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# A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4 AND 6, OF THE  
HAWAII STATE CONSTITUTION REGARDING REAPPORTIONMENT.

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

1           SECTION 1. The legislature finds that the Hawaii State  
2           Constitution is unique in its determination of resident  
3           population for reapportionment purposes. Reapportionment is the  
4           process of re-distributing seats for elected officials so that  
5           the seats are relatively evenly distributed based on the  
6           resident population. Since being ratified by voters in  
7           November, 1992, sections 4 and 6, Article IV of the Hawaii State  
8           Constitution have required that reapportionment for state  
9           senators and representatives be based on the average number of  
10          "permanent residents" in each district. Any resident not deemed  
11          permanent, even if included in the decennial United States  
12          census count as a "usual resident" of the State, is extracted,  
13          or deleted, from the total used by the state reapportionment  
14          commission and therefore not factored into the allocation of  
15          state senate and house districts.



1           The legislature further finds that forty-nine states base  
2 their reapportionment process on the U.S. census data and the  
3 concept of "usual residents." The U.S. census defines "usual  
4 residence" as "the place where a person lives and sleeps most of  
5 the time." 83 Fed. Reg. 5525 (Feb. 8, 2018). For federal House  
6 of Representatives purposes, Hawaii's two seats are allocated  
7 based on the census data. For state and local offices, however,  
8 Hawaii ignores this approach and simply extracts non-permanent  
9 residents from the census total. Kansas, the only other state  
10 that did not use unadjusted census numbers for several  
11 reapportionments, stopped the practice when voters supported a  
12 state constitutional amendment in 2019. Kansas now uses the  
13 most recent census data as published by the U.S. census bureau.  
14 Hawaii remains the outlier in this regard. The practical effect  
15 of Hawaii's method is that thousands of military members, their  
16 dependents, and college students who reside in the State but are  
17 not permanent residents are excluded from reapportionment.  
18 Furthermore, these individuals are also not counted in another  
19 state for reapportionment purposes since all other states base  
20 their process on the U.S. census data.



1           The legislature additionally finds that the U.S.  
2 Constitution's equal protection clause requires equal  
3 representation of all persons. Elected officials represent and  
4 serve all persons living in a specific geographic area,  
5 regardless of their residence status. It is neither rational  
6 nor fair to ignore the many non-permanent resident military  
7 members, their dependents, and college students living in the  
8 State, since state and county services are provided regardless  
9 of the individual's reapportionment status. Under the State's  
10 current extraction method there are, in some census tracks, a  
11 negative net population. District to district, there is also  
12 uneven and unequal representation because those excluded are not  
13 evenly distributed across the districts. Fundamentally,  
14 individuals that are extracted live in a specific area and  
15 should be counted for representation purposes of that district.

16           The purpose of this Act is to propose amendments to article  
17 IV, sections 4 and 6, of the Hawaii State Constitution to  
18 specify that reapportionment shall be based on the resident  
19 population, as counted in the most recent decennial United  
20 States Census.



1 SECTION 2. Article IV, Section 4, of the Hawaii State  
2 Constitution, is amended to read as follows:

3 "Section 4. The commission shall allocate the total number  
4 of members of each house of the state legislature being  
5 reapportioned among the four basic island units, namely: (1)  
6 the island of Hawaii, (2) the islands of Maui, Lanai, Molokai  
7 and Kahoolawe, (3) the island of Oahu and all other islands not  
8 specifically enumerated, and (4) the islands of Kauai and  
9 Niihau, using the total number of [~~permanent~~] residents, as  
10 reported by the most recent decennial census of the United  
11 States, in each of the basic island units and computed by the  
12 method known as the method of equal proportions; except that no  
13 basic island unit shall receive less than one member in each  
14 house."

15 SECTION 3. Article IV, Section 6, of the Hawaii State  
16 Constitution is amended to read as follows:

17 "Section 6. Upon the determination of the total number of  
18 members of each house of the state legislature to which each  
19 basic island unit is entitled, the commission shall apportion  
20 the members among the districts therein and shall redraw  
21 district lines where necessary in such manner that for each



1 house the average number of [~~permanent~~] residents, as reported  
2 by the most recent decennial census of the United States, per  
3 member in each district is as nearly equal to the average for  
4 the basic island unit as practicable.

5 In effecting such redistricting, the commission shall be  
6 guided by the following criteria:

7 1. No district shall extend beyond the boundaries of any  
8 basic island unit.

9 2. No district shall be so drawn as to unduly favor a  
10 person or political faction.

11 3. Except in the case of districts encompassing more than  
12 one island, districts shall be contiguous.

13 4. Insofar as practicable, districts shall be compact.

14 5. Where possible, district lines shall follow permanent  
15 and easily recognized features, such as streets, streams and  
16 clear geographical features, and, when practicable, shall  
17 coincide with census tract boundaries.

18 6. Where practicable, representative districts shall be  
19 wholly included within senatorial districts.

20 7. Not more than four members shall be elected from any  
21 district.



1           8. Where practicable, submergence of an area in a larger  
2 district wherein substantially different socio-economic  
3 interests predominate shall be avoided."

4           SECTION 4. The question to be printed on the ballot shall  
5 be as follows:

6           "Shall the reapportionment, or dividing up, of state  
7 election districts be based upon the total number of  
8 residents, as determined by the most recent United States  
9 Census, instead of the current process that is based upon  
10 the number of permanent residents, as determined after  
11 subtracting non-permanent military personnel, military  
12 dependents, college students with residences outside the  
13 State, and other non-permanent residents?"

14           SECTION 5. Constitutional material to be repealed is  
15 bracketed and stricken. New constitutional material is  
16 underscored.

17           SECTION 6. This amendment shall take effect upon  
18 compliance with article XVII, section 3, of the Hawaii State  
19 Constitution.



**Report Title:**

Reapportionment; Constitutional Amendment

**Description:**

Proposes a constitutional amendment to specify that reapportionment shall be based upon the resident population, as counted in the most recent decennial United States Census.

(SD1)

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