OFFICE OF THE GOVERNOR
STATE OF HAWAI'I

PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to prevent the danger of disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, NEIL ABERCROMBIE, Governor of the State of Hawai'i, hereby determines, designates and proclaims as follows:

WHEREAS, heavy rains inundated the island of Kauai on Sunday, February 26, 2012; and

WHEREAS, due to the heavy rains, a fifteen foot diameter steel culvert collapsed beneath Kuhio Highway in the vicinity of milepost 22.5 in the Kilauea area of Kauai; and

WHEREAS, the collapse of the steel culvert resulted in significant erosion of the soil foundation beneath and adjacent to Kuhio Highway; and

WHEREAS, Kuhio Highway is the only route that provides transportation to the north end of the island of Kauai; and

WHEREAS, isolating the residents and businesses in the north end of Kauai could endanger the health, safety, and welfare of the people, and the economy of the State; and

WHEREAS, the environmental permitting, design and construction of a permanent bypass road around the distressed portion of the highway is expected to take more than four years to complete; and

WHEREAS, the damage, losses, and suffering potentially attributable to the imminent failure of Kuhio Highway are of such nature as to warrant rehabilitative assistance from the State; and

WHEREAS, due to the inherent threat to public safety, immediate actions must be taken to perform emergency slope stabilization repairs; and

WHEREAS, I find that these state of affairs and circumstances are of such a grave nature as to affect the health and safety of the public and that these circumstances require the invocation of provisions of Chapter 128, Hawaii Revised Statutes, that are effective only during a period of civil defense emergency; and

WHEREAS, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency; and

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee, federal, state, or county, for the most expeditious and efficient relief of the conditions created by the emergency; and

WHEREAS, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes, are not in effect, the Governor may exercise any and all powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief and that all provisions of the law provided in chapter 128, Hawaii Revised Statutes, during such period are made applicable to other disaster relief, including without limitation, provisions making or authorizing appropriations or expenditures; and

WHEREAS, pursuant to Act 35, Regular Session Laws of Hawaii 1961, sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended and are not in effect, the provisions of chapter 128, Hawaii Revised Statutes, are applicable to other disaster relief; and

WHEREAS, pursuant to section 127-10, Hawaii Revised Statutes, other disaster relief includes, but is not limited to, the preparation for and the carrying out of all functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and

damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes and major disasters caused by acts of man, including massive oil spills, nuclear accidents, airplane crashes and civil disturbances; and

WHEREAS, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflicts with, disaster relief or other emergency functions; and

WHEREAS, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 128, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

WHEREAS, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

WHEREAS, pursuant to section 128-10(5), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

WHEREAS, pursuant to section 128-10(6), Hawaii Revised Statutes, the Governor is further authorized to take possession of, use, manage, control, and reallocate any public property,

state or county, real or personal, required by the Governor for the purposes of this chapter, including, without limitation, airports, parks, playgrounds, and schools, and other public buildings; and

WHEREAS, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 128 and to provide for civil defense and other emergency functions.

NOW, THEREFORE, I, NEIL ABERCROMBIE, Governor of the State of Hawaii, hereby determines that a danger or threat of disaster contemplated by chapters 127 and 128, Hawaii Revised Statutes, currently exists within the Kilauea area of the County of Kauai, State of Hawai'i; and

I. Proclamation of disaster. Do hereby proclaim this area to be a disaster area for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient measures to avoid damages, losses, and suffering that will result with the failure of the highway by designing and constructing temporary slope stabilization measures beneath the pavement until the Department of Transportation has completed ongoing efforts to construct a bypass road, which upon completion will include closure of the affected portion of Kuhio Highway to vehicular travel; and

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under sections 127-11, 128-8(4), and 128-10(10), Hawaii Revised Statutes, have been found and satisfied, and that I hereby exercise such powers and authority in relation to this disaster; and

III. Implementation of specific measures. In order to provide expeditious and efficient performance, execution, and implementation of measures to avert the danger or threat of disaster to and in accordance with sections 128-8(4), 128-9(8), and 128-10(10), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law, the following statutes to the extent necessary to reduce the danger of the failure of the highway pavement and embankment, and to

repair and install temporary slope stabilization measures, with any necessary improvements and mitigation efforts, in order to keep Kuhio Highway open for use in the Kilauea area of the County of Kauai, State of Hawai'i:

1. Chapter 6E, **historic preservation**
2. Chapter 46, **county organization and administration**
3. Chapter 89, **collective bargaining in public employment**
4. Chapter 89C, **public officers and employees excluded from collective bargaining**
5. Section 103-53, **contracts with the State or counties; tax clearances**
6. Chapter 103D, **procurement code**
7. Chapter 104, **wages and hours of employees on public works**
8. Sections 105-1 to 105-10, **use of government vehicles, limitations**
9. Chapter 174C, **state water code**
10. Chapter 183, **forest reserves, water development, zoning**
11. Chapter 183C, **conservation district**
12. Chapter 183D, **wildlife**
13. Chapter 195D, **conservation of aquatic life, wildlife, and land plants**
14. Chapter 205, **land use commission**
15. Chapter 205A, **coastal zone management**
16. Section 209-9, **rental or sale of essential commodities during a state disaster; prohibition against price increases**
17. Chapter 264, **highways**
18. Chapter 269, **public utilities commission**
19. Chapter 341, **environmental quality control**
20. Chapter 342B, **air pollution**
21. Chapter 342D, **water pollution**
22. Chapter 342E, **non-point source pollution management and control**
23. Chapter 342F, **noise pollution**
24. Chapter 343, **environmental impact statements**
25. Chapter 344, **state environmental policy**

IV. Pursuant to and in accordance with section 128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency disaster relief, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate or significantly reduce the potential danger of the failure of the highway to keep Kuhio Highway open for use through the Kilauea area of the County of Kauai.

Done at the State Capitol, Honolulu,
State of Hawaii, this 3rd day of
March, 2012.

NEIL ABERCROMBIE
Governor of Hawai'i

APPROVED:

RUSSELL A. SUZUKI
Acting Attorney General of Hawai'i