

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR



JADE T. BUTAY  
DIRECTOR

WILLIAM G. KUNSTMAN  
DEPUTY DIRECTOR

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
KA 'OIHANA PONO LIMAHANA

March 22, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,  
The Honorable Chris Lee, Vice Chair, and  
Members of the Senate Committee on Labor and Technology

Date: Wednesday, March 22, 2023  
Time: 3:00 p.m.  
Place: Conference Room 224, State Capitol

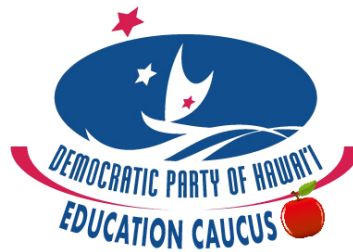
From: Jade T. Butay, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.C.R. 117 AND S.R. 129 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW**

The **DLIR strongly supports** this measure that requests the Department to conduct a study of the exemptions to the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), and submit a report to the 2024 Legislature. The DLIR is willing to research the exemptions contained in Chapter 387 and submit a report to the 2024 Legislature.

The exemptions contained in section 387-1, HRS, under the definition of "employee" closely parallel the exemptions in the federal Fair Labor Standards Act (FLSA). Unlike Chapter 387, the FLSA does not contain a guaranteed compensation exemption. The DLIR is aware that the current \$2,000 guaranteed monthly compensation exemption is less than an employee earning the current minimum wage of \$12.00 per hour and will be even lower when the minimum wage increases through 2028. Governor's Package proposals SB1385 and HB1087 to delete this exemption are moving through the legislative process, and if enacted will provide more workers with minimum wage, overtime, and recordkeeping protections, thereby promoting the health, efficiency, and well-being of Hawaii's workforce.

The DLIR is willing to examine the other exemptions contained in Chapter 387, HRS, and submit a report, including proposed legislation, to the 2024 Legislature.



**SCR 117/SR 129, REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.**

MARCH 22, 2023 · SENATE LABOR AND TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON MORIWAKI

**POSITION:** Support.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus supports SCR 117/SR129, which requests that the Department of Labor and Industrial Relations conduct a study of the exemptions to Hawai'i's minimum wage law.

A living wage is a human right. Last year, the State Legislature passed Act 114, which incrementally increased Hawai'i's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2028. Yet, numerous exemptions to Hawai'i's minimum wage law are contained in section 387-1, Hawai'i Revised Statutes. This statute lists occupations that are excluded from the applicable definition of "employee" and all of its related provisions, including our state's minimum wage law.

These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others. While the federal Fair Labor Standards Act on which these exemptions

were modeled has declared certain jobs to be exempt from state and federal minimum wage laws, many modern scholars have argued that these provisions of the Fair Labor Standards Act promote racism, sexism, and pay discrimination.

According to the National Low-Income Housing Coalition's Out of Reach 2022 report, a minimum wage employee must work 123 hours per week to afford a modest one-bedroom rental home at fair market rent in Hawai'i and 161 hours per week to afford a two-bedroom rental home at fair market rent in the islands. Put simply, we are pricing working families out of paradise. Over 60 percent of households in our state are severely cost burdened, meaning that they pay more than 30 percent of their income on housing, a number that rises to over 80 percent for extremely low-income households.

Therefore, the exemptions to Hawai'i's minimum wage law should be evaluated to determine if modifications are appropriate to ensure that working families are able to meet their basic needs as Hawai'i's high cost of living continues to soar. We have a responsibility to ensure that our most economically vulnerable neighbors are able to not just survive, but to thrive on our shores.

**Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · [kriscoffield@gmail.com](mailto:kriscoffield@gmail.com)**



## SCR 117/SR 129, REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.

MARCH 22, 2023 · SENATE LABOR AND TECHNOLOGY COMMITTEE · CHAIR SEN. SHARON MORIWAKI

**POSITION:** Support.

**RATIONALE:** Imua Alliance supports SCR 117/SR129, which requests that the Department of Labor and Industrial Relations conduct a study of the exemptions to Hawaii's minimum wage law.

A living wage is a human right. Last year, the State Legislature passed Act 114, which incrementally increased Hawaii's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2028. Yet, numerous exemptions to Hawaii's minimum wage law are contained in section 387-1, Hawaii Revised Statutes. This statute lists occupations that are excluded from the applicable definition of "employee" and all of its related provisions, including our state's minimum wage law.

These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others. While the federal Fair Labor Standards Act on which these exemptions were modeled has declared certain jobs to be exempt from state and federal minimum wage laws,

many modern scholars have argued that these provisions of the Fair Labor Standards Act promote racism, sexism, and pay discrimination.

According to the National Low-Income Housing Coalition's Out of Reach 2022 report, a minimum wage employee must work 123 hours per week to afford a modest one-bedroom rental home at fair market rent in Hawai'i and 161 hours per week to afford a two-bedroom rental home at fair market rent in the islands. Put simply, we are pricing working families out of paradise. Over 60 percent of households in our state are severely cost burdened, meaning that they pay more than 30 percent of their income on housing, a number that rises to over 80 percent for extremely low-income households.

Therefore, the exemptions to Hawai'i's minimum wage law should be evaluated to determine if modifications are appropriate to ensure that working families are able to meet their basic needs as Hawai'i's high cost of living continues to soar. We have a responsibility to ensure that our most economically vulnerable neighbors are able to not just survive, but to thrive on our shores.

**Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · [kris@imuaalliance.org](mailto:kris@imuaalliance.org)**

TESTIMONY BEFORE THE SENATE COMMITTEE ON LABOR & TECHNOLOGY

RE: - SCR117/SR129 REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.

WEDNESDAY, MARCH 22, 2023

JASON BRADSHAW, CHAIR  
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Moriwaki and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **supports SCR 117/SR129**, requesting the Department of Labor and Industrial Relations to conduct a study of the exemption to Hawaii's minimum wage law.

As this resolution states, there are numerous exemptions to Hawaii's minimum wage law that are contained in section 387-1, Hawaii Revised Statutes, which lists occupations that are excluded from the applicable definition of "employee". These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others.

Over sixty percent of households in the islands are severely cost-burdened, meaning that they pay more than thirty percent of their income on housing, a number that rises to over eighty percent for extremely low-income households.

The Democratic Party of Hawaii Labor Caucus strongly opposes any exemptions that to the minimum wage law that would allow a worker to be paid subminimum wages, and believes all workers should be paid a living wage.

Thank you for the opportunity to testify in support.



Randy Perreira, President

HAWAII STATE AFL-CIO  
Hawaii's Labor Unions

**LATE**

888 Mililani Street Suite 501, Honolulu, Hawaii 96813

The Thirty-Second Legislature, State of Hawai'i  
Hawai'i State Senate  
Committee on Labor and Technology

Testimony by  
Hawai'i State AFL-CIO  
March 22, 2023

S.C.R 117 / S.R. 129 – REQUESTING THE  
DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS TO  
CONDUCT A STUDY OF THE  
EXEMPTIONS TO HAWAII'S MINIMUM  
WAGE LAW.

The Hawai'i State AFL-CIO is a state federation of 74 affiliate local unions and councils with over 68,000 members across both public and private sectors. We appreciate the opportunity to testify in **support** of S.C.R 117 / S.R. 129.

The Wage and Hour law must bring certain exempt workers under its protection because they are at risk of falling below the minimum and overtime wage rates as the minimum wage increases. Mere exclusion from the list of exempt employees will protect vulnerable low wage earners from falling below the current minimum and overtime wage rates.

We appreciate your consideration of our testimony in **support** of S.C.R 117 / S.R. 129.

Respectfully,



Randy Perreira  
President

RP/dd

# IATSE LOCAL 665

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INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

**LATE**

Thirty-Second Legislature, State of Hawai'i  
Senate Committee on Labor and Technology

Testimony by IATSE 665  
March 22nd, 2023

**SCR 117/SR129 - REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW.**

Aloha Chair Moriwaki and Members of the Committee,

My name is Tuia'ana Scanlan, president of IATSE Local 665, the union representing technicians in the entertainment industry in Hawai'i. **Local 665 supports supports SCR 117/SR129**, requesting the Department of Labor and Industrial Relations to conduct a study of the exemption to Hawaii's minimum wage law.

As this resolution states, there are numerous exemptions to Hawaii's minimum wage law that are contained in section 387-1, Hawaii Revised Statutes, which lists occupations that are excluded from the applicable definition of "employee". These exemptions include agricultural employees at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, and many others.

Over sixty percent of households in the islands are severely cost-burdened, meaning that they pay more than thirty percent of their income on housing, a number that rises to over eighty percent for extremely low-income households. The Democratic Party of Hawaii Labor Caucus strongly opposes any exemptions to the minimum wage law that would allow a worker to be paid subminimum wages, and believes all workers should be paid a living wage. Thank you for the opportunity to testify in support.

In Solidarity,



Tuia'ana Scanlan  
President, IATSE 665  
he/him/his



**SCR-117**

Submitted on: 3/18/2023 11:55:32 AM

Testimony for LBT on 3/22/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Christy MacPherson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Moriwaki, Vide Chair Lee and members of the Senate Committee on Labor and Technology,

I strongly support SCR117. We need to do *whatever* it takes to support Hawai'i's low-wage workers so they can remain in their island home.

Mahalo for your consideration.

**Chair Sharon Moriwaki**  
**Vice Chair Chris Lee**

**Senate Committee on Labor & Technology**

**Wednesday, March 22, 2023**  
**3:00PM**

**TESTIMONY IN SUPPORT OF SCR117/SR129 REQUESTING THE DEPARTMENT OF  
LABOR AND INDUSTRIAL RELATIONS TO CONDUCT A STUDY OF THE  
EXEMPTIONS TO HAWAII'S MINIMUM WAGE LAW**

Aloha Chair Moriwaki, Vice Chair Lee, Members of the Senate Committee on Labor & Technology,

My name is Jun Shin. I am a graduate of the University of Hawai'i at Mānoa, a labor activist, and a member of the Hawai'i State Youth Commission, testifying as an individual in **Support of SCR117/SR129**, Requesting the Department of Labor and Industrial Relations to Conduct a Study of the Exemptions to Hawaii's Minimum Wage Law.

In 2022 after years of struggle, the state incrementally increased Hawai'i's minimum wage from \$12 per hour beginning October 1, 2022, to \$18 per hour beginning January 1, 2022. But in 2023, there are still many, many workers in Hawai'i who are not covered by basic labor rights and protections. As listed in Hawai'i Revised Statutes 387-1, agricultural workers at farms employing less than twenty people, individuals engaged in coffee harvesting, domestic caretakers, administrative and supervisory employees, persons engaged in catching or harvesting fish, student employees of nonprofit schools, etc can legally be paid LESS than the minimum wage.

This is just so wrong, who knows how many working class, immigrant/migrant families here in Hawai'i who are stuck in a situation where they need to be in jobs where they are being worked to the bone for slave wages in order to feed their families and to just survive. If a worker is getting paid less than the minimum wage, that worker by extension is facing many other serious issues in that workplace. To be very frank, \$12/hr or even \$18/hr is far from a livable wage, the legislature must do much, much more to make life livable and easier for working class families. But in the meantime, workers deserve to have as much money as they possibly can in their pockets. Please **PASS Senate Concurrent Resolution 117/Senate Resolution 129** out of your committee.

Mahalo for the opportunity to testify,

Jun Shin,  
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Email: junshinbusiness729@gmail.com



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Wednesday, March 22, 2023

SCR 117 / SR 129

**Testifying In Support**

Aloha Chair Moriwaki, Vice Chair Lee and members of the Committee on Labor and Technology,

I am submitting testimony today in support of SCR 117 and SR 129 which requests the Department of Labor and Industrial Relations to conduct a study of the exemptions to Hawaii's Minimum Wage Law.

Currently, Hawaii Revised Statutes section 387-1 includes 14 exemptions from the definition of "employee" as it relates to workers covered under Hawaii's Minimum Wage Law. It appears some of these may be carry-overs from the Federal Fair Labor Standards Act of 1938. While others may not be.

In either case, as we continue to work in Hawaii to support working families struggling to make ends meet, I believe it is long past time that we take a hard look at these exemptions, understand their origins, and begin to have an honest conversation about which, if any, should be repealed. If there are legitimate reasons for retaining any of them, we should consider those as well.

This resolution will help set the ground work for these important conversations in the 2024 legislative session.

Please pass this resolution unamended to support our essential, minimum wage workers.

Mahalo for the opportunity to testify.