) The needs allowance shall apply to persons otherwise  
5 eligible to receive monthly income pursuant to state law or  
6 rules, and federal laws or regulations, and shall not affect the  
7 classifications or number of persons eligible to receive such  
8 funds."

9 SECTION 3. Section 235-7, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) There shall be excluded from gross income, adjusted  
12 gross income, and taxable income:

13 (1) Income not subject to taxation by the State under the  
14 Constitution and laws of the United States;

15 (2) Rights, benefits, and other income exempted from  
16 taxation by section 88-91, having to do with the state  
17 retirement system, and the rights, benefits, and other  
18 income, comparable to the rights, benefits, and other  
19 income exempted by section 88-91, under any other  
20 public retirement system;

21 (3) Any compensation received in the form of a pension for  
22 past services;



- 1           (4)    Compensation paid to a patient affected with Hansen's  
2                    disease employed by the State or the United States in  
3                    any hospital, settlement, or place for the treatment  
4                    of Hansen's disease;
- 5           (5)    Except as otherwise expressly provided, payments made  
6                    by the United States or this State, under an act of  
7                    Congress or a law of this State, which by express  
8                    provision or administrative regulation or  
9                    interpretation are exempt from both the normal and  
10                   surtaxes of the United States, even though not so  
11                   exempted by the Internal Revenue Code itself;
- 12          (6)    Any income expressly exempted or excluded from the  
13                   measure of the tax imposed by this chapter by any  
14                   other law of the State, it being the intent of this  
15                   chapter not to repeal or supersede any such express  
16                   exemption or exclusion;
- 17          (7)    Income received by each member of the reserve  
18                   components of the Army, Navy, Air Force, Marine Corps,  
19                   or Coast Guard of the United States of America, and  
20                   the Hawaii national guard as compensation for  
21                   performance of duty, equivalent to pay received for



1           forty-eight drills (equivalent of twelve weekends) and  
2           fifteen days of annual duty, at an:

3           (A) E-1 pay grade after eight years of service;  
4                 provided that this subparagraph shall apply to  
5                 taxable years beginning after December 31, 2004;

6           (B) E-2 pay grade after eight years of service;  
7                 provided that this subparagraph shall apply to  
8                 taxable years beginning after December 31, 2005;

9           (C) E-3 pay grade after eight years of service;  
10                provided that this subparagraph shall apply to  
11                taxable years beginning after December 31, 2006;

12           (D) E-4 pay grade after eight years of service;  
13                provided that this subparagraph shall apply to  
14                taxable years beginning after December 31, 2007;

15           and

16           (E) E-5 pay grade after eight years of service;  
17                provided that this subparagraph shall apply to  
18                taxable years beginning after December 31, 2008;

19           (8) Income derived from the operation of ships or aircraft  
20                if the income is exempt under the Internal Revenue  
21                Code pursuant to the provisions of an income tax  
22                treaty or agreement entered into by and between the



1 United States and a foreign country~~(7)~~; provided that  
2 the tax laws of the local governments of that country  
3 reciprocally exempt from the application of all of  
4 their net income taxes, the income derived from the  
5 operation of ships or aircraft that are documented or  
6 registered under the laws of the United States;

7 (9) The value of legal services provided by a prepaid  
8 legal service plan to a taxpayer, the taxpayer's  
9 spouse, and the taxpayer's dependents;

10 (10) Amounts paid, directly or indirectly, by a prepaid  
11 legal service plan to a taxpayer as payment or  
12 reimbursement for the provision of legal services to  
13 the taxpayer, the taxpayer's spouse, and the  
14 taxpayer's dependents;

15 (11) Contributions by an employer to a prepaid legal  
16 service plan for compensation (through insurance or  
17 otherwise) to the employer's employees for the costs  
18 of legal services incurred by the employer's  
19 employees, their spouses, and their dependents; ~~and~~

20 (12) Amounts received in the form of a monthly surcharge by  
21 a utility acting on behalf of an affected utility  
22 under section 269-16.3 shall not be gross income,



1 adjusted gross income, or taxable income for the  
2 acting utility under this chapter. Any amounts  
3 retained by the acting utility for collection or other  
4 costs shall not be included in this exemption~~[+]~~; and  
5 (13) Amounts received in the form of a monthly needs  
6 allowance under section 346D- , received:  
7 (A) Indirectly by a facility operator on behalf of an  
8 individual resident of a qualified facility; or  
9 (B) Directly by an individual resident of a qualified  
10 facility."

11 SECTION 4. Section 237-24.75, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~+~~]**§237-24.75**[~~+~~] **Additional exemptions.** In addition to  
14 the amounts exempt under section 237-24, this chapter shall not  
15 apply to amounts received [~~ae~~]:

- 16 (1) As a beverage container deposit collected under  
17 chapter 342G, part VIII~~[+]~~; and  
18 (2) In the form of a monthly needs allowance received  
19 indirectly by a facility operator on behalf of an  
20 individual resident of a qualified facility, as  
21 provided in section 346D- ."





1 SECTION 5. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ , or so  
3 much thereof as may be necessary for fiscal year 2007-2008, to  
4 provide a monthly needs allowance to individuals living in a  
5 facility as provided in section 2 of this Act.

6 The sum appropriated shall be expended by the department of  
7 human services for the purposes of this Act.

8 SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2007;  
11 provided that section 3 shall apply to taxable years beginning  
12 after December 31, 2006; and provided further that section 4  
13 shall apply to gross income or gross proceeds received after  
14 June 30, 2007.



**REPORT Title:**

Needs Allowance; Care Home Residents

**Description:**

Establishes a needs allowance for residents of care homes and long-term care facilities. (SD2)

