

**SESSION LAWS**  
**OF**  
**HAWAII**  
**PASSED BY THE**  
**TWENTY-SEVENTH STATE LEGISLATURE**  
**STATE OF HAWAII**

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**SECOND SPECIAL SESSION**  
**2013**

Convened on Monday, October 28, 2013 and  
Adjourned sine die on Tuesday, November 12, 2013

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**REGULAR SESSION**  
**2014**

Convened on Wednesday, January 15, 2014 and  
Adjourned sine die on Thursday, May 1, 2014

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Revisor of Statutes  
State of Hawaii  
Honolulu, Hawaii

## PREFACE

This volume contains all of the laws enacted by the Hawaii State Legislature during the Second Special Session of 2013 and the Regular Session of 2014. This volume does not include matter from the First Special Session of 2013 because that session dealt only with the consent of judicial nominees by the Senate.

The text of the laws is printed in full except as provided herein. Statutory material that is being repealed is either bracketed or bracketed and stricken. New material is indicated by underscoring. However, as authorized by Section 23G-16.5, Hawaii Revised Statutes (HRS), the text is edited to omit the bracketed material for HRS sections that are being repealed in their entirety and to omit the underscoring for entirely new HRS sections. With the exception of the foregoing and certain obvious typographical errors that have been corrected, the text of the laws appears as enacted.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Charlotte A. Carter-Yamauchi  
Revisor of Statutes

Honolulu, Hawaii  
July 15, 2014

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## PROPOSED CONSTITUTIONAL AMENDMENTS

### 2014 REGULAR SESSION

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**Session Laws of Hawaii  
Passed By The  
Twenty-Seventh State Legislature  
Second Special Session  
2013**

**ACT 1**

S.B. NO. 1

A Bill for an Act Relating to Equal Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** This Act shall be known as the Hawaii Marriage Equality Act of 2013.

The legislature acknowledges the recent decision of the United States Supreme Court in United States v. Windsor, 133 S. Ct. 2675 (2013), which held that Section 3 of the Defense of Marriage Act, Public Law 104-199, unlawfully discriminated against married same-sex couples by prohibiting the federal government from recognizing those marriages and by denying federal rights, benefits, protections, and responsibilities to those couples. The legislature has already extended to same-sex couples the right to enter into civil unions that provide the same rights, benefits, protections, and responsibilities under state law as afforded to opposite-sex couples who marry. However, these civil unions are not recognized by federal law and will not be treated equally to a marriage under federal law.

Therefore, it is the intent of the legislature to:

- (1) Ensure that same-sex couples are able to take full advantage of federal rights, benefits, protections, and responsibilities granted to married opposite-sex couples by allowing same-sex couples to marry under the laws of this State;
- (2) Ensure that there be no legal distinction between same-sex married couples and opposite-sex married couples with respect to marriage under the laws of this State by applying all provisions of law regarding marriage equally to same-sex couples and opposite-sex couples regardless of whether this Act does or does not amend any particular provision of law; and
- (3) Protect religious freedom and liberty by:
  - (A) Ensuring that any clergy, minister, priest, rabbi, officer of any religious denomination or society, or religious society not having clergy but providing solemnizations that is authorized to perform solemnizations shall not be required to solemnize any marriage or civil union that is against their religious beliefs or faith, in accordance with the Hawaii state constitution and the United States Constitution; and

- (B) Clarifying that a religious organization or nonprofit organization operated, supervised, or controlled by a religious organization shall not be required to provide goods, services, or its facilities or grounds for the solemnization or celebration of a marriage or civil union that is in violation of its religious beliefs or faith.

The purpose of this Act is to recognize marriages between individuals of the same sex in the State of Hawaii.

SECTION 2. Chapter 572, Hawaii Revised Statutes, is amended by adding five new sections to be appropriately designated and to read as follows:

**“§572-A Continuity of rights; civil union and reciprocal beneficiary relationships.** (a) Two individuals who are civil union partners or reciprocal beneficiaries with each other and who seek to marry each other shall be permitted to apply for a marriage license under section 572-6 and to marry each other under this chapter without first terminating their civil union or reciprocal beneficiary relationship; provided that the two individuals are otherwise eligible to marry under this chapter.

(b) The couple’s civil union or reciprocal beneficiary relationship shall continue uninterrupted until the solemnization of the marriage consistent with this chapter, and the solemnization of the couple’s marriage shall automatically terminate the couple’s civil union or reciprocal beneficiary relationship.

(c) The act of seeking a license for or entering into a marriage under this chapter shall not diminish any of the rights, benefits, protections, and responsibilities that existed previously due to the couple’s earlier status as civil union partners or reciprocal beneficiaries.

(d) The rights, benefits, protections, and responsibilities created by the civil union or reciprocal beneficiary relationship shall be continuous through the marriage and deemed to have accrued as of the first date these rights existed under the civil union or reciprocal beneficiary relationship; provided that the civil union or reciprocal beneficiary relationship was in effect at the time of the solemnization of the couple’s marriage to each other.

(e) Any rights, benefits, protections, and responsibilities created by the solemnization of a marriage that were not included within the reciprocal beneficiary relationship shall be recognized as of the date the marriage was solemnized.

(f) Property held by the couple in tenancy by the entirety shall be subject to section 509-3.

**§572-B Interpretation of terminology to be gender neutral.** When necessary to implement the rights, benefits, protections, and responsibilities of spouses under the laws of this State, all gender-specific terminology, such as “husband”, “wife”, “widow”, “widower”, or similar terms, shall be construed in a gender-neutral manner. This interpretation shall apply to all sources of law, including statutes, administrative rules, court decisions, common law, or any other source of law.

**§572-C Reliance on federal law.** Any law of this State that refers to, adopts, or relies upon federal law shall apply to all marriages recognized under the laws of this State as if federal law recognized such marriages in the same manner as the laws of this State so that all marriages receive equal treatment.

**§572-D Refusal to solemnize a marriage.** (a) Notwithstanding any other law to the contrary, a clergy, minister, priest, rabbi, officer of any religious

denomination or society, or religious society not having clergy but providing solemnizations that is authorized to perform solemnizations pursuant to this chapter shall not be required to solemnize any marriage that is in violation of their religious beliefs or faith.

(b) A clergy, minister, priest, rabbi, officer of any religious denomination or society, or religious society not having clergy but providing solemnizations that, pursuant to this section, fails or refuses to perform the solemnization of a marriage shall be immune from any fine, penalty, injunction, administrative proceeding, or any other legal or administrative liability for the failure or refusal.

**§572-E Religious organizations; exemption under certain circumstances.**

(a) Notwithstanding any other law to the contrary, a religious organization or nonprofit organization operated, supervised, or controlled by a religious organization shall not be required to provide goods, services, or its facilities or grounds for the solemnization or celebration of a marriage that is in violation of its religious beliefs or faith.

(b) A religious organization or nonprofit organization operated, supervised, or controlled by a religious organization that, pursuant to this section, fails or refuses to provide goods, services, or its facilities or grounds for the solemnization or celebration of a marriage shall be immune from any fine, penalty, injunction, administrative proceeding, or any other legal or administrative liability for the failure or refusal."

SECTION 3. Section 572-1, Hawaii Revised Statutes, is amended to read as follows:

**"§572-1 Requisites of valid marriage contract.** In order to make valid the marriage contract, which shall be [only between a man and a woman,] permitted between two individuals without regard to gender, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, [brother and sister] two siblings of the half as well as to the whole blood, uncle and niece, uncle and nephew, aunt and nephew, or aunt and niece, whether the relationship is the result of the issue of parents married or not married to each other or parents who are partners in a civil union or not partners in a civil union;
- (2) Each of the parties at the time of contracting the marriage is at least sixteen years of age; provided that with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2;
- (3) [The man does not at the time have any lawful wife or civil union partner living and that the woman does not at the time have any lawful husband or civil union partner living;] Neither party has at the time any lawful wife, husband, or civil union partner living, except as provided in section 572-A;
- (4) Consent of neither party to the marriage has been obtained by force, duress, or fraud;
- (5) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;
- (6) The [man and woman] parties to be married in the State shall have duly obtained a license for that purpose from the agent appointed to grant marriage licenses; and

- (7) The marriage ceremony be performed in the State by a person or society with a valid license to solemnize marriages and the [man and the woman] parties to be married and the person performing the marriage ceremony be all physically present at the same place and time for the marriage ceremony."

SECTION 4. Section 572-3, Hawaii Revised Statutes, is amended to read as follows:

"**§572-3 Contracted without the State.** Marriages between [a man and a woman] two individuals regardless of gender and legal [in the country] where contracted shall be held legal in the courts of this State."

SECTION 5. Section 572-6, Hawaii Revised Statutes, is amended to read as follows:

**"§572-6 Application; license; limitations.** To secure a license to marry, the persons applying for the license shall appear personally before an agent authorized to grant marriage licenses and shall file with the agent an application in writing. The application shall be accompanied by a statement signed and sworn to by each of the persons, setting forth: the person's full name, date of birth, social security number, residence; their relationship, if any; the full names of parents; and that all prior marriages[,] or civil unions, if any, other than an existing civil union between the persons applying for the marriage license, have been dissolved by death or dissolution. If all prior marriages or civil unions, other than an existing civil union between the persons applying for the marriage license, have been dissolved by death or dissolution, the statement shall also set forth the date of death of the last prior spouse or the date and jurisdiction in which the last decree of dissolution was entered. Any other information consistent with the standard marriage certificate as recommended by the Public Health Service, National Center for Health Statistics, may be requested for statistical or other purposes, subject to approval of and modification by the department of health; provided that the information shall be provided at the option of the applicant and no applicant shall be denied a license for failure to provide the information. The agent shall indorse on the application, over the agent's signature, the date of the filing thereof and shall issue a license which shall bear on its face the date of issuance. Every license shall be of full force and effect for thirty days commencing from and including the date of issuance. After the thirty-day period, the license shall become void and no marriage ceremony shall be performed thereon.

It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the agent of the department of health in the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the department may prescribe."

SECTION 6. Section 572-13, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Recordkeeping. Every person authorized to solemnize marriage shall make and preserve a record of every marriage by the person solemnized, comprising the names of the [man and woman] parties married, their place of residence, and the date of their marriage.

Every person authorized to solemnize marriage, who neglects to keep a record of any marriage by the person solemnized shall be fined \$50.

(b) Marriages, reported by whom. It shall be the duty of every person, legally authorized to perform the marriage ceremony, to report within three business days every marriage ceremony, performed by the person, to the agent of the department of health in the district in which the marriage takes place setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the department of health[.]; provided that if any person who has solemnized a marriage fails to report it to the agent of the department of health, the parties married may provide the department of health with a notarized affidavit attesting to the fact that they were married and stating the date and place of the solemnization of the marriage. Upon the receipt of that affidavit by the department of health, the marriage shall be deemed to be valid as of the date of the solemnization of the marriage stated in the affidavit; provided that the requirements of section 572-1 are met."

SECTION 7. Section 572B-4, Hawaii Revised Statutes, is amended to read as follows:

**"§572B-4 Solemnization; license to perform; refusal to join persons in a civil union.** (a) A civil union shall become valid only upon completion of a solemnization by a person licensed in accordance with this section.

(b) Any judge or retired judge, including a federal judge or judge of another state who may legally join persons in chapter 572 or a civil union, may solemnize a civil union. Any clergy, minister, priest, rabbi, or officer of any religious denomination or society who has been ordained or is authorized to solemnize civil unions according to the usages of such denomination or society, or any religious society not having clergy but providing solemnization in accordance with the rules and customs of that society, may solemnize a civil union.

(c) [Nothing in this section shall be construed to require any person] Notwithstanding any other law to the contrary, a clergy, minister, priest, rabbi, officer of any religious denomination or society, or religious society not having clergy but providing solemnizations that is authorized to perform solemnizations [pursuant to chapter 572 or] of civil unions pursuant to this chapter [to perform a solemnization of a civil union, and no such authorized person who fails or refuses for any reason to join persons in a civil union shall be subject to any fine, penalty, or other civil action for the failure or refusal.] shall not be required to solemnize any civil union that is in violation of their religious beliefs or faith.

(d) A clergy, minister, priest, rabbi, officer of any religious denomination or society, or religious society not having clergy but providing solemnizations that, pursuant to this section, fails or refuses to perform the solemnization of a civil union shall be immune from any fine, penalty, injunction, administrative proceeding, or any other legal or administrative liability for the failure or refusal.

[ (d) ] (e) No agent may solemnize a civil union; nor may any assistant or deputy of the agent solemnize a civil union.

[ (e) ] (f) No person shall perform the solemnization of a civil union without first having obtained a license from the department of health. The department of health shall issue licenses to solemnize civil unions in the same manner as it issues licenses pursuant to chapter 572. The department of health may revoke or suspend a license to solemnize civil unions. Any penalties or fines that may be levied or assessed by the department of health for violation of chapter 572 shall apply equally to a person licensed to solemnize civil unions."

SECTION 8. Section 572B-9.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§]§572B-9.5] Religious organizations and facilities; liability exemption under certain circumstances.** (a) A religious organization shall not be required to make a religious facility owned or leased by the religious organization available for solemnization of a civil union; provided that:

- (1) The religious facility is regularly used by the religious organization for its religious purposes;
- (2) For solemnization of marriages pursuant to chapter 572, the religious organization restricts use of the religious facility to its members; and
- (3) The religious organization does not operate the religious facility as a for profit business.

(b) A religious organization that refuses to make a religious facility available for solemnization of a civil union under subsection (a) shall not be subject to any fine, penalty, or civil liability for the refusal.

(c) Nothing in this section shall be interpreted to exempt the owner or operator of any religious facility from the requirements of chapter 489 if the religious facility is a place of public accommodation as defined in section 489-2.] **Religious organizations; exemption under certain circumstances.** (a) Notwithstanding any other law to the contrary, a religious organization or nonprofit organization operated, supervised, or controlled by a religious organization shall not be required to provide goods, services, or its facilities or grounds for the solemnization or celebration of a civil union that is in violation of its religious beliefs or faith.

(b) A religious organization or nonprofit organization operated, supervised, or controlled by a religious organization that, pursuant to this section, fails or refuses to provide goods, services, or its facilities or grounds for the solemnization or celebration of a civil union shall be immune from any fine, penalty, injunction, administrative proceeding, or any other legal or administrative liability for the failure or refusal."

SECTION 9. Section 572C-2, Hawaii Revised Statutes, is amended to read as follows:

**"[§]§572C-2] Findings.** [The legislature finds that the people of Hawaii choose to preserve the tradition of marriage as a unique social institution based upon the committed union of one man and one woman. The legislature further finds that because of its unique status, marriage provides access to a multiplicity of rights and benefits throughout our laws that are contingent upon that status. As such, marriage should be subject to restrictions such as prohibiting respective parties to a valid marriage contract from standing in relation to each other, i.e., brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew.

However, the legislature concurrently] The legislature acknowledges that there are many individuals who have significant personal, emotional, and economic relationships with another individual yet are prohibited by [such] legal restrictions from marrying. For example, two individuals who are related to one another, such as a widowed mother and her unmarried son[, or two individuals who are of the same gender]. Therefore, the legislature believes that certain rights and benefits presently available only to married couples should be made available to couples comprised of two individuals who are legally prohibited from marrying one another."

SECTION 10. Section 580-1, Hawaii Revised Statutes, is amended to read as follows:

**“§580-1 Jurisdiction; hearing.** (a) Exclusive original jurisdiction in matters of annulment, divorce, and separation, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three months next preceding the application therefor[-], except as provided in subsection (b). No absolute divorce from the bond of matrimony shall be granted for any cause unless either party to the marriage has been domiciled or has been physically present in the State for a continuous period of at least six months next preceding the application therefor[-], except as provided in subsection (b). A person who may be residing on any military or federal base, installation, or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section. The family court of each circuit shall have jurisdiction over all proceedings relating to the annulment, divorce, and separation of civil unions entered into in this State or unions recognized as civil unions in this State in the same manner as marriages.

(b) An action for annulment, divorce, or separation may be commenced where neither party to the marriage meets the domicile or physical presence requirements of subsection (a) at the time the action is commenced, if:

- (1) The marriage was solemnized under chapter 572 in this State; and
- (2) Neither party to the marriage is able to pursue an action for annulment, divorce, or separation where the parties are domiciled because both parties are domiciled in a jurisdiction or jurisdictions that do not recognize their marriage.

There shall be a rebuttable presumption that a jurisdiction will not maintain an action for annulment, divorce, or separation if the jurisdiction or jurisdictions where the parties are domiciled do not recognize the parties' marriage.

(c) Actions brought under subsection (b) shall be commenced in the circuit where the marriage was solemnized and the law of this State shall govern. Jurisdiction over actions brought under subsection (b) shall be limited to decrees granting annulment, divorce, or separation that address the status or dissolution of the marriage alone; provided that if both parties to the marriage consent to the family court's personal jurisdiction or if jurisdiction otherwise exists by law, the family court shall adjudicate child custody, spousal support, child support, property division, or other matters related to the annulment, divorce, or separation.”

SECTION 11. Notwithstanding any other provision of law, nothing in this Act shall invalidate any civil union or reciprocal beneficiary relationship in existence before the effective date of this Act. Any such civil unions or reciprocal beneficiary relationships shall continue until terminated in accordance with applicable law.

SECTION 12. The department of health may, in its discretion, make any changes that it deems necessary to internal procedures or forms, to aid in the implementation of this Act.

SECTION 13. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 14.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 15.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 16.** This Act shall take effect on December 2, 2013.

(Approved November 13, 2013.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 2**

H.B. NO. 1

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**SECTION 1.** There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 4,485,713	\$ 10,112,314
Special Funds	\$ 15,989	\$ 34,157
Federal Funds	\$ 66,091	\$ 128,605

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 61,225	\$ 108,258

**SECTION 2.** Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART II**

**SECTION 3.** There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative for collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 148,320	\$ 220,519

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

### PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 97,933	\$ 194,196
Federal Funds	\$ 1,251	\$ 2,790
Interdepartmental Transfers	\$ 9,820	\$ 10,714

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 7,868	\$ 17,098

SECTION 8. The sums appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

### PART V

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the collective bargaining cost items in the agreement negotiated for state employees in collective bargaining unit (10) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 1,905,651	\$ 3,949,777

## PART VI

SECTION 10. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining assigned to the Hawaii health systems corporation who belong to the same compensation plans as those officers and employees within collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 34,714	\$ 58,707

SECTION 11. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART VII

SECTION 12. There are appropriated or authorized from the sources of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,825,010	\$ 1,717,113

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 11,238	\$ 8,853

## PART VIII

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer union health benefits trust fund costs for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,193	\$ 1,488

SECTION 14. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART IX

**SECTION 15.** Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

**SECTION 16.** Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

**SECTION 17.** This Act shall take effect upon its approval.

(Approved November 14, 2013.)

## ACT 3

H.B. No. 2

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

**SECTION 1.** There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 9,739,757	\$ 27,599,039
Special Funds	\$ 1,935,130	\$ 5,275,994
G.O. Bond Funds	\$ 927,726	\$ 2,659,537
Federal Funds	\$ 2,314,543	\$ 6,383,540
Trust Funds	\$ 160,257	\$ 312,562
Interdepartmental Transfers	\$ 65,121	\$ 206,513
Revolving Funds	\$ 332,191	\$ 891,669
Other Funds	\$ 127,090	\$ 416,825

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,912,740	\$ 5,840,959
Special Funds	\$ 11,201	\$ 31,312
G.O. Bond Funds	\$ 82,440	\$ 257,668
Federal Funds	\$ 45,921	\$ 130,142
Revolving Funds	\$ 9,328	\$ 32,404

**SECTION 2.** Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 59,612	\$ 1,235,376
Special Funds	\$ 877	\$ 1,147

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

## PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 172,384	\$ 1,553,684
Special Funds	\$ 39,949	\$ 301,932
G.O. Bond Funds	\$ 7,706	\$ 43,345
Federal Funds	\$ 7,099	\$ 150,893
Trust Funds	\$ 6,345	\$ 0
Revolving Funds	\$ 11,239	\$ 14,948
Other Funds	\$ 6,345	\$ 15,669

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 0	\$ 187,148
G.O. Bond Funds	\$ 6,359	\$ 8,030
Federal Funds	\$ 0	\$ 8,502
Revolving Funds	\$ 3,773	\$ 2,772

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees assigned to the judiciary excluded

from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 116,033	\$ 251,219

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

#### PART V

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the collective bargaining cost items in the agreement negotiated for state employees in collective bargaining unit (13) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 789,541	\$ 2,104,117

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

#### PART VI

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the collective bargaining cost items authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining assigned to the Hawaii health systems corporation who belong to the same compensation plans as those officers and employees within collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 6,355	\$ 97,623

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

#### PART VII

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 3,718,966	\$ 2,519,405

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 702,942	\$ 471,354

#### PART VIII

SECTION 14. There are appropriated or authorized from the sources of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer union health benefits trust fund costs for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 106,074	\$ 110,382

SECTION 15. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

#### PART IX

SECTION 16. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 17. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 18. This Act shall take effect upon its approval.

(Approved November 14, 2013.)

#### ACT 4

H.B. NO. 3

A Bill for an Act Making an Appropriation to the Hawaii Health Systems Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to make an appropriation to provide stopgap funding to sustain the operations of the Kauai regional health care system of the Hawaii health systems corporation. Without stopgap funding, the Kauai regional health care system will not be able to sustain operations through the start of the regular session of 2014, thereby placing the health care of Kauai's residents and visitors in jeopardy.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$7,300,000 or so much thereof as may be necessary for fiscal year 2013-2014 to support the operations of the Kauai regional health care system of the Hawaii health systems corporation (HTH 212, Hawaii health systems corporation – regions).

The sum appropriated shall be expended by the Hawaii health systems corporation for purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved November 14, 2013.)

**Session Laws of Hawaii  
Passed By The  
Twenty-Seventh State Legislature  
Regular Session  
2014**

**ACT 1**

H.B. NO. 2353

A Bill for an Act Making an Emergency Appropriation for Security at Honolulu International Airport.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. New baggage handling and explosive detection systems were installed by the State at Honolulu international airport to move the baggage screening from the ticket lobbies to the baggage make-up areas. The new systems require an operations and maintenance contract to ensure trouble-free movement of baggage from the ticket lobbies to the aircraft in time for its departure. This critical service provides system troubleshooting, repairs, and manufacturer's recommended maintenance to the baggage handling and explosive detection systems that is beyond the capabilities of state staff. The baggage handling and explosive detection system cannot run without this service, and without the baggage handling and explosive detection system, airplanes cannot depart from Honolulu international airport. This cost was unanticipated as the airlines performed the operations and maintenance service in the past. Because the cost was unanticipated, a contract was funded using funds from the fiscal year 2013-2014 security appropriation as the system performs a security function.

The purpose of this Act is to appropriate funds as an emergency appropriation to replace security funds that were used. The security funds are still needed to complete the fiscal year 2013-2014 security requirements.

SECTION 3. There is appropriated out of the airport revenue fund (TRN 102) the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 to be used for expenditure in the respective fiscal year to cover the costs associated with the operations and maintenance of the outbound baggage handling and explosive detection systems.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

## **ACT 2**

**SECTION 4.** The department of transportation, no later than twenty days prior to the convening of the regular session of 2015, shall submit a report to the legislature that shall include:

- (1) The security expenditures at each state airport during fiscal year 2013-2014, including a detailed breakdown of those expenditures;
- (2) A detailed breakdown of the expenditures of the security funds that were used by the department of transportation for other purposes during fiscal year 2013-2014, including baggage handling and security contract information, which created the shortfall and thus the need for the emergency appropriation in this Act; and
- (3) An explanation of the purposes for each expenditure.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved February 18, 2014.)

## **ACT 2**

**H.B. NO. 2650**

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Auditor, the Legislative Reference Bureau, the Ombudsman, and the Ethics Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$8,324,033 or so much thereof as may be necessary to the senate for the following expenses:

- (1) The sum of \$7,086,533 for defraying any and all session and non-session expenses of the senate up to and including June 30, 2015, including the 2014 regular session, twenty-seventh legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2014 and 2015 regular sessions;
- (2) The sum of \$1,150,000 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs associated with the legislative information system that have been or will be incurred; and
- (3) The sum of \$87,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the senate.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$11,428,576 or so much thereof as may be necessary to the house of representatives for the following expenses:

- (1) The sum of \$10,402,652 for defraying any and all session and non-session expenses of the house of representatives up to and including June 30, 2015, including the 2014 regular session, twenty-seventh legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2014 and 2015 regular sessions;
- (2) The sum of \$938,424 for defraying the expenses of the legislative information system for cost items such as hardware, software, con-

sultants, installation, materials, supplies, and other related costs associated with the legislative information system that have been or will be incurred; and

- (3) The sum of \$87,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the house of representatives.

**SECTION 3.** Payment of expenses of the senate during the interim between the 2014 and 2015 regular sessions shall be made only with the approval of the president of the senate, and payment of expenses of the house of representatives during the interim between the 2014 and 2015 regular sessions shall be made only with the approval of the speaker of the house of representatives.

**SECTION 4.** Before January 21, 2015, the senate and the house of representatives shall each have their accounts audited, and a full report of the respective audits shall be presented to the senate and to the house of representatives convening on January 21, 2015.

**SECTION 5.** Unless otherwise prescribed by law, the expenses of any member of the legislature while traveling abroad on official business of the legislature shall be \$145 a day as authorized by the president of the senate and the speaker of the house of representatives.

**SECTION 6.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,793,849 or so much thereof as may be necessary to the office of the auditor for the following expenses:

- (1) The sum of \$2,643,849 for defraying the expenses of the office of the auditor during fiscal year 2014-2015; and
- (2) The sum of \$150,000 during fiscal year 2014-2015 for:
  - (A) Performing special studies;
  - (B) Improving capabilities for planning, programming, and budgeting;
  - (C) Fulfilling other special requests made of the auditor by the legislature or jointly by the president of the senate and the speaker of the house of representatives;
  - (D) Legislative studies and contractual services for those studies; and
  - (E) Such other purposes as may be determined by the joint action of the president of the senate and the speaker of the house of representatives.

The sum appropriated in this section shall be expended by the auditor.

**SECTION 7.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,800,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2014-2015 to be deposited into the audit revolving fund established pursuant to section 23-3.6, Hawaii Revised Statutes.

**SECTION 8.** There is appropriated out of the audit revolving fund the sum of \$6,300,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2014-2015 for the office to conduct or complete its audit functions as provided by law.

### **ACT 3**

The sum appropriated in this section shall be expended by the auditor.

**SECTION 9.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,263,947 or so much thereof as may be necessary to the legislative reference bureau for defraying the expenses of the legislative reference bureau during fiscal year 2014-2015, including equipment relating to computer systems programming and operations.

The sum appropriated in this section shall be expended by the legislative reference bureau.

**SECTION 10.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,085,728 or so much thereof as may be necessary to the office of the ombudsman for defraying the expenses of the office during fiscal year 2014-2015.

The sum appropriated in this section shall be expended by the ombudsman.

**SECTION 11.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$909,531 or so much thereof as may be necessary to the office of the state ethics commission for defraying the expenses of the office during fiscal year 2014-2015.

The sum appropriated in this section shall be expended by the state ethics commission.

**SECTION 12.** Except for moneys in the audit revolving fund, as of the close of business on June 30, 2015, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

**SECTION 13.** Each section of this Act is declared to be severable from the remainder of this Act.

**SECTION 14.** This Act shall take effect upon its approval.

(Approved March 10, 2014.)

### **ACT 3**

H.B. NO. 2539

A Bill for an Act Relating to Saint Marianne Cope Day.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Maria Anna Barbara Koob, who would later be known as Saint Marianne Cope of Molokai, was a German-born American and a member of the Sisters of Saint Francis of Syracuse, New York, who spent many years caring for patients suffering from leprosy, or Hansen's disease, on Molokai.

On October 21, 2012, Mother Marianne was canonized as Saint Marianne Cope by His Holiness Pope Benedict XVI in Rome. Saint Marianne is only the second person, after Father Damien, who had served in Hawaii to be canonized, and she is only the 11<sup>th</sup> American citizen to receive the Roman Catholic Church's highest honor. Prior to her canonization, Cope was beatified on May 14, 2005 in Rome by His Holiness Pope Benedict XVI.

Saint Marianne's feast day was established as January 23 and is celebrated by her own religious congregation, the Roman Catholic Diocese of Honolulu, and the Roman Catholic Diocese of Syracuse.

The purpose of this Act is to remember Saint Marianne Cope for her charitable works, virtuous deeds, and enduring legacy in Hawaii, and to mark her feast day, January 23, as Saint Marianne Cope Day in Hawaii.

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

**"§8- Saint Marianne Cope Day.** January 23 of each year shall be known and designated as "Saint Marianne Cope Day", provided that this day is not and shall not be construed to be a state holiday."

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 1, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 4**

H.B. NO. 2585

A Bill for an Act Relating to Foreclosures.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 667-92, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) If the association is unable to serve the notice of default and intention to foreclose on the unit owner or any other party listed in subsection (e)(2) to (5) within sixty days, the association may:

- (1) File a special proceeding in the circuit court of the circuit in which the unit is located, for permission to proceed with a nonjudicial foreclosure by serving the unit owner [~~only~~] or any other party listed in subsection (e)(2) and (e)(5) by publication and posting;
- (2) Proceed with a nonjudicial foreclosure of the unit; provided that if the association proceeds without the permission of the court, the association shall not be entitled to obtain a deficiency judgment against the unit owner, and the unit owner shall have one year from the date the association records the deed in the nonjudicial foreclosure to redeem the unit by paying the unit owner's delinquency to the association; or
- (3) Take control of the unit if the unit is unoccupied, after giving notice to the unit owner at the unit owner's last known address as shown on the records of the association or as determined by the association as part of its due diligence to serve notice to the owner. The association's authority to take control of the unit pursuant to this paragraph shall be exercised solely for the purpose of renting the unit to generate rental income to pay the unit owner's delinquency, and the association shall acquire no legal title to the unit. In addition, the association shall credit the net rental proceeds generated from the rental of the unit to the owner's delinquency. For purposes

## ACT 5

of this paragraph, "net rental proceeds" means the rental proceeds remaining each month after deducting:

- (A) The unit's regular monthly assessments that come due while the association controls the unit pursuant to this subsection;
- (B) Any rental agent commissions; and
- (C) Expenses incurred by the association in maintaining the unit in rentable condition.

If the unit owner pays the full amount of the unit owner's delinquency to the association, the association shall return control of the unit to the unit owner; provided that the full amount of the unit owner's delinquency shall be calculated by deducting the total net rental proceeds collected by the association, if any, from the unit owner's delinquency."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 1, 2014.)

## ACT 5

H.B. NO. 1634

A Bill for an Act Relating to the Uniform Mediation Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 658H-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) This chapter shall not apply to a mediation:

- (1) Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;
- (2) Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that this chapter shall apply to a mediation arising out of a dispute that has been filed with an administrative agency or court;
- (3) Conducted by a judge [who might make a ruling] on [the] a case; or
- (4) Conducted under the auspices of:
  - (A) A primary or secondary school if all the mediation parties are students; or
  - (B) A correctional institution for youths if all the mediation parties are residents of that institution."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 1, 2014.)

## ACT 6

H.B. NO. 1770

A Bill for an Act Relating to Veterans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

- (1) The category or categories of motor vehicles the applicant may operate;
- (2) Any restrictive provisions to which the license is subject; [and]
- (3) Veteran status, if desired by the applicant; provided that the notation shall be on the front of the license and shall not include any designation other than the term "veteran"; and
- [4] (4) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

As used in this subsection, "veteran" means any person who served in any of the uniformed services of the United States and was discharged under conditions other than dishonorable."

SECTION 2. Section 286-111, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Every application shall state the full name, date of birth, sex, occupation, veteran status if applicable and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal."

SECTION 3. Section 286-303, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant's parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

- (1) Name and complete address, including the number and street name, of the applicant's permanent residence;
- (2) The applicant's occupation and any pertinent data relating thereto;
- (3) The applicant's citizenship status;
- (4) The applicant's veteran status if applicable and desired by the applicant;
- [4] (5) The applicant's date and place of birth;

## ACT 7

- [§5] (6) General description of the applicant, including the applicant's gender, height, weight, hair color, and eye color;
- [§6] (7) The applicant's left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;
- [§7] (8) The social security number of the applicant; and
- [§8] (9) A digitized frontal photograph of the applicant's full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant's age and identity, and the applicant shall swear or affirm that all information given is true and correct."

SECTION 4. Section 286-305, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The examiner of drivers, after obtaining the fingerprint of the applicant as provided in this part and after obtaining the information required by or pursuant to this part, shall issue to each applicant an identification card in a form and with identifying information that the director deems necessary and appropriate[-], including a notation of veteran status, if desired by the applicant, on the front of the card where applicable; provided that such notation shall not include any designation other than the term "veteran". As used in this subsection, "veteran" means any person who served in any of the uniformed services of the United States and was discharged under conditions other than dishonorable."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on October 1, 2014.

(Approved April 7, 2014.)

## ACT 7

H.B. NO. 2071

A Bill for an Act Relating to Gold Star Family Day.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a need to honor, support, and cherish the families of the United States armed forces members who have bravely sacrificed their lives for their country.

On June 23, 1936, a joint congressional resolution designated the last Sunday in September as Gold Star Mother's Day to honor the mothers of the men and women who have given their lives for their country while serving in the United States armed forces in times of war or conflict. Gold Star Mother's Day has been observed every year since by presidential proclamation. In September 2009, President Barack Obama renamed the last day in September as Gold Star Mother's and Family's Day and included family members as part of the honorees.

A total of seven states, Illinois, North Dakota, New Jersey, New York, Ohio, Tennessee, and Wisconsin, as well as Guam have enacted legislation to recognize Gold Star Mother's and Family's Day.

The purpose of this Act is to establish Gold Star Family Day in Hawaii as a specific day to honor the family members of the men and women who have

given their lives for their country while serving with the United States armed forces in time of war or during a period of hostilities.

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

**“§8- Gold Star Family Day.** The last Sunday in September shall be known as “Gold Star Family Day”, in recognition of the family members of the men and women who have given their lives for their country while serving with the armed forces of the United States in time of war or during a period of hostilities. This day is not and shall not be construed to be a state holiday.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 8**

S.B. NO. 3038

A Bill for an Act Relating to the Hawaii Labor Relations Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State, temporary inability to act due to recusal, or illness of any regular member. An acting member, during the acting member’s term of service, shall have the same powers and duties as the regular member; provided that:

- (1) If the regular member is the representative of [management or] labor, then employee organizations representing public employees may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;
- (2) If the regular member is the representative of management, then public employers may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;
- (3) Subsection (d) shall not apply to an acting member; and
- (4) An acting member appointed due to a regular member’s recusal shall be appointed for the case in which the recusal occurred, and the acting member’s appointment shall terminate when the final decision is filed or the case is withdrawn.”

## ACT 9

SECTION 2. Section 89-5.1, Hawaii Revised Statutes, is amended to read as follows:

**"[§89-5.1] Hearing notice.** Notwithstanding section 91-9.5, in any hearing conducted by the board, all parties shall be given written notice of the hearing by first class mail or by electronic service through a company designated by the board at least fifteen days before the scheduled date of the hearing."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 2014.)

## ACT 9

H.B. NO. 1650

A Bill for an Act Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For [automatic] automated teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or

- other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; and
- (11) For any of the operations of the Hawaii health systems corporation and its regional system boards.”

SECTION 2. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of “leased employee” to read as follows:

“Leased employee” means an employee under a professional [employment] employer organization arrangement who is assigned to a particular client company on a substantially full-time basis for at least one year.”

SECTION 3. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “charter schools” to read as follows:

“Charter schools” means public schools holding [charters] charter contracts to operate as charter schools under chapter [§302D], including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.”

SECTION 4. Section 412:3-502, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-502 Foreign financial institution.** No foreign financial institution shall receive deposits, lend money, or pay checks, negotiate orders of withdrawal or share drafts from any principal office, branch, agency, [automatic] automated teller machine, or other location in this State, unless expressly authorized by this chapter, other laws of this State, or federal law; provided that nothing in this section shall prohibit any foreign financial institution from participating in the disbursement of cash through an [automatic] automated teller machine network or from operating from any location in this State as a licensee under chapter 454F, or as a real estate collection servicing agent.”

SECTION 5. Section 412:12-101, Hawaii Revised Statutes, is amended by amending the definition of “branch” to read as follows:

“Branch” means a place of business of a bank, other than its main office, which is open to the public and at which deposits are received and paid. The term does not include an [automatic] automated teller machine as defined in section 412:3-501.”

SECTION 6. Section 454F-1, Hawaii Revised Statutes, is amended by amending the definitions of “exempt sponsoring mortgage loan originator company” and “unique identifier” to read as follows:

“Exempt sponsoring mortgage loan originator company” means any person exempt from or not included in the licensing requirements of this chapter who registers with [NMLS] for purposes of sponsoring a mortgage loan originator.

“Unique identifier” means a number or other identifier assigned by protocols established by [NMLS].”

## ACT 9

SECTION 7. Section 454F-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) An employee who performs mortgage loan originator activities for a nonprofit organization is exempt from registration and licensure as a mortgage loan originator; provided that:

- (1) The employee’s actions are part of the employee’s duties as an employee of the nonprofit organization;
- (2) The employee only provides mortgage loan originator services with respect to residential mortgage loans with terms favorable to the borrower; and
- (3) The nonprofit organization registers with [NMLS].

(b) The commissioner shall periodically examine the books and activities of nonprofit organizations as defined in section 454F-1 and shall revoke an organization’s registration as a nonprofit organization with [NMLS] if the nonprofit organization fails to meet the requirements to be a nonprofit organization.”

SECTION 8. Section 466J-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The board shall not renew or reinstate, or shall deny or suspend, any license or application[,] if the board has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant either; is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract that financed the licensee’s or applicant’s education; or has failed to comply with a repayment plan.

[The board in] Upon receipt of a certification pursuant to chapter 436C [shall, as applicable, and], the board, without further review or hearing[.] shall, as applicable:

- (1) Suspend the license [without further review or hearing];
- (2) Deny the application or request for renewal of the license; or
- (3) Deny the request for reinstatement of the license[,  
and unless].

Unless otherwise provided by law, the board shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity.”

SECTION 9. Section 459-16, Hawaii Revised Statutes, is repealed.

SECTION 10. Act 212, Session Laws of Hawaii 2008, as amended by Acts 11 and 96, Session Laws of Hawaii 2009, as amended by Act 184, Session Laws of Hawaii 2013, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval and shall be repealed on January 1, 2016[.]; provided that section 461-14, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.”

SECTION 11. Section 321-15.62, Hawaii Revised Statutes, is amended by ratifying the reenactment by the revisor of subsection (b) to read as follows:

“(b) The director of health shall adopt rules regarding expanded adult residential care homes in accordance with chapter 91 that shall implement a social model of health care designed to:

- (1) Protect the health, safety, civil rights, and rights of choice of residents in a nursing facility or in home- or community-based care;

- (2) Provide for the licensing of expanded adult residential care homes for persons who are certified by the department of human services, a physician, advanced practice registered nurse, or registered nurse case manager as requiring skilled nursing facility level or intermediate care facility level of care who have no financial relationship with the home care operator or facility staff; provided that the rules shall allow group living in the following two categories of expanded adult residential care homes as licensed by the department of health:
  - (A) A type I home shall consist of five or fewer residents with no more than two nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department; and provided further that up to six residents may be allowed at the discretion of the department to live in a type I home; provided that the primary caregiver or home operator is a certified nurse aide who has completed a state-approved training program and other training as required by the department; and
  - (B) A type II home shall consist of six or more residents, with no more than twenty per cent of the home's licensed capacity as nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department; provided further that the department shall exercise its discretion for a resident presently residing in a type I or type II home, to allow the resident to remain as an additional nursing facility level resident based upon the best interests of the resident. The best interests of the resident shall be determined by the department after consultation with the resident, the resident's family, primary physician, case manager, primary caregiver, and home operator;
- (3) Comply with applicable federal laws and regulations of title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule."

SECTION 12. Act 175, Session Laws of Hawaii 2010, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect on July 1, 2010[.]; provided that the amendments made to section 201-12.8(a), Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to section 14 of Act 73, Session Laws of Hawaii 2010."

SECTION 13. Act 205, Session Laws of Hawaii 2013, is amended by amending the prefatory language in section 4 to read as follows:

"SECTION 4. Section [711-1110,] 711-1100, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:"

SECTION 14. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved April 7, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 10

### ACT 10

H.B. NO. 2387

A Bill for an Act Relating to Small Boat Harbors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 200-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In order to obtain a permit [or], a permit renewal, or to be placed on a waitlist for a permit, the owner of a vessel shall provide, at the owner’s own expense:

- (1) A marine surveyor’s inspection no more than two years old, certifying that the surveyor has inspected the vessel and considers it to fulfill the requirements set by the department; [and]
- (2) Documentation that the person is the owner of the vessel. The documentation shall meet requirements established by the department[-]; and
- (3) Satisfactory proof that the person has attained the age of eighteen years.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 2014.)

### ACT 11

H.B. NO. 1664

A Bill for an Act Relating to Fire Protection for Fireworks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 132D-2, Hawaii Revised Statutes, is amended by adding two new definitions to read as follows:

“Permanent fireworks storage building or structure” means a building or structure affixed to a foundation on a site and having fixed utility connections, which is intended to remain on the site for more than one hundred eighty consecutive calendar days in a twelve-month period for the purpose of receiving, storing, or shipping fireworks, but in which no manufacturing of fireworks is performed.

“Temporary fireworks storage building or structure” means a building or structure that is used for fireworks storage for one hundred eighty days or less in a twelve-month period.”

SECTION 2. Section 132D-8, Hawaii Revised Statutes, is amended to read as follows:

“**§132D-8 Application for license.** (a) All licenses required under section 132D-7 shall be issued by the county and shall be nontransferable. Licenses to

import shall specify the date of issuance or effect and the date of expiration, which shall be March 31 of each year. The application shall be made on a form setting forth the date upon which the importations are to begin, the address of the location of the importer, and the name of the proprietor or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the names of its officers. The application for a license to import display fireworks, articles pyrotechnic, or aerial devices shall include written documentation of the proposed display event and related contact information in a form prescribed by the applicable county. If the state fire council or county discovers at a later date that a licensee has been convicted of a felony under this chapter, the licensee's license shall be revoked and no new license shall be issued to the licensee for two years.

(b) Each storage, wholesaling, and retailing site shall be required to obtain a separate license. The license shall specify the date of issuance or effect and the date of expiration, which shall be March 31 of each year. The application shall be made on a form setting forth the date upon which the storage, sale, or offers for sale are to begin, the address of the location of the licensee, and the name of the proprietor, or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the name of its officers. Any license issued pursuant to this chapter may be revoked by the county if the licensee violates any provision of this chapter or if the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard.

(c) Permanent and temporary fireworks storage buildings or structures and buildings or facilities where redistribution activities are performed shall comply with the currently adopted county building or fire codes or the latest edition of nationally recognized standards.

[e] (d) It shall be unlawful for any licensee, other than a wholesaler who is selling or transferring fireworks or articles pyrotechnic to a licensed retailer, to sell or offer to sell, exchange for consideration, give, transfer, or donate any fireworks or articles pyrotechnic at any time to any person who does not present a permit duly issued as required by section 132D-10 or 132D-16. The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks or articles pyrotechnic, and the seller or transferor shall indicate on the permit the amount and type of fireworks or articles pyrotechnic sold or transferred. No person shall sell or deliver fireworks to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit to have been previously purchased; provided that no fireworks shall be sold to a permittee holding a permit issued for purposes of section 132D-3, more than five calendar days before the applicable time period under section 132D-3.

[d] (e) Aerial devices, display fireworks, or articles pyrotechnic shall only be sold or transferred by a wholesaler to a person with a valid permit under sections 132D-10 and 132D-16. No person with a valid permit under sections 132D-10 and 132D-16 shall sell or transfer aerial devices, display fireworks, or articles pyrotechnic to any other person.

[e] (f) Any license issued pursuant to this chapter shall be prominently displayed in public view at each licensed location."

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 15, 2014.)

## ACT 12

### ACT 12

H.B. NO. 1903

A Bill for an Act Relating to Outdoor Heritage Month.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. On September 2, 1937, the Federal Aid in Wildlife Restoration Act, commonly referred to as the Pittman-Robertson Act, was signed into law. Using funds from excise taxes received from the sale of sporting arms and archery equipment, the Pittman-Robertson Act provides federal assistance to states for projects to manage, enhance, and restore wildlife and to conduct state hunter education programs.

The purpose of this Act is to recognize Hawaii's commitment to the preservation of natural resources and promotion of outdoor recreational activities by designating the month of June as Outdoor Heritage Month.

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

**"§8- Outdoor heritage month.** The month of June shall be known and designated as "Outdoor Heritage Month" to celebrate Hawaii's diverse natural environment and recreational activities."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 13

H.B. NO. 2142

A Bill for an Act Relating to Post-Secondary Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 305J-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A private college or university may also demonstrate financial integrity if it:

- (1) Has received and maintains full accreditation without sanction from an accrediting body that is recognized by the United States Department of Education, and which accrediting body requires the private college or university to maintain a surety bond or an escrow account or has affirmatively waived or otherwise removed that requirement for the private college or university;
- (2) Operates an instructional facility in the State;
- (3) Annually provides to the department audited financial statements for the most recent fiscal year that demonstrate that the private college or university maintains positive equity [and profitability];

- (4) Maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in title 34 Code of Federal Regulations section 668.172; and
- (5) Meets or exceeds the pro rata refund policies required by the United States Department of Education in title 34 Code of Federal Regulations part 668; provided that if it does not participate in federal financial aid programs, its refund and termination procedures shall comply with the requirements of its accrediting body.”

SECTION 2. Section 304A-3153, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 14**

S.B. NO. 2839

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that no amendments to the Hawaiian Homes Commission Act are required to accomplish the purposes of Act 195, Session Laws of Hawaii 2011.

SECTION 2. Act 195, Session Laws of Hawaii 2011, is amended by repealing section 3.

[“~~SECTION 3. The Hawaiian Homes Commission Act, 1920, shall be amended, subject to approval by the United States Congress, if necessary, to accomplish the purposes set forth in this Act in a manner that is expeditious, timely, and consistent with the current needs and requirements of the Native Hawaiian people and the current beneficiaries of the Hawaiian Homes Commission Act, 1920.”~~”]

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 2014.)

A Bill for an Act Making Emergency Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Hawaii State Constitution.

**PART II**

SECTION 2. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (11):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 105,282	\$ 550,106
Special Funds	\$ 545,821	\$ 2,880,459

SECTION 3. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART III**

SECTION 4. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (11):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 7,436	\$ 44,185
Special Funds	\$ 36,863	\$ 225,642

SECTION 5. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART IV**

SECTION 6. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer-union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (11):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 147,694	\$ 95,956

SECTION 7. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

#### PART V

SECTION 8. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer-union health benefits trust fund costs for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (11):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 5,724	\$ 4,420

SECTION 9. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

#### PART VI

SECTION 10. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 11. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 12. This Act shall take effect upon its approval.

(Approved April 15, 2014.)

#### ACT 16

S.B. NO. 2136

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302A-101, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Attend” or “attendance” means a student is physically present in school after enrollment.

“Enroll” or “enrollment” means a student has met all of the department’s requirements for entrance and is formally placed on a school’s roll.”

SECTION 2. Section 302A-1145, Hawaii Revised Statutes, is amended to read as follows:

## ACT 16

**"[§302A-1145] Transfer to another school.** No school shall receive any child under eighteen years of age, who has attended another school of the same class in the same [district] complex area, unless the child produces to the school in which to be [entered] enrolled, a certificate of release of the school last attended by the child. If the child applies to [attend] enroll in a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one [district] complex area desiring to enter a school in another [district] complex area may be received or [admitted] enrolled upon producing a certificate of release from the school last attended in the other [district] complex area."

SECTION 3. Section 302A-1154, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**"§302A-1154 Immunization upon [entering] attending school; tuberculosis clearance."**

2. By amending subsection (b) to read:

"(b) No child shall [be admitted to] attend any school for the first time in the State unless the child presents to the appropriate school official documentation satisfactory to the department of health that the child has been examined and tested according to the rules of the department, and is free from tuberculosis in a communicable form."

SECTION 4. Section 302A-1155, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1155 Provisional [entrance-to] attendance at school.** (a) A child may [enter] attend school provisionally upon submitting written documentation from a licensed physician, physician assistant, advanced practice registered nurse, or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further documentation showing that the required immunizations have been completed shall be submitted to the appropriate school official no later than three months after the child first [entered] attends the school. If all of the required immunizations cannot be completed within three months due to the length of the minimum intervals between doses of a particular vaccine required by the department of health, provisional [admission] attendance may be extended so long as the child's parent or guardian provides documentation that appointments for required immunizations have been made and that progress toward completing the immunizations continues in accordance with the requirements of the department of health.

(b) Provisional [entrance-to] attendance at school may be suspended by the department of health when there is danger of an epidemic from any of the communicable diseases for which immunization is required."

SECTION 5. Section 302A-1159, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1159 Physical examination required.** No child shall [be admitted to] attend any school for the first time in the State unless the child presents to the appropriate school official a report from a licensed physician or advanced practice registered nurse of the results of a physical examination performed within a year of the date of [entry into] attendance at school. A child may [enter] attend

school provisionally upon submitting written documentation from a licensed physician, advanced practice registered nurse, or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further documentation showing that the required physical examination has been completed shall be submitted to the appropriate school official no later than three months after the child first [entered] attends the school."

**SECTION 6.** Section 302A-1161, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1161 Notification for noncompliance.** If a child does not complete the immunizations required under section 302A-1154 or the physical examination required under section 302A-1159 within the period provided by section 302A-1155 after provisional [entry into] attendance at school, the administrator of the school shall cause a notice to be sent to the parent or guardian of the child stating that if the required immunizations or physical examination is not completed within thirty days of the date of the notice, the child shall not be [admitted] permitted to attend school."

**SECTION 7.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 8.** This Act shall take effect upon its approval.

(Approved April 15, 2014.)

## ACT 17

S.B. NO. 2137

A Bill for an Act Relating to the Terms of Members of the Board of Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 302A-123, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The term of each member shall be three years, except as provided for in the initial appointment in subsection (a). [Members] Notwithstanding any law to the contrary, members shall serve no more than three consecutive three-year terms; provided that the members who are initially appointed to terms of two years or less pursuant to subsection (a) may be reappointed to three ensuing consecutive three-year terms. If a member is nominated to a second or subsequent consecutive term, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the expiration of the member's immediately preceding term; provided that if the senate has not taken final action to reconfirm the member by the one hundred twenty-day deadline, the member shall continue to serve until the senate takes final action on the reconfirmation."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved April 15, 2014.)

A Bill for an Act Relating to Criminal History Record Checks for State and County Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 378-2.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding subsections (b) and (c), the requirement that inquiry into and consideration of a prospective employee's conviction record may take place only after the individual has received a conditional job offer, and the limitation to the most recent ten-year period, excluding the period of incarceration, shall not apply to employers who are expressly permitted to inquire into an individual's criminal history for employment purposes pursuant to any federal or state law other than subsection (a), including:

- (1) The State or any of its branches, political subdivisions, or agencies pursuant to sections 78-2.7 and 831-3.1;
- (2) The department of education pursuant to section 302A-601.5;
- (3) The department of health with respect to employees, providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services pursuant to section 321-171.5;
- (4) The judiciary pursuant to section 571-34;
- (5) The counties pursuant to section 846-2.7(b)(5), (33), (34), (35), [and] (36)[;], and (38);
- (6) Armed security services pursuant to section 261-17(b);
- (7) Providers of a developmental disabilities domiciliary home pursuant to section 333F-22;
- (8) Private schools pursuant to sections 302C-1 and 378-3(8);
- (9) Financial institutions in which deposits are insured by a federal agency having jurisdiction over the financial institution pursuant to section 378-3(9);
- (10) Detective agencies and security guard agencies pursuant to sections 463-6(b) and 463-8(b);
- (11) Employers in the business of insurance pursuant to section 431:2-201.3;
- (12) Employers of individuals or supervisors of individuals responsible for screening passengers or property under title 49 United States Code section 44901 or individuals with unescorted access to an aircraft of an air carrier or foreign carrier or in a secured area of an airport in the United States pursuant to title 49 United States Code section 44936(a);
- (13) The department of human services pursuant to sections 346-97 and 352-5.5;
- (14) The public library system pursuant to section 302A-601.5;
- (15) The department of public safety pursuant to section 353C-5;
- (16) The board of directors of a cooperative housing corporation or the manager of a cooperative housing project pursuant to section 421I-12;
- (17) The board of directors of an association of owners under chapter 514A or 514B, or the manager of a condominium project pursuant to section 514A-82.1 or 514B-133; and
- (18) The department of health pursuant to section 321-15.2.”

SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- (b) Criminal history record checks may be conducted by:
- (1) The department of health or the department's designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
  - (2) The department of health or the department's designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;
  - (3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
  - (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 321-484;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when pro-

- viding services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-496;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult and community care services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:

- (A) Each principal of every non-corporate applicant for a money transmitter license; and
- (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or [dependent] vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or [dependent] vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable [and disabled] citizens during emergencies or crises; [and]
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information; and
- [37] (40) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

## **ACT 19**

**SECTION 3.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved April 15, 2014.)

## **ACT 19**

**H.B. NO. 1579**

A Bill for an Act Relating to Judgment Liens.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 636-3, Hawaii Revised Statutes, provides that when a money judgment is rendered by a court, it is considered to be a lien against the real property of the judgment debtor once the judgment is recorded in the bureau of conveyances. Section 636-3, Hawaii Revised Statutes, also provides that, in the case of registered land, recordation must be in compliance with chapter 501, Hawaii Revised Statutes. Section 501-102, Hawaii Revised Statutes, and rule 62(e), Rules of the Land Court, require that all documents, including a monetary judgment other than a judgment providing for child support, presented for recordation in the land court system must contain a reference to a certificate of title number and, if applicable, an indorsement of the current certificate of title number.

The legislature finds that many money judgments do not contain a reference to a certificate of title number because the information is generally not known or researched prior to a judgment being rendered. In addition, a judgment debtor may acquire registered land after the judgment is rendered. Requiring judgments to be amended in order to include references to a certificate of title number is time consuming and places a great burden on creditors' attorneys. Further, amending judgments in order to include certificate of title numbers is particularly difficult for judgments rendered in other jurisdictions.

The legislature also finds that it has become a common practice to use flysheets to identify the certificate of title number of the judgment debtor's registered land and enable judgments to be recorded, even when the document being presented for recordation does not contain any reference to a certificate of title number. It also appears that names of judgment debtors are sometimes clarified or added on a flysheet when a judgment does not contain complete or consistently spelled names. However, the additional information added to the flysheet may or may not be reliable because it is not attested to. It is burdensome for the receiving clerks at the office of the assistant registrar to independently verify or ascertain the information contained on flysheets attached to money judgments presented for recording.

The legislature believes that:

- (1) Money judgments should be considered valid liens as against all real property, including registered property, in which a judgment debtor may have an interest;
- (2) It is impractical to require judgments that are otherwise valid and enforceable to be amended to make reference to certificate of title numbers as required by the current law and court rule; and
- (3) It is in the public interest to preserve the integrity of the land court system by discouraging the current practice of allowing possibly unverified information to be added to flysheets in order to facilitate the recording of monetary judgments.

The purpose of this Act is to clarify that money judgments are considered valid liens against all real property, including registered property, when recorded in the bureau of conveyances.

SECTION 2. Section 501-82, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, hold the same free from all encumbrances except those noted on the certificate in the order of priority of recordation, and any of the following encumbrances which may be subsisting, namely:

- (1) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting such liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505;
- (2) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale;
- (3) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33;
- (4) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of such way has been determined;
- (5) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed;
- (6) Any liability to assessments for betterments, or statutory liability which may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any such liability and the lien therefor (other than for labor and material furnished in the improvement of the land which shall be governed by section 507-43) shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of such assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is registered and noted on the certificate of title within such three year period; provided further that if there are easements or other rights, appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner;

- (7) The possibility of reversal or vacation of the decree of registration upon appeal; [or]
- (8) Any encumbrance not herein required to be registered as provided in sections 501-241 to 501-248 and relating to a leasehold time share interest[.]; or
- (9) Money judgments, orders, or decrees of a Hawaii state court or the United States District Court for the District of Hawaii, if the same are recorded in the bureau of conveyances; provided that only the monetary lien created by the recordation shall affect the land; provided further that no other provision of a judgment, order, or decree shall affect the land unless otherwise registered in compliance with this chapter.”

SECTION 3. Section 501-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) This section shall not be construed to relate to state or federal tax liens or child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapters 231, 505, and 576D, respectively[.], or to liens arising from money judgments, orders, or decrees recorded pursuant to section 636-3. The recordation of the child support order or judgment in the bureau of conveyances shall be deemed, at such time, for all purposes and without any further action, to place a lien on land registered in the land court under this chapter.”

SECTION 4. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

**“§636-3 Judgment, orders, decrees; lien when.** Any money judgment, order, or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it the Hawaii tax identification number, the federal employer identification number, or the last four digits only of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to disclose or disclosure of an incorrect social security number, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor's attorney of record in the action, at the expense of the debtor, shall execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, [section 501-102] sections 501-241 to 501-248[5] and part II of chapter 501 shall govern.

The party seeking to record or register a judgment, order, or decree shall redact the first five digits of any social security number by blocking the numbers out on the copy of the judgment, order, or decree to be recorded or registered."

**SECTION 5.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

**SECTION 7.** This Act shall take effect on July 1, 2014.

(Approved April 15, 2014.)

**ACT 20**

S.B. NO. 2033

A Bill for an Act Relating to Dentists.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 448-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to any other powers and duties authorized by law, the board shall adopt [such] rules pursuant to chapter 91 as it deems proper and necessary for the performance of its work."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved April 15, 2014.)

**ACT 21**

S.B. NO. 2803

A Bill for an Act Relating to Thrill Craft Operation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 89, Session Laws of Hawaii 2009, as amended by Act 118, Session Laws of Hawaii 2013, is amended by amending section 5 to read as follows:

"**SECTION 5.** This Act shall take effect upon its approval[; provided that on June 30, 2014, section 1 of this Act shall be repealed on June 30, 2014; and provided further that section 2 of this Act shall take effect on July 1, 2014]."

**SECTION 2.** Act 89, Session Laws of Hawaii 2009, as amended by Act 118, Session Laws of Hawaii 2013, is amended by repealing section 2.

## ACT 22

[““~~SECTION 2. Section 200-37, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:~~

~~“(e) No person shall operate a thrill craft in the waters of the State, except:~~

- ~~(1) In areas and during time periods designated by the department;~~
- ~~(2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill craft between the areas designated under paragraph (1) and the shore;~~
- ~~(3) Authorized government personnel conducting operations approved by the department; or~~
- ~~(4) When used to conduct ocean cleanup, as authorized by rules adopted by the department.””]~~

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act, upon its approval, shall take effect on June 29, 2014.

(Approved April 17, 2014.)

### Note

1. So in original.

## ACT 22

S.B. NO. 2229

A Bill for an Act Relating to the Uniform Power of Attorney Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER UNIFORM POWER OF ATTORNEY ACT PART I. GENERAL PROVISIONS

**§ -1 Definitions.** For the purposes of this chapter, unless the context clearly indicates otherwise:

“Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, co-agent, successor agent, and a person to which an agent’s authority is delegated.

“Durable” means not terminated by the principal’s incapacity, with respect to a power of attorney.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Good faith” means honesty in fact.

“Incapacitated” or “incapacity” means the inability of an individual to manage property or business affairs because the individual:

- (1) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or
- (2) Is:

- (A) Missing;
- (B) Detained, including incarcerated in a penal system; or
- (C) Outside of the United States and unable to return.

“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

“Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term “power of attorney” is used.

“Presently exercisable general power of appointment” means the power exercisable at the time in question to vest absolute ownership in the principal individually, the principal’s estate, the principal’s creditors, or the creditors of the principal’s estate, with respect to property or a property interest subject to a power of appointment. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

“Principal” means an individual who grants authority to an agent in a power of attorney.

“Property” means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Sign” means, with present intent to authenticate or adopt a record, to:

- (1) Execute or adopt a tangible symbol; or
- (2) Attach to or logically associate with the record an electronic sound, symbol, or process.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

“Stocks and bonds” means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

**§ -2 Applicability.** This chapter shall apply to all powers of attorney except:

- (1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;
- (2) A power to make health care decisions;
- (3) A power created by a legal parent or legal guardian placing the care of a minor or a disabled adult under another person;
- (4) A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and
- (5) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

**§ -3 Power of attorney.** (a) A power of attorney created under this chapter shall be durable unless it expressly provides that it is terminated by the incapacity of the principal.

(b) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(c) A power of attorney executed in Hawaii on or after January 1, 2015, is valid if its execution complied with the law of this State as it existed at the time of execution.

(d) A power of attorney executed outside of Hawaii is valid in this State if, when the power of attorney was executed, the execution complied with:

(1) The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to subsection (f); or

(2) The requirements for a military power of attorney pursuant to title 10 United States Code section 1044b, as amended.

(e) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney shall have the same effect as the original.

(f) The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

**§ -4 Nomination of conservator or guardian; relation of agent to court-appointed fiduciary.** (a) In a power of attorney, a principal may nominate a conservator or guardian of the principal's estate, or conservator or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent shall be accountable to the fiduciary as well as to the principal. The power of attorney shall not be terminated and the agent's authority shall continue unless limited, suspended, or terminated by the court.

**§ -5 Effective date of power of attorney.** (a) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1) A physician or licensed psychologist that the principal has an impairment in the ability to receive and evaluate information or make

or communicate decisions even with the use of technological assistance; or

- (2) An attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, title 42 United States Code section 1320d, as amended, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

**§ -6 Termination of power of attorney or agent's authority.** (a) A power of attorney terminates when:

- (1) The principal dies;
- (2) The principal becomes incapacitated, if the power of attorney is not durable;
- (3) The principal revokes the power of attorney;
- (4) The power of attorney provides that it terminates;
- (5) The purpose of the power of attorney is accomplished; or
- (6) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(b) An agent's authority terminates when:

- (1) The principal revokes the authority;
- (2) The agent dies, becomes incapacitated, or resigns;
- (3) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or
- (4) The power of attorney terminates.

(c) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b), notwithstanding a lapse of time since the execution of the power of attorney.

(d) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(e) Incapacity of the principal of a power of attorney that is not durable shall not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(f) The execution of a power of attorney shall not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

**§ -7 Co-agents and successor agents.** (a) A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise its authority independently.

(b) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents

to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

- (1) Has the same authority as that granted to the original agent; and
- (2) May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(c) Except as otherwise provided in the power of attorney and subsection (d), an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, shall not be liable for the actions of the other agent.

(d) An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection shall be liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action. An agent that breaches a fiduciary duty remains liable for the full amount of damages caused by the breach.

**§ -8 Reimbursement and compensation of agent.** Unless the power of attorney otherwise provides, an agent shall be entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

**§ -9 Agent's acceptance.** Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

**§ -10 Agent's duties.** (a) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

- (1) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;
- (2) Act in good faith; and
- (3) Act only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

- (1) Act loyally for the principal's benefit;
- (2) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;
- (3) Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;
- (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and
- (6) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:
  - (A) The value and nature of the principal's property;

- (B) The principal's foreseeable obligations and need for maintenance;
  - (C) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and
  - (D) Eligibility for a benefit, a program, or assistance under a statute or regulation.
- (c) An agent that acts in good faith shall not be liable to any beneficiary of the principal's estate plan for failure to preserve the plan.
- (d) An agent that acts with care, competence, and diligence for the best interest of the principal shall not be liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.
- (e) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise shall be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.
- (f) Absent a breach of duty to the principal, an agent shall not be liable if the value of the principal's property declines.
- (g) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal shall not be liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.
- (h) Except as otherwise provided in the power of attorney, an agent shall not be required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.

**§ -11 Exoneration of agent.** A provision in a power of attorney relieving an agent of liability for breach of duty shall be binding on the principal and the principal's successors in interest except to the extent the provision:

- (1) Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or
- (2) Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

**§ -12 Judicial relief.** (a) The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

- (1) The principal or the agent;
- (2) A guardian, conservator, or other fiduciary acting for the principal;
- (3) A person authorized to make health care decisions for the principal;
- (4) The principal's spouse, parent, or descendant;
- (5) An individual who would qualify as a presumptive heir of the principal;

- (6) A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;
  - (7) A governmental agency having regulatory authority to protect the welfare of the principal;
  - (8) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and
  - (9) A person asked to accept the power of attorney.
- (b) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

**§ -13 Agent's liability.** An agent that violates this chapter shall be liable to the principal or the principal's successors in interest for the amount required to:

- (1) Restore the value of the principal's property to what it would have been had the violation not occurred; and
- (2) Reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf.

**§ -14 Agent's resignation; notice.** Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

- (1) To the conservator or guardian, if one has been appointed for the principal, and a co-agent or successor agent; or
- (2) If there is no person described in paragraph (1), to:
  - (A) The principal's caregiver;
  - (B) Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or
  - (C) A governmental agency having authority to protect the welfare of the principal.

**§ -15 Acceptance of and reliance upon acknowledged power of attorney.**

(a) For purposes of this section and section -16, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section -3(b) that the signature is genuine.

(c) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority.

(d) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

- (1) An agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney;
- (2) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

- (3) An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.
- (e) An English translation or an opinion of counsel requested under this section shall be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.
- (f) For purposes of this section and section -16, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

**§ -16 Liability for refusal to accept acknowledged power of attorney.** (a) Except as otherwise provided in subsection (b):

- (1) A person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under section -15(d) no later than seven business days after presentation of the power of attorney for acceptance;
- (2) If a person requests a certification, a translation, or an opinion of counsel under section -15(d), the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and
- (3) A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.
- (b) A person shall not be required to accept an acknowledged power of attorney if:

  - (1) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;
  - (2) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;
  - (3) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;
  - (4) A request for a certification, a translation, or an opinion of counsel under section -15(d) is refused;
  - (5) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under section -15(d) has been requested or provided; or
  - (6) The person makes, or has actual knowledge that another person has made, a report to the adult protective and community services branch of the department of human services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.
  - (c) A person that refuses to accept an acknowledged power of attorney in violation of this section shall be subject to:

    - (1) A court order mandating acceptance of the power of attorney; and
    - (2) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

**§ -17 Principles of law and equity.** Unless displaced by a provision of this chapter, the principles of law and equity shall supplement this chapter.

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**§ -18 Laws applicable to financial institutions and entities.** This chapter shall not supersede any other law applicable to financial institutions or other entities, and the other law shall control if inconsistent with this chapter.

**§ -19 Remedies under other law.** The remedies under this chapter shall not be exclusive and shall not abrogate any right or remedy under the law of this State other than this chapter.

## PART II. AUTHORITY

### **§ -31 Authority that requires specific grant; grant of general authority.**

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (1) Create, amend, revoke, or terminate an inter vivos trust;
- (2) Make a gift;
- (3) Create or change rights of survivorship;
- (4) Create or change a beneficiary designation;
- (5) Delegate authority granted under the power of attorney;
- (6) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; or
- (7) Exercise fiduciary powers that the principal has authority to delegate.

(b) Notwithstanding a grant of authority to do an act described in subsection (a), unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(c) Subject to subsections (a), (b), (d), and (e), if a power of attorney grants to an agent authority to do (or other broadly worded authority in a general power of attorney signed prior to the effective date of this Act) all acts that a principal could do, the agent shall have the general authority described in sections -34 through -46.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift shall be subject to section -47.

(e) Subject to subsections (a), (b), and (d), if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority shall control.

(f) Authority granted in a power of attorney shall be exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

(g) An act performed by an agent pursuant to a power of attorney shall have the same effect and inure to the benefit of and bind the principal and the principal's successors in interest as if the principal had performed the act.

**§ -32 Incorporation of authority.** (a) An agent shall have authority described in this part if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections -34 through -47 or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections -34 through -47 or a citation to a section of sections -34 through -47 incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority incorporated by reference.

**§ -33 Construction of authority generally.** Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections -34 through -47 or that grants to an agent authority to do all acts that a principal could do pursuant to section -31(c), a principal authorizes the agent, with respect to that subject, to:

- (1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;
- (2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;
- (3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;
- (5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;
- (6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;
- (7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;
- (8) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;
- (9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and
- (10) Do any lawful act with respect to the subject and all property related to the subject.

**§ -34 Real property.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property shall authorize the agent to:

- (1) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;
- (2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement

- or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;
- (3) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
  - (4) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;
  - (5) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including by:
    - (A) Insuring against liability or casualty or other loss;
    - (B) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;
    - (C) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and
    - (D) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;
  - (6) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;
  - (7) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including by:
    - (A) Selling or otherwise disposing of them;
    - (B) Exercising or selling an option, right of conversion, or similar right with respect to them; and
    - (C) Exercising any voting rights in person or by proxy;
  - (8) Change the form of title of an interest in or right incident to real property; and
  - (9) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

**§ -35 Tangible personal property.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property shall authorize the agent to:

- (1) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;
- (2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;
- (3) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay,

- renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
- (4) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;
- (5) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:
  - (A) Insuring against liability or casualty or other loss;
  - (B) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;
  - (C) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;
  - (D) Moving the property from place to place;
  - (E) Storing the property for hire or on a gratuitous bailment; and
  - (F) Using and making repairs, alterations, or improvements to the property; and
- (6) Change the form of title of an interest in tangible personal property.

**§ -36 Stocks and bonds.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds shall authorize the agent to:

- (1) Buy, sell, and exchange stocks and bonds;
- (2) Establish, continue, modify, or terminate an account with respect to stocks and bonds;
- (3) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;
- (4) Receive certificates and other evidences of ownership with respect to stocks and bonds; and
- (5) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

**§ -37 Commodities and options.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options shall authorize the agent to:

- (1) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and
- (2) Establish, continue, modify, and terminate option accounts.

**§ -38 Banks and other financial institutions.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions shall authorize the agent to:

- (1) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;
- (2) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;
- (3) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

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- (4) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;
- (5) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;
- (6) Enter a safe deposit box or vault and withdraw or add to the contents;
- (7) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
- (8) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;
- (9) Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;
- (10) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and
- (11) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

**§ -39 Operation of entity or business.** Unless the power of attorney otherwise provides, and subject to the terms of a document or an agreement governing an entity or an entity ownership interest, language in a power of attorney granting general authority with respect to operation of an entity or business shall authorize the agent to:

- (1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest;
- (2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;
- (3) Enforce the terms of an ownership agreement;
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;
- (5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;
- (6) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;
- (7) With respect to an entity or business owned solely by the principal:
  - (A) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;
  - (B) Determine:

- (i) The location of its operation;
- (ii) The nature and extent of its business;
- (iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;
- (iv) The amount and types of insurance carried; and
- (v) The mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;
- (C) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and
- (D) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;
- (8) Put additional capital into an entity or business in which the principal has an interest;
- (9) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;
- (10) Sell or liquidate all or part of an entity or business;
- (11) Establish the value of an entity or business under a buy-out agreement to which the principal is a party;
- (12) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and
- (13) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

**§ -40 Insurance and annuities.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities shall authorize the agent to:

- (1) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;
- (2) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment;
- (3) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;
- (4) Apply for and receive a loan secured by a contract of insurance or annuity;
- (5) Surrender and receive the cash surrender value on a contract of insurance or annuity;
- (6) Exercise an election;

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- (7) Exercise investment powers available under a contract of insurance or annuity;
- (8) Change the manner of paying premiums on a contract of insurance or annuity;
- (9) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;
- (10) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;
- (11) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;
- (12) Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and
- (13) Pay, from proceeds or otherwise; compromise or contest; and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

**§ -41 Estates, trusts, and other beneficial interests.** (a) In this section, “estate, trust, or other beneficial interest” means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests shall authorize the agent to:

- (1) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;
- (2) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;
- (3) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;
- (5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;
- (6) Conserve, invest, disburse, or use anything received for an authorized purpose;
- (7) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor; and
- (8) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or other beneficial interest.

**§ -42 Claims and litigation.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation shall authorize the agent to:

- (1) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;
- (2) Bring an action to determine adverse claims or intervene or otherwise participate in litigation;
- (3) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;
- (4) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;
- (5) Submit to alternative dispute resolution, settle, and propose or accept a compromise;
- (6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;
- (7) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;
- (8) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and
- (9) Receive money or another thing of value paid in settlement of or as proceeds of a claim or litigation.

**§ -43 Personal and family maintenance.** (a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance shall authorize the agent to:

- (1) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:
  - (A) The principal's children;
  - (B) Other individuals legally entitled to be supported by the principal; and
  - (C) The individuals whom the principal has customarily supported or indicated the intent to support;
- (2) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;
- (3) Provide living quarters for the individuals described in paragraph (1) by:
  - (A) Purchase, lease, or other contract; or

- (B) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;
  - (4) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in paragraph (1);
  - (5) Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (1);
  - (6) Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, title 42 United States Code section 1320d, as amended, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;
  - (7) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in paragraph (1);
  - (8) Maintain credit and debit accounts for the convenience of the individuals described in paragraph (1) and open new accounts; and
  - (9) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.
- (b) Authority with respect to personal and family maintenance shall be neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

**§ -44 Benefits from governmental programs or civil or military service.**

(a) In this section, "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation, including social security, medicare, and medicaid.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service shall authorize the agent to:

- (1) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in subsection -43(a)(1), and for shipment of their household effects;
- (2) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;
- (3) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;
- (4) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

- (5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and
- (6) Receive the financial proceeds of a claim described in paragraph (4) and conserve, invest, disburse, or use for a lawful purpose anything so received.

**§ -45 Retirement plans.** (a) In this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code of 1986, as amended:

- (1) An individual retirement account under Internal Revenue Code Section 408, title 26 United States Code section 408, as amended;
- (2) A Roth individual retirement account under Internal Revenue Code Section 408A, title 26 United States Code section 408A, as amended;
- (3) A deemed individual retirement account under Internal Revenue Code Section 408(q), title 26 United States Code section 408(q), as amended;
- (4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), title 26 United States Code section 403(b), as amended;
- (5) A pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), title 26 United States Code section 401(a), as amended;
- (6) A plan under Internal Revenue Code Section 457(b), title 26 United States Code section 457(b), as amended; and
- (7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, title 26 United States Code section 409A, as amended.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans shall authorize the agent to:

- (1) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;
- (2) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;
- (3) Establish a retirement plan in the principal's name;
- (4) Make contributions to a retirement plan;
- (5) Exercise investment powers available under a retirement plan; and
- (6) Borrow from, sell assets to, or purchase assets from a retirement plan.

**§ -46 Taxes.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes shall authorize the agent to:

- (1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 title<sup>1</sup>

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United States Code section 2032A, as amended, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

- (2) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;
- (3) Exercise any election available to the principal under federal, state, local, or foreign tax law; and
- (4) Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

**§ -47 Gifts.** (a) In this section, a gift “for the benefit of” a person includes a gift to a trust, an account under chapter 553A, the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code section 529, 26 title<sup>1</sup> United States Code section 529, as amended.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts shall authorize the agent only to:

- (1) Make outright to, or for the benefit of, a person, a gift of any of the principal’s property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), title 26 United States Code section 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal’s spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, title 26 United States Code section 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and
- (2) Consent, pursuant to Internal Revenue Code Section 2513, title 26 United States Code section 2513, as amended, to the splitting of a gift made by the principal’s spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(c) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal’s best interest based on all relevant factors, including:

- (1) The value and nature of the principal’s property;
- (2) The principal’s foreseeable obligations and need for maintenance;
- (3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
- (4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and
- (5) The principal’s personal history of making or joining in making gifts.

## PART III. STATUTORY FORMS

**§ -51 Statutory form power of attorney.** A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

STATE OF HAWAII  
STATUTORY FORM POWER OF ATTORNEY  
IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property, including your money, whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act in chapter , Hawaii Revised Statutes.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a co-agent in the Special Instructions. Co-agents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

**DESIGNATION OF AGENT**

I \_\_\_\_\_ name the following person as my agent:  
(Name of Principal)

Name of Agent:

---

Agent's Address:

---

Agent's Telephone Number:

**DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:

---

Successor Agent's Address:

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Successor Agent's Telephone Number:

---

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent:

---

Second Successor Agent's Address:

---

Second Successor Agent's Telephone Number:

---

### GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act in chapter , Hawaii Revised Statutes.

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

### GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke, or terminate an inter vivos trust
- Make a gift, subject to the limitations of the Uniform Power of Attorney Act under section -47, Hawaii Revised Statutes, and any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation

- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate

**LIMITATION ON AGENT'S AUTHORITY**

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

**SPECIAL INSTRUCTIONS (OPTIONAL)**

You may give special instructions on the following lines:

---

---

---

---

**EFFECTIVE DATE**

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

**NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for conservator or guardian of my estate:

---

Nominee's Address:

---

Nominee's Telephone Number:

---

Name of Nominee for guardian of my person:

---

Nominee's Address:

---

Nominee's Telephone Number:

## ACT 22

### RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

### SIGNATURE AND ACKNOWLEDGMENT

Your Signature

Date

Your Name Printed

Your Address

Your Telephone Number

State of \_\_\_\_\_

County of \_\_\_\_\_

This document was acknowledged before me on

\_\_\_\_\_ ,  
(Date)

by \_\_\_\_\_  
(Name of Principal)

\_\_\_\_\_ (Seal, if any)

Signature of Notary

My commission expires: \_\_\_\_\_

This document prepared by:

### IMPORTANT INFORMATION FOR AGENT

#### Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act in good faith;
- (3) Do nothing beyond the authority granted in this power of attorney; and

- (4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) Act loyalty for the principal's benefit;
- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Act with care, competence, and diligence;
- (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

#### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) Death of the principal;
- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished; or
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

#### Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act, in chapter \_\_\_\_\_, Hawaii Revised Statutes. If you violate the Uniform Power of Attorney Act in chapter \_\_\_\_\_, Hawaii Revised Statutes, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

**§ -52 Agent's certification.** The following optional form may be used by an agent to certify facts concerning a power of attorney.

#### AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of \_\_\_\_\_

County of \_\_\_\_\_

## ACT 22

I, \_\_\_\_\_ (Name of Agent), certify under penalty of perjury that \_\_\_\_\_ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated \_\_\_\_\_.

I further certify that to my knowledge:

- (1) The Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;
- (2) If the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;
- (3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and
- (4) \_\_\_\_\_  
\_\_\_\_\_

(Insert other relevant statements)

### SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Agent's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent's Name Printed

\_\_\_\_\_  
Agent's Address

\_\_\_\_\_  
Agent's Telephone Number

This document was acknowledged before me on

\_\_\_\_\_  
(Date)

by \_\_\_\_\_  
(Name of Agent)

\_\_\_\_\_  
(Seal, if any)  
Signature of Notary

My commission expires: \_\_\_\_\_

This document prepared by:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PART IV. MISCELLANEOUS PROVISIONS

**§ -61 Uniformity of application and construction.** In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

**§ -62 Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, title 15 United States Code section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, title 15 United States Code section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, title 15 United States Code section 7003(b).

**§ -63 Effect on existing powers of attorney.** Except as otherwise provided in this chapter, on the effective date of this chapter:

- (1) This chapter shall apply to a power of attorney created before, on, or after the effective date of this chapter;
- (2) This chapter shall apply to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this chapter;
- (3) This chapter shall apply to a judicial proceeding concerning a power of attorney commenced before the effective date of this chapter, unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision shall not apply and the superseded law shall apply; and
- (4) An act done before the effective date of this chapter shall not be affected by this chapter.”

SECTION 2. Section 412:4-100, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Other provisions of the laws of this State, including, but not limited to, chapter 490, the Uniform Commercial Code, [chapter 551D, the Uniform Durable Power of Attorney Act,] chapter \_\_\_\_\_, the Uniform Power of Attorney Act, chapter 553A, Uniform Transfers to Minors Act, chapter 556, the Uniform Fiduciaries Act, chapter 560, the Uniform Probate Code, and any successor or similar acts shall also be applicable to deposits in this State. The rights, protections, releases and discharges of financial institutions with respect to its depositors or third parties contained in this article and other applicable laws shall be cumulative.”

SECTION 3. Section 432E-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The provider shall discuss with the enrollee and the enrollee’s immediate family both advanced health-care directives, as provided for in chapter 327E, and durable powers of attorney in relation to medical treatment[, as provided for in chapter 327E and section 551D-2.5].”

SECTION 4. Chapter 551D, Hawaii Revised Statutes, is repealed.

SECTION 5. The Revisor of Statutes shall insert the appropriate effective date of this Act in section 1 of this Act.

## ACT 23

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

SECTION 7. This Act shall take effect upon its approval.

(Approved April 17, 2014.)

### Note

1. So in original.

## ACT 23

S.B. NO. 2138

A Bill for an Act Relating to Electric Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of "neighborhood electric vehicle" to read as follows:

"Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- (3) The vehicle has four wheels in contact with the ground;
- (4) The vehicle has a gross vehicle weight rating of less than [two] three thousand [five hundred] pounds; and
- (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500)."

SECTION 2. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of "neighborhood electric vehicle" to read as follows:

"Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- [2] The vehicle is designed to carry four or fewer persons;
- [3] (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- [4] (3) The vehicle has [at least] four wheels in contact with the ground;
- [5] (4) The vehicle has [an unladen] a gross vehicle weight rating of less than [one thousand eight hundred] three thousand pounds; and
- [6] (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500)."

SECTION 3. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 2014.)

**ACT 24**

H.B. NO. 1846

A Bill for an Act Relating to District Court Jurisdiction.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions where the debt, amount, damages, or value of the property claimed does not exceed [\$25,000.] \$40,000, except in civil actions involving summary possession or ejectment, in which case the district court shall have jurisdiction over any counterclaim otherwise properly brought by any defendant in the action if the counterclaim arises out of and refers to the land or premises the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney's commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed \$10,000. The district courts shall also have original jurisdiction of suits for specific performance when the fair market value of such specific performance does not exceed \$20,000 and original jurisdiction to issue injunctive relief in residential landlord-tenant cases under chapter 521.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 2014.)

**ACT 25**

H.B. NO. 2579

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No compromise in regard to a claim for compensation pending before the director shall be valid unless it is approved by decision of the director as conforming to this chapter and made a part of the decision[-]; provided that this requirement shall not apply to compromises reached as a result of claims or actions brought under section 386-8.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

## ACT 26

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014; provided that on June 30, 2016, this Act shall be repealed and section 386-78(a), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved April 17, 2014.)

## ACT 26

H.B. NO. 2275

A Bill for an Act Relating to Mortgage Rescue Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 480E-2, Hawaii Revised Statutes, is amended by amending the definition of "distressed property consultant" to read as follows:

"Distressed property consultant" means any person who performs or provides, or attempts to perform or provide, or who arranges for others to perform or provide, or who assists others to perform or provide, or who makes any solicitation, representation, or offer to perform or provide, any of the following relating to a distressed property:

- (1) Stop or postpone the foreclosure sale or loss of any distressed property due to the nonpayment of any loan that is secured by the distressed property;
- (2) Stop or postpone the charging of any lien or encumbrance against any distressed property or eliminate any lien or encumbrance charged against any distressed property for the nonpayment of any taxes, lease assessments, association fees, or maintenance fees;
- (3) Obtain any forbearance from any beneficiary or mortgagee, or relief with respect to a tax sale of the property;
- (4) Assist the owner to exercise any cure of default arising under Hawaii law;
- (5) Obtain any extension of the period within which the owner may reinstate the owner's rights with respect to the property;
- (6) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed property or contained in the mortgage;
- (7) Assist the owner in foreclosure, loan default, or post-tax sale redemption period to obtain a loan or advance of funds;
- (8) Avoid or ameliorate the impairment of the owner's credit resulting from the recording or filing of a notice of default or the conduct of a foreclosure sale or tax sale; or
- (9) Save the owner's residence from foreclosure or loss of home due to nonpayment of taxes.

"Distressed property consultant" shall not include any of the following:

- (1) A person or the person's authorized agent acting under the express authority or written approval of the federal Department of Housing and Urban Development;
- (2) A person who holds or is owed an obligation secured by a lien on any distressed property, or a person acting under the express authorization or written approval of such person, when the person performs services in connection with the obligation or lien, if the

- obligation or lien did not arise as the result of or as part of a proposed distressed property conveyance;
- (3) Banks, savings banks, savings and loan associations, credit unions, trust companies, depository and nondepository financial service loan companies, and insurance companies organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state, or under the laws of the United States;
  - (4) ~~Licensed attorneys~~ Attorneys licensed in the State of Hawaii engaged in the practice of law;
  - (5) Certified public accountants licensed under chapter 466, persons holding a permit to practice public accountancy in the State of Hawaii, and persons holding a valid certified public accountant license issued under the laws of another state or territory who are lawfully practicing in the State of Hawaii with a temporary permit to practice pursuant to rules established by the board of public accountancy and who are subject to regulation by the board of public accountancy while engaged in the practice of public accountancy;
  - (6) A federal Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities, while engaged in the business of these persons or entities;
  - (7) A nonprofit organization that, pursuant to chapter 446, offers counseling or advice to an owner of a distressed property, if the nonprofit organization has no contract or agreement for services with lenders, distressed property purchasers, or any person who effects loans or distressed property purchases; or
  - [¶(8)] A person currently licensed as an active real estate broker or real estate salesperson in Hawaii pursuant to chapter 467, when acting in the capacity of a real estate broker or real estate salesperson in accordance with customary industry standards.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 27

H.B. NO. 2262

A Bill for an Act Relating to Reporting Deaths to State Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that some governmental agencies within the State that keep official lists of persons, in the ordinary course of the agency's activities, need to know when members on their lists have died so that they can, for example, discontinue providing benefits. Although section 338-18(g), Hawaii Revised Statutes, allows the department of health to verify information contained in vital statistics records by employing a process that matches its vital statistics information with information provided by agencies, that process cannot be used by state agencies whose lists are confidential under federal law.

The legislature also finds that it is unlawful for the department of health to disclose information contained in confidential vital statistics records, except as authorized by law. Allowing the department of health to report deaths to state

## **ACT 28**

agencies that maintain official lists that are confidential under federal law would assist state agencies to maximize the accuracy of their official lists and avoid overpaying benefits and wasting public funds.

**SECTION 2.** Chapter 338, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§338- Deaths reported to state agencies.** (a) Notwithstanding section 338-18, the department of health, within six weeks after the end of each quarter or other agreed upon period, shall deliver to a state agency a list of the names of all persons whose deaths have been recorded by the department during that period; provided that this section shall only apply to a state agency that:

- (1) Maintains official lists of persons in the ordinary course of the agency's activities and is prohibited by federal law from sharing information from the lists; and
- (2) Has requested the information from the department pursuant to a written agreement.

The list shall set forth the full name of the decedent and the dates of the decedent's birth and death, if known. The department and the requesting agency shall determine by agreement the form and format of providing the information to the agency.

(b) In response to an agency's first request pursuant to subsection (a), the department of health may provide a list of the persons whose deaths were recorded by the department during an agreed upon period in the past. The department may charge a reasonable fee to cover its cost of providing the list. If a state agency requires further information, the department may provide a certified copy of the death certificate to that state agency, subject to the fees required under section 338-14.5.

(c) Any state agency that obtains, pursuant to this section, a list of the names of persons whose deaths have been recorded by the department of health shall use the list only for the purposes for which it was obtained and shall not further disclose any information on the list.

(d) The department of health may develop and implement or assist with the development and implementation of a systems interface to electronically provide the information required pursuant to subsection (a) to a state agency.”

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval and shall be repealed on July 1, 2016.

(Approved April 23, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 28**

**S.B. NO. 2466**

A Bill for an Act Relating to Continuing Education for Marriage and Family Therapists.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the profession of marriage and family therapy has been regulated in the State since 1998. Unlike other licensed

professions, continuing education credit hours are not currently required for marriage and family therapists to renew their licenses.

The legislature further finds that marriage and family therapists provide critically needed services in prevention, intervention, and treatment to a broad spectrum of clients. It is therefore essential that marriage and family therapists maintain their professional competency and keep abreast of the latest developments in their profession.

The purpose of this Act is to require licensed marriage and family therapists in Hawaii to complete a minimum of forty-five credit hours of continuing education courses during each licensing renewal triennium, beginning January 1, 2017.

**SECTION 2.** Section 451J-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Continuing education courses" means courses approved by the American Association for Marriage and Family Therapy, American Association for Marriage and Family Therapy: Hawaii Division, American Psychological Association, Hawaii Psychological Association, National Association of Social Workers, or National Board for Certified Counselors and Affiliates, Inc.

"Credit hour" means, except as otherwise provided, the value assigned to fifty minutes of instruction.

"Ethics courses" include ethics theory, ethical reasoning, ethical principles, ethical dilemmas, and professional ethics."

**SECTION 3.** Section 451J-10, Hawaii Revised Statutes, is amended to read as follows:

**[H§451J-10]** **Renewal of license.** (a) Licenses shall be renewed triennially on or before December 31, with the first renewal deadline occurring on December 31, 2001. Failure to renew a license shall result in a forfeiture of the license. Licenses [which] that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees[.], and in the case of marriage and family therapists audited pursuant to subsection (f), documentation of continuing education compliance. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. Persons with terminated licenses shall be required to reapply for licensure as a new applicant.

(b) Beginning with the renewal for the licensing triennium commencing on January 1, 2017, through December 31, 2019, and prior to every triennial renewal thereafter, each licensee shall:

- (1) Pay all required fees; and
- (2) Complete a minimum of forty-five credit hours of continuing education courses within the three-year period preceding the renewal date; provided that a minimum of six credit hours shall be in ethics courses.

(c) A first-time licensee shall not be subject to the continuing education requirement established under subsection (b)(2) for the first license renewal.

(d) Each licensee shall maintain the licensee's continuing education records. At the time of renewal, each licensee shall certify under oath that the licensee has complied with the continuing education requirement of this section. The director may require a licensee to submit evidence satisfactory to the director that demonstrates compliance with the continuing education requirement of this section.

## ACT 28

(e) A licensee seeking renewal of a license without full compliance with the continuing education requirement shall submit the renewal application, required fee, a notarized affidavit setting forth the facts explaining the reasons for noncompliance, and a request for an extension on the basis of the facts; provided that the licensee shall complete at least ninety hours of continuing education, including at least twelve hours in ethics courses, prior to the next licensing triennium. The director shall consider each case on an individual basis and may grant an extension of the continuing education requirement based upon:

- (1) Practice in an isolated geographical area with an absence of opportunities for continuing education by taped programs or otherwise; or
- (2) Inability to devote sufficient hours to continuing education because of incapacity, undue hardship, or any other serious extenuating circumstances.

(f) The director may conduct random audits of licensees to determine compliance with the continuing education requirement. The director shall provide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the director with documentation verifying compliance with the continuing education requirement established by this section.”

SECTION 4. Section 451J-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall deny, revoke, condition, or suspend a license granted pursuant to this chapter on the following grounds:

- (1) Conviction by a court of competent jurisdiction of a crime which the department has determined, by rules adopted pursuant to chapter 91, to be of a nature that renders the person convicted unfit to practice marriage and family therapy;
- (2) Failing to report in writing to the director any disciplinary decision related to the provision of mental health services issued against the licensee or the applicant in any jurisdiction within thirty days of the disciplinary decision, or within thirty days of licensure;
- (3) Violation of recognized ethical standards for marriage and family therapists as set by the association;
- (4) Fraud or misrepresentation in obtaining or renewing a license~~s~~, including making a false certification of compliance with the continuing education requirement set forth in section 451J-10;
- (5) Revocation, suspension, or other disciplinary action by any state or federal agency against a licensee or applicant for any reason provided under this section; or
- (6) Other just and sufficient cause [which] that renders a person unfit to practice marriage and family therapy.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2014.

(Approved April 23, 2014.)

## ACT 29

S.B. NO. 2475

A Bill for an Act Relating to Assisting Unlicensed Contractors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that under section 444-9.3, Hawaii Revised Statutes, it is a misdemeanor for a licensed contractor to aid and abet an unlicensed person. However, the contractors license board has determined that section 444-9.3, Hawaii Revised Statutes, as written, only applies to criminal conduct and penalties and is outside the scope of administrative proceedings. Although the regulated industries complaints office has relied upon section 444-17(17), Hawaii Revised Statutes, to administratively prosecute aiding and abetting conduct, that provision applies only in situations where a licensee enters into a contract with an unlicensed contractor. Since aiding and abetting conduct often occurs outside of a contract, the regulated industries complaints office is unable to administratively prosecute violations of section 444-9.3, Hawaii Revised Statutes.

Accordingly, the purpose of this Act is to clarify that a contractor licensee who aids and abets an unlicensed contractor may be subject to additional discipline by the contractors license board.

SECTION 2. Section 444-9.3, Hawaii Revised Statutes, is amended to read as follows:

**"[§444-9.3] Aiding or abetting.** Aiding or abetting an unlicensed person to evade this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person, with the intent to evade this chapter, shall be a misdemeanor[-] and may subject the licensee to additional discipline by the board."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved April 23, 2014.)

## ACT 30

S.B. NO. 2818

A Bill for an Act Relating to Mortgage Servicers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 454M-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An applicant for licensure shall file an application on a form prescribed by NMLS or by the commissioner and shall pay an application fee of \$675. Each license shall expire on [June 30] December 31 of each calendar year. A license may be renewed by filing a renewal statement on a form prescribed by NMLS or by the commissioner and paying a renewal fee of \$425, at least four weeks prior to [the renewal period for licensure for the following year.] December 31."

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SECTION 2. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.  
(Approved April 23, 2014.)

## ACT 31

S.B. NO. 3074

A Bill for an Act Relating to Hotel Class Liquor Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of "hotel" to read as follows:

"Hotel" means an establishment consisting of one or more buildings which contain [4] such total number of rooms as may be prescribed by the commission and in which rooms sleeping accommodations are provided and offered for adequate pay to transient or permanent guests[; and (2) a suitable and adequate kitchen and dining room, where meals are regularly prepared and served to hotel guests and other customers]."

SECTION 2. Statutory material to be repealed is bracketed and stricken.

SECTION 3. This Act shall take effect upon its approval.  
(Approved April 23, 2014.)

## ACT 32

H.B. NO. 570

A Bill for an Act Relating to Contractors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-10.7, Hawaii Revised Statutes, is amended to read as follows:

**[§444-10.7]** Enhanced penalties when elderly persons are targeted. If any person is found to have violated section 444-9 and the violation is committed against elderly persons, in addition to any other penalty set forth or imposed, the court may impose a fine of up to [\$10,000,] \$20,000, or imprisonment up to one year, or both. As used in this section, "elderly person" means a person who is sixty-five years of age or older."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.  
(Approved April 23, 2014.)

## ACT 33

H.B. NO. 2242

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-872, Hawaii Revised Statutes, is amended to read as follows:

**"§708-872 Falsifying business records.** (1) A person commits the offense of falsifying business records if, with intent to defraud, the person:

- (a) Makes or causes a false entry in the business records of an enterprise; [or]
- (b) Alters, erases, obliterates, deletes, removes, or destroys a true entry in the business records of an enterprise; [or]
- (c) Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which the person knows to be imposed upon the person by law, other than for the information of the government, or by the nature of the person's position; or
- (d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

[2] "Enterprise" means any entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, industrial, eleemosynary, or social activity.

[3] (2) For purposes of this section:

"Business record" means any [writing or article] record kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Enterprise" means any entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, industrial, eleemosynary, or social activity.

"Information" includes data, text, images, sounds, codes, computer programs, software, or databases.

"Record" means information that is written or printed, or that is stored in an electronic or other medium and is retrievable in a perceivable form.

[4] (3) Falsifying business records is a misdemeanor."

SECTION 2. Section 710-1000, Hawaii Revised Statutes, is amended by adding six new definitions to be appropriately inserted and to read as follows:

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Falsely alter" means to change, without the authority of the ostensible maker or authorized custodian of the record, a statement, document, or record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that the statement, document, or record so altered falsely appears or purports to be in all respects an authentic creation of its ostensible maker, or authorized by the maker or custodian of the record.

"Falsely complete" means to transform, by adding, inserting, or changing matter, an incomplete statement, document, or record into a complete one, without the authority of the ostensible maker or authorized custodian of the record, so that the complete statement, document, or record falsely appears or purports

## ACT 33

to be in all respects an authentic creation of its ostensible maker, or authorized by the maker or custodian of the record.

"Falsely make" means to create a statement, document, or record, which purports to be an authentic creation of its ostensible maker, but that is not because the ostensible maker is fictitious or because, if real, the ostensible maker did not authorize the creation thereof.

"Information" includes data, text, images, sounds, codes, computer programs, software, or databases.

"Record" means information that is written or printed, or that is stored in an electronic or other medium and is retrievable in a perceivable form."

SECTION 3. Section 710-1016.3, Hawaii Revised Statutes, is amended to read as follows:

**"[§710-1016.3] Obtaining a government-issued identification document under false pretenses in the first degree.** (1) A person commits the offense of obtaining a government-issued identification document under false pretenses in the first degree if that person, with intent to mislead a public servant and intent to facilitate a felony, obtains an identification document issued by the State or any political subdivision thereof by:

- (a) Making any statement, oral or [written,] in written, printed, or electronic form, that the person does not believe to be true, in an application for any identification document issued by the State or any political subdivision thereof; or
  - (b) Submitting or inviting reliance on any [writing] statement, document, or record, in written, printed, or electronic form, that the person knows to be falsely made, completed, or altered.
- (2) Obtaining a government-issued identification document under false pretenses in the first degree is a class C felony."

SECTION 4. Section 710-1016.4, Hawaii Revised Statutes, is amended to read as follows:

**"[§710-1016.4] Obtaining a government-issued identification document under false pretenses in the second degree.** (1) A person commits the offense of obtaining a government-issued identification document under false pretenses in the second degree if that person, with intent to mislead a public servant, obtains an identification document issued by the State or any political subdivision thereof by:

- (a) Making any statement, oral or [written,] in written, printed, or electronic form, that the person does not believe to be true, in an application for any identification document issued by the State or any political subdivision thereof; or
  - (b) Submitting or inviting reliance on any [writing] statement, document, or record, in written, printed, or electronic form, that the person knows to be falsely made, completed, or altered.
- (2) Obtaining a government-issued identification document under false pretenses in the second degree is a misdemeanor."

SECTION 5. Section 710-1017, Hawaii Revised Statutes, is amended to read as follows:

**"§710-1017 Tampering with a government record.** (1) A person commits the offense of tampering with a government record if:

- (a) The person, acting knowingly [and], falsely makes[;] a purported government record, or falsely completes[;] or alters, or [knowingly makes a false] falsely makes an entry in, a [written instrument which is or purports to be a] government record or a true copy thereof; or
- (b) The person knowingly presents or uses a [written instrument which is or purports to be a] government record or a purported government record, or a true copy thereof, knowing that it has been falsely made, completed, or altered, or that a false entry has been made therein, with intent that it be taken as genuine; or
- (c) The person knowingly records, registers, or files, or offers for recordation, registration, or filing, in a governmental office or agency, a [written] statement, document, or record, in written, printed, or electronic form, which has been falsely made, completed, or altered, or in which a false entry has been made, or which contains a false statement or false information; or
- (d) Knowing the person lacks the authority to do so:
  - (i) The person intentionally destroys, mutilates, conceals, removes, or otherwise impairs the availability of any government records; or
  - (ii) The person refuses to deliver up a government record in the person's possession upon proper request of a public servant entitled to receive such record for examination or other purposes.
- (2) For the purpose of this section, "government record" [includes all official books, papers, written instruments, or] means all records created, issued, received, or kept by any governmental office or agency or required by law to be kept by others for the information of the government.
- (3) Tampering with government records is a misdemeanor."

SECTION 6. Section 710-1063, Hawaii Revised Statutes, is amended to read as follows:

**"§710-1063 Unsworn falsification to authorities.** (1) A person commits the offense of unsworn falsification to authorities if, with an intent to mislead a public servant in the performance of the public servant's duty, the person:

- (a) Makes any [written] statement, in written, printed, or electronic form, which the person does not believe to be true, in an application for any pecuniary or other benefit or in a record or report required by law to be submitted to any governmental agency;
- (b) Submits or invites reliance on any [writing] statement, document, or record, in written, printed, or electronic form, which the person knows to be falsely made, completed, or altered; or
- (c) Submits or invites reliance on any sample, specimen, map, boundary-mark, or other object the person knows to be false.
- (2) Unsworn falsification to authorities is a misdemeanor."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

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

SECTION 9. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

**ACT 34**

**ACT 34**

H.B. NO. 2248

A Bill for an Act Making an Emergency Appropriation for the Department of the Attorney General.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The legislature finds that the State of Hawaii is involved in several major lawsuits that could result in costly judgments against the State if not defended vigorously. These major lawsuits will require the State to retain expert counsel, expert witnesses, and bear other litigation costs.

The purpose of this Act is to make an emergency appropriation for costs associated with major litigation involving the State.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$700,000 or so much thereof as may be necessary for fiscal year 2013-2014 to fund contracts to retain expert counsel, expert witnesses, and other legal services.

The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

**ACT 35**

H.B. NO. 2264

A Bill for an Act Relating to Investment Authority of the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

**“§88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431:6-101) of any of the following classes:
  - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action;
  - (B) Obligations secured by mortgages insured by the Federal Housing Administration;
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act;
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation at the time investment is made therein shall not exceed eighty per cent of the value of the real estate

and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer shall be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the real estate and improvements mortgaged to secure it. The insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431:6-308;

- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate; provided that:
  - (i) Each leasehold interest at the time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures; and
  - (ii) The amount of the obligation at the time investment is made therein shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer shall be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the leasehold interest and improvements mortgaged to secure it. The insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board;
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920; and
- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate; provided that any prior mortgage shall not contain provisions that might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board may retain or dispose of the real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted[; provided that all the real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all the leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each;] in the same manner as other investments in interest in real property authorized by this section:

- (2) Government obligations, etc. Obligations of any of the following classes:
  - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof or by any municipal or political subdivision or school district of any of the foregoing; provided that principal of and interest on the obligations are payable in currency of the United States; or sovereign debt instruments issued by agencies of, or guaranteed by foreign governments;
  - (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State; and
  - (C) Obligations issued or guaranteed by any federal home loan bank, including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration;
- (3) Corporate obligations. Below investment grade or nonrated debt instruments, foreign or domestic, in accordance with investment guidelines adopted by the board;
- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof or of any country;
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks;
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank;
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth at the time the investment is made at least fifteen per cent more than the amount of the respective obligations;
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein;
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board, it is pru-

- dent to invest funds of the system. For purposes of this paragraph, "real property" includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies, group or unit trusts, limited partnerships, limited liability companies, investment trusts, title-holding corporations recognized under section 501(c) of the Internal Revenue Code of 1986, as amended, similar entities that would protect the system's interest, and other pooled funds invested on behalf of the system by investment managers retained by the system;
- (10) Other securities and futures contracts. Securities and futures contracts in which in the informed opinion of the board, it is prudent to invest funds of the system, including currency, interest rate, bond, and stock index futures contracts and options on the contracts to hedge against anticipated changes in currencies, interest rates, and bond and stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities; and stock; whether or not the securities, stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); and
- (11) Private placements. Investments in institutional blind pool limited partnerships, limited liability companies, or direct investments that make private debt and equity investments in privately held companies, including but not limited to investments in Hawaii high technology businesses or venture capital investments that, in the informed opinion of the board, are appropriate to invest funds of the system. In evaluating venture capital investments, the board shall consider, among other things, the impact an investment may have on job creation in Hawaii and on the state economy. The board shall report annually to the legislature on any Hawaii venture capital investments it has made; provided that if the board determines it is not prudent to invest in any Hawaii venture capital investments the board shall report the rationale for the decision. The board, by January 1, 2008, shall develop criteria to determine the amount of funds that may be prudently invested in Hawaii private placement investments."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 36

H.B. NO. 2298

A Bill for an Act Relating to Notice to Children Pursuant to the Child Protective Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 587A-13, Hawaii Revised Statutes, is amended to read as follows:

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**"[§§587A-13] Summons and service of summons.** (a) After a petition has been filed, the court shall issue a summons requiring the presence of the parents and other persons to be parties to the proceeding[,] except the child, as follows:

- (1) A copy of the petition shall be attached to each summons;
- (2) The summons shall notify the parties of their right to retain and be represented by counsel; and
- (3) The summons shall state: "YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS CONCERNING THE CHILD OR CHILDREN WHO ARE THE SUBJECT OF THE ATTACHED PETITION MAY BE TERMINATED IF YOU FAIL TO APPEAR ON THE DATE SET FORTH IN THIS SUMMONS."

(b) The court may issue a summons to a parent or any person having physical custody of the child to bring the child before the court at the temporary foster custody hearing or the return hearing.

(c) The sheriff or other authorized person shall serve the summons by personally delivering a certified copy to the person or legal entity being summoned. A return on the summons shall be filed, showing the date and time and to whom service was made; provided that:

- (1) If the party to be served does not reside in the State, service shall be made by registered or certified mail addressed to the party's last known address; or
- (2) If the court finds that it is impracticable to personally serve the summons, the court may order service by registered or certified mail addressed to the party's last known address, or by publication, or both. When publication is used, the summons shall be published once a week for four consecutive weeks in a newspaper of general circulation in the county in which the party was last known to have resided. In the order for publication of the summons, the court shall designate the publishing newspaper and shall set the date of the last publication at no less than twenty-one days before the return date. Such publication shall have the same force and effect as personal service of the summons.

(d) The petitioner shall notify the child of a hearing under this section no less than twenty-four hours prior to the time set for a temporary foster custody hearing, or no less than forty-eight hours prior to the time set for any other hearing.

[(e)] (e) Service shall be completed no less than twenty-four hours prior to the time set forth in the summons for a temporary foster custody hearing, or no less than forty-eight hours prior to the time set forth in the summons for any other hearing, unless the party was present when ordered by the court to appear at the hearing.

[(e)] (f) The court may issue a warrant for the appearance of a person or child, as well as issue an order pursuant to section 587A-16(b), if:

- (1) The summons cannot be personally served;
- (2) The person served fails to obey the summons;
- (3) The court finds that service will not be effective; or
- (4) The court finds that the best interests of the child require that the child be brought into the custody of the court."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 37

H.B. NO. 2513

A Bill for an Act Relating to Mortgage Foreclosures.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 667-17, Hawaii Revised Statutes, is amended to read as follows:

**"[§§667-17] Attorney affirmation in judicial foreclosure.** Any attorney who files on behalf of a mortgagee seeking to foreclose on a residential property under this part shall sign and submit an affirmation that the attorney has verified the accuracy of the documents submitted, under penalty of perjury and subject to applicable rules of professional conduct. The affirmation shall be filed with the court at the time that the action is commenced and shall be in substantially the following form:

"\_\_\_\_ CIRCUIT COURT OF THE STATE OF HAWAII

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Plaintiff,

**AFFIRMATION**

v.

Defendant(s)

Mortgaged Premises:

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*Note: During and after August 2010, numerous and widespread insufficiencies in foreclosure filings in various courts around the nation were reported by major mortgage lenders and other authorities, including failure to review documents and files to establish standing and other foreclosure requisites; filing of notarized affidavits that falsely attest to such review and to other critical facts in the foreclosure process; and "robosignature" of documents.*

\* \* \*

[redacted], Esq., pursuant to Hawaii Revised Statutes §667-17 and under the penalties of perjury, affirms as follows:

1. I am an attorney at law duly licensed to practice in the State of Hawaii and am affiliated with the Law Firm of \_\_\_\_\_, the attorneys of record for Plaintiff in the above-captioned mortgage foreclosure action. As such, I am fully aware of the underlying action, as well as the proceedings had herein.
2. On [date], I communicated with the following representative or representatives of Plaintiff, who informed me that he/she/they (a) personally reviewed plaintiff's documents and records relating to this case for factual accuracy; and (b) confirmed the factual accuracy of the allegations set forth in the Complaint and any supporting affidavits or affirmations filed with the Court, as well as the accuracy

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of the notarizations contained in the supporting documents filed therewith.

Name

Title

- 
- 
- 
3. Based upon my communication with [persons specified in item 2], as well as upon my own inspection and other reasonable inquiry under the circumstances, I affirm that, to the best of my knowledge, information, and belief, the Summons, Complaint, and other papers filed or submitted to the Court in this matter contain no false statements of fact or law and that plaintiff has legal standing to bring this foreclosure action. I understand my continuing obligation to amend this Affirmation in light of newly discovered material facts following its filing.
  4. I am aware of my obligations under Hawaii Rules of Professional Conduct.

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DATED:

*N.B.: Counsel may augment this affirmation to provide explanatory details, and may file supplemental affirmations or affidavits for the same purpose.\*\*\**

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 38

S.B. NO. 2822

A Bill for an Act Relating to Criminal History Record Checks for Real Estate Appraisers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or the department's designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
- (2) The department of health or the department's designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when

- providing non-witnessed direct mental health services as provided by section 321-171.5;
- (3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
  - (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 321-484;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
  - (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
  - (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;

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- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-496;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult and community care services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, [Title] title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;

- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
 as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with vulnerable adults or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or dependent adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or dependent adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable and disabled citizens during emergencies or crises; [and]
- (37) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K; and
- [37] (38) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken.  
 New statutory material is underscored.

**SECTION 3.** This Act, upon its approval, shall take effect on July 1, 2014.

(Approved April 23, 2014.)

## ACT 39

S.B. NO. 2331

A Bill for an Act Relating to Teachers.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 302A-101, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

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“‘Department school’ means any school that falls within the definition of ‘public schools’, as that term is defined in section 302A-101, and is not a charter school.

“License” means the recognition granted by the Hawaii teacher standards board to an individual to practice the profession of teaching. This definition shall not apply to the term “license” as it is used in sections 302A-425 to 302A-427.”

SECTION 2. Section 302A-601.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The employer or prospective employer may refuse to employ, and may:

- (1) Refuse to issue a [teaching or other educational certificate;] certificate for school administrators;
- (2) Revoke the [teaching or other educational certificate;] certificate for school administrators;
- (3) Refuse to allow or continue to allow teacher training; or
- (4) Terminate the employment of any employee or deny employment to an applicant,

if the person has been convicted of a crime, and if the employer or prospective employer finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety, or well-being of children. Refusal, revocation, or termination may occur only after appropriate investigation and notification to the employee or applicant for employment of results and planned action, and after the employee or applicant for employment is given an opportunity to meet and rebut the finding. Nothing in this subsection shall abrogate any applicable appeal rights under chapters 76 or 89, or administrative regulation of the department of education.”

SECTION 3. Section 302A-801, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

“(a) There is established the Hawaii teacher standards board, which shall be placed within the department for administrative purposes only. The board shall consist of fifteen members, including not less than six licensed teachers regularly engaged in teaching at the time of the appointment, three educational officers employed at the time of the appointment, the chairperson of the board of education or the chairperson’s designee, the superintendent or the superintendent’s designee, a representative of independent schools, the dean of the University of Hawaii college of education or the dean’s designee[, and two members of the public]; provided that one teacher member shall be engaged in teaching at a Hawaii public charter school at the time of appointment and the dean’s designee shall be chosen from the member institutions of the teacher education coordinating committee established under section 304A-1202[-], and two members of the public.

(b) Except for the chairperson of the board of education, superintendent, and dean of the college of education, the governor shall appoint the members of the board pursuant to section 26-34, from a list of qualified nominees submitted to the governor by the departments, agencies, education stakeholder groups, and organizations representative of the constituencies of the board[, and current members of the board; provided that the two members of the public shall be from lists of qualified nominees submitted to the governor by the Hawaii Business Roundtable, Hawaii P-20 council, and Hawaii workforce development council.]; provided that the governor may request additional names of qualified nominees from the departments, agencies, education stakeholder groups, and organizations representative of the constituencies of the board at any time. To the

extent possible, the board membership shall reflect [representation of elementary and secondary school personnel from all islands.] a combination of abilities, breadth of experiences, and characteristics that will best serve the diverse interests and needs of elementary and secondary school personnel and the education system in Hawaii from early childhood through higher education. Such considerations shall include but not be limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders.

(c) [Appointed] Notwithstanding any law to the contrary, appointed board members shall serve not more than three consecutive three-year terms. Teacher and educational officer members who retire during a term may serve the remainder of their current term [up to three consecutive three-year terms]."

SECTION 4. Section 302A-802, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) In the development of its standards, the board shall consider the existing teacher applicant pool that is available in the State and the level of the qualification of these applicants, as well as the nature and availability of existing preservice [higher education] teacher training programs.

(c) The board shall adopt policies, exempt from chapters 91 and 92, to initiate the following:

- (1) Develop criteria allowing more individuals with trade or industry experience to teach in vocational, technical, and career pathway programs, and criteria for the issuance of permits allowing qualified individuals to teach when recommended by the superintendent[.] or the commission, when appropriate. The department or the commission, when appropriate, shall be responsible for the review and acceptance of the relevant licenses, certificates, or other qualifications related to an individual's vocational, technical, or career pathway education-related experience that the department or the commission, when appropriate, deems necessary for a permit. The department or the commission, when appropriate, shall have the authority to waive the requirement of a bachelor's degree to teach in a vocational, technical, or career pathway education program;
- (2) Develop a plan to accept teachers from any state as long as they have completed state-approved teacher education programs and pass relevant Hawaii teacher examinations or their equivalent;
- (3) Clarify the requirements, on a state-by-state basis, for out-of-state licensed teachers to obtain a license in Hawaii;
- (4) Develop a plan to facilitate licensing for those who intend to teach in Hawaii immersion programs, the island of Niihau, or any other extraordinary situation as defined by the superintendent or the superintendent's designee[.], or by the commission, when appropriate; and
- (5) Pursue full teacher license reciprocity with all other states[.]; and
- (6) Issue a license to a teacher with a valid out-of-state license who has passed similar, though not identical, tests in basic skills, pedagogy, and subject matter to those required for licensure in the State; provided that upon the effective date of the adoption of administrative rules addressing the recognition of out-of-state teacher licenses, those administrative rules shall supersede the requirements of this paragraph]."

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SECTION 5. Section 302A-803, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to establishing standards for the issuance and renewal of licenses and any other powers and duties authorized by law, the board's powers shall also include:

- (1) Setting and administering its own budget;
- (2) Adopting, amending, or repealing the rules of the board in accordance with chapter 91;
- (3) Receiving grants or donations from private foundations, and state and federal funds;
- (4) Submitting an annual report to the governor, the legislature, and the board of education on the board's operations and expenditures, and from the 2007-2008 school year, submitting a summary report every five years of the board's accomplishment of objectives, efforts to improve or maintain teacher quality, and efforts to keep its operations responsive and efficient;
- (5) Conducting a cyclical review of standards and suggesting revisions for their improvement;
- (6) Establishing licensing fees in accordance with chapter 91 and determining the manner by which fees are collected and subsequently deposited into the state treasury and credited to the Hawaii teacher standards board special fund;
- (7) Establishing penalties in accordance with chapter 91;
- (8) Issuing, renewing, forfeiting, restoring, conditioning, revoking, suspending, and reinstating licenses;
- (9) Developing criteria for a full career and technical education license, limited to career and technical education teaching assignments, allowing qualified individuals with at least an associate's degree, [pedagogy] coursework, industry experience, and content expertise to teach;
- (10) Reviewing reports from the department and commission on individuals hired on an emergency basis;
- (11) Applying licensing standards on a case-by-case basis and conducting licensing evaluations;
- (12) Preparing and disseminating teacher licensing information to schools and operational personnel;
- (13) Approving teacher preparation programs;
- (14) Establishing policies and procedures for approving alternative pathways to teaching;
- (15) Administering reciprocity agreements with other states relative to licensing;
- (16) Conducting research and development on teacher licensure systems, beginning teacher programs, the assessment of teaching skills, and other related topics;
- (17) Participating in efforts relating to teacher quality issues, professional development related to the board's standards, and promotion of high teacher standards and accomplished teaching;
- (18) Adopting applicable rules and procedures; and
- (19) Adopting, amending, repealing, or suspending the policies and standards of the board."

SECTION 6. Section 302A-804, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-804 Powers and duties of the department[.], commission, and charter schools.** (a) The department, commission, and charter schools shall retain all of [its] their rights and powers except for the authority provided to the board under this subpart.

(b) The department's powers and duties under this subpart shall be limited to:

- (1) Hiring, except in emergency situations as described in this chapter, licensed teachers to teach in their fields of licensing;
- (2) Reporting data annually to the board about the supply of, and demand for, teachers[.] in department schools, including the identification of shortage areas, out-of-field teaching assignments, numbers of teachers teaching out-of-field, numbers and types of courses and classes taught by out-of-field teachers, and numbers and types of students taught by out-of-field teachers;
- (3) On an emergency and case-by-case basis, hiring unlicensed individuals; provided that:
  - (A) A list of the names, work sites, teaching assignments, and progress toward licensing of these individuals shall be reported to the board and any changes shall be updated on a monthly basis by the department;
  - (B) There are no properly licensed teachers for the specific assignments for which the individuals are being hired; and
  - (C) No individual may be employed by the department on an emergency basis for more than three years. During this time, the individual shall demonstrate active pursuit of licensing in each year of employment; [and]
  - (D) Notwithstanding [subparagraph (C)], unlicensed individuals who have been hired on an emergency basis prior to July 1, 2008, shall attain licensure no later than four years from the date of their employment;]
- (4) Submitting an annual report to the board documenting:
  - (A) The number of emergency hires in department schools by subject matter areas and by [schools;] school;
  - (B) The reasons and duration of employment for the emergency hiring enumerated in subparagraph (A);
  - (C) Individual progress toward licensing; and
  - (D) The department's efforts to address the shortages described in subparagraph (A); and
- (5) Providing any other information requested by the board that is pertinent to its powers and duties.

(c) The commission's powers and duties under this subpart shall be limited to:

- (1) Reporting data annually to the board about the supply of, and demand for, teachers in charter schools, including the identification of shortage areas, out-of-field teaching assignments, numbers of teachers teaching out-of-field, numbers and types of courses and classes taught by out-of-field teachers, and numbers and types of students taught by out-of-field teachers;
- (2) Submitting an annual report to the board documenting:
  - (A) The number of emergency hires in charter schools by subject matter areas and by school;
  - (B) The reasons and duration of employment for the emergency hiring enumerated in subparagraph (A); and
  - (C) Individual progress toward licensing; and

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- (3) Providing any other information requested by the board that is pertinent to the commission's powers and duties.
- (d) A charter school's powers and duties under this subpart shall be limited to:
  - (1) Except in emergency situations as described in this chapter, hiring licensed teachers to teach in their fields of licensing;
  - (2) On an emergency and case-by-case basis, hiring unlicensed individuals; provided that:
    - (A) A list of the names, work sites, teaching assignments, and progress toward licensing of these individuals shall be reported to the board and any changes shall be updated on a monthly basis by the charter schools;
    - (B) There are no properly licensed teachers for the specific assignments for which the individuals are being hired; and
    - (C) No individual may be employed by the charter school on an emergency basis for more than three years. During this time, the individual shall demonstrate active pursuit of licensing in each year of employment; and
  - (3) Providing any other information requested by the board that is pertinent to the charter school's powers and duties.”

SECTION 7. Section 302A-805, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-805 Teachers; license required; renewals.** Beginning July 1, 2002, all new licenses shall be issued by the board. No person shall serve as a half-time or full-time teacher in a public school without first having obtained a license from the board under this subpart. All licenses issued by the board shall be valid only for the fields specified on the licenses and shall be renewable every five years for a standard license and every ten years for an advanced license if the individual continues to:

- (1) Satisfy the board's licensing standards and submits verification, in a form specified by the board, that the individual has completed activities specified by the board in fulfillment of each of the teacher performance standards established by the board;
- (2) Show evidence of successful teaching in the previous five years through verification by a supervisor, in a form specified by the board;
- (3) Meet the professional fitness requirements established by the board;
- (4) Satisfy the board's requirements for renewal of licenses; and
- (5) Pay all applicable license fees in a timely manner.

The board shall randomly audit a licensee's compliance with paragraph (1) and may establish rules, pursuant to chapter 91, for the random audits.

[Teachers whose licenses expire on June 30, 2002, or June 30, 2003, shall be granted an automatic extension of two years.]

No person shall be issued a license or teach on an emergency basis in the public schools without having first paid the fees established by the board in accordance with chapter 91.

The failure to timely renew a license, pay all fees in a timely manner, or comply with any other requirement provided by law or administrative rule shall result in the automatic forfeiture of the license. A person with a forfeited license shall not teach at a public school until that person's license is restored. Restoration of a license shall require compliance with the renewal requirements provided by law or administrative rule and payment of all applicable renewal

and late fees. Upon restoration of a person's license, the person may teach at a public school."

SECTION 8. Section 302A-807, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Upon revocation of a license, the board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license:

- (1) To the department; [and]
- (2) To the commission; and
- [2] (3) For the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had licenses revoked."

SECTION 9. Section 302A-808, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-808 Penalty.** Any person who engages in the profession of teaching in a public school without first being issued a license or hired on an emergency basis as defined in this chapter shall be fined not more than \$500. Any person who knowingly or intentionally violates this subpart by employing an individual as a public school teacher who does not possess a valid license or is not a department of education or charter school emergency hire as defined in this chapter may be fined not more than \$500. All fines shall be deposited into the Hawaii teacher standards board special fund."

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 40

S.B. NO. 2329

A Bill for an Act Relating to Provisional Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The examiner of drivers may waive the actual demonstration of ability to operate a motor vehicle for any person who [is]:

- (1) Is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102[-]; or
- (2) Has completed the same requirements as set forth in section 286-102.6(f) in another state and possesses a valid provisional license from that state."

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SECTION 2. The department of transportation shall implement section 1 of this Act immediately upon approval of this Act without the necessity of completing the adoption of administrative rules so that implementation of the waiver provisions of section 286-108(c)(2), Hawaii Revised Statutes, will not be delayed pending adoption of rules.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## **ACT 41**

S.B. NO. 2072

A Bill for an Act Relating to Service of Process.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the manner by which summons are served within this State for civil actions should be consistent with other provisions of the Hawaii Revised Statutes.

The purpose of this Act is to specify the manner by which summons are served for civil actions in the nature of assumpsit within this State.

SECTION 2. Chapter 634, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

**“§634- Manner of service within the State; assumpsit.** For civil actions in the nature of assumpsit, when service of summons is required by law, court rule, or court order, service on the defendant within the State shall be:

- (1) By personal delivery by a person authorized to serve process; or
- (2) If a reasonable attempt at personal delivery has not been successful, then by certified, registered, or express mail sent to the addressee only, as ordered by the court.

Service pursuant to paragraph (1) and proof of personal service shall be made in the manner prescribed by law, court rule, or court order. If service is made pursuant to paragraph (2), a return receipt or other proof of service provided by the postal service shall be filed showing delivery to the addressee within the State.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 42

S.B. NO. 2896

A Bill for an Act Relating to General Excise Tax Wholesale Rate Imposed Upon Sale of Tangible Personal Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 3 of Act 135, Session Laws of Hawaii 2003, inadvertently repealed the one-half of one per cent general excise tax rate imposed upon the wholesale sale of tangible personal property. The purpose of this Act is to undo the inadvertent repeal to clarify that the proper general excise tax rate imposed upon the wholesale sale of tangible personal property is one-half of one per cent.

SECTION 2. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

**"§237-13 Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

- (1) Tax on manufacturers.
  - (A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
  - (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
  - (C) If any person liable for the tax on manufacturers ships or transports the person's product, or any part thereof, out of the State, whether in a finished or unfinished condition, or sells the same for delivery to points outside the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph. This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, shall be the measure of the value of the products;
  - (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining the values;
  - (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make the taxpayer's returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce; and
  - (iv) In all cases in which products leave the State in an unfinished condition, the basis for assessment shall be adjusted so as to deduct the portion of the value as is attributable to the finishing of the goods outside the State.
- (2) Tax on business of selling tangible personal property; producing.
- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided that, in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business; and provided further that insofar as the sale of tangible personal property is a wholesale sale under section [§237-4(a)(8)], the sale shall be subject to section 237-13.3. Upon every person engaging or continuing within this State in the business of a producer, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1)(C).
  - (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible per-

sonal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the Acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and Acts of Congress, there may be attributed gross proceeds of sales, the gross proceeds shall be so attributed.

- (C) No manufacturer or producer, engaged in such business in the State and selling the manufacturer's or producer's products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling the products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling the manufacturer's or producer's products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to the manufacturer or producer as well as the tax for the privilege of manufacturing or producing in the State, and the manufacturer or producer shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of the products required for the privilege of manufacturing or producing in the State. The manufacturer or producer shall pay the tax imposed in this chapter for the privilege of selling its products in the State, and the value or gross proceeds of sales of the products, thus subjected to tax, may be deducted insofar as duplicated as to the same products by the measure of the tax upon the manufacturer or producer for the privilege of manufacturing or producing in the State; provided that no producer of agricultural products who sells the products to a purchaser who will process the products outside the State shall be required to pay the tax imposed in this chapter for the privilege of producing or selling those products.
- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3)(C), and in that case the tax shall be computed pursuant to the election, notwithstanding this paragraph or paragraph (1) to the contrary.
- (F) The department, by rule, may require that a seller take from the purchaser of tangible personal property a certificate, in a form prescribed by the department, certifying that the sale is a sale at wholesale; provided that:
  - (i) Any purchaser who furnishes a certificate shall be obligated to pay to the seller, upon demand, the amount of the additional tax that is imposed upon the seller whenever the sale in fact is not at wholesale; and
  - (ii) The absence of a certificate in itself shall give rise to the presumption that the sale is not at wholesale unless the sales of the business are exclusively at wholesale.

- (3) Tax upon contractors.
- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business.
- (B) In computing the tax levied under this paragraph, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subparagraph (A), on:
- (i) Another taxpayer who is a contractor, as defined in section 237-6;
  - (ii) A specialty contractor, duly licensed by the department of commerce and consumer affairs pursuant to section 444-9, in respect of the specialty contractor's business; or
  - (iii) A specialty contractor who is not licensed by the department of commerce and consumer affairs pursuant to section 444-9, but who performs contracting activities on federal military installations and nowhere else in this State;
- provided that any person claiming a deduction under this paragraph shall be required to show in the person's return the name and general excise number of the person paying the tax on the amount deducted by the person.
- (C) In computing the tax levied under this paragraph against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
- (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction; and
  - (ii) The taxpayer making the sale shall have certified to the department that the taxpayer is taxable with respect to the gross proceeds of the sale, and that the taxpayer elects to have the tax on gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which the person is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by the person (whether held as a leasehold, fee simple, or otherwise), upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, shall be liable to the same tax as if engaged in the business of contracting, unless the person shows that at the time the person was engaged in making the improvements the person intended, and for the period of at least one year after completion of the building, structure, or other improvements the person continued to intend to hold and not sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making,

- constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by subparagraph (B). Upon the election of the taxpayer, this paragraph may be applied notwithstanding that the improvements were not made by the taxpayer, or were not made as a business or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (9); provided that insofar as the business of renting or leasing real property under a lease is taxed under section 237-16.5, the tax shall be levied by section 237-16.5.
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc.
- (A) Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business, and in the case of a sale of an amusement at wholesale under section 237-4(a)(13), the tax shall be subject to section 237-13.3.
- (B) The department may require that the person rendering an amusement at wholesale take from the licensed seller a certificate, in a form prescribed by the department, certifying that the sale is a sale at wholesale; provided that:
- (i) Any licensed seller who furnishes a certificate shall be obligated to pay to the person rendering the amusement, upon demand, the amount of additional tax that is imposed upon the seller whenever the sale is not at wholesale; and
- (ii) The absence of a certificate in itself shall give rise to the presumption that the sale is not at wholesale unless the person rendering the sale is exclusively rendering the amusement at wholesale.
- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by the person.
- (6) Tax on service business.
- (A) Upon every person engaging or continuing within the State in any service business or calling including professional services not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of the business, and in the case of a wholesaler under section 237-4(a)(10), the tax shall be equal to one-half of one per cent of the gross income of the business. Notwithstanding the foregoing, a wholesaler under section 237-4(a)(10) shall be subject to section 237-13.3.

- (B) The department may require that the person rendering a service at wholesale take from the licensed seller a certificate, in a form prescribed by the department, certifying that the sale is a sale at wholesale; provided that:
- (i) Any licensed seller who furnishes a certificate shall be obligated to pay to the person rendering the service, upon demand, the amount of additional tax that is imposed upon the seller whenever the sale is not at wholesale; and
  - (ii) The absence of a certificate in itself shall give rise to the presumption that the sale is not at wholesale unless the person rendering the sale is exclusively rendering services at wholesale.
- (C) Where any person is engaged in the business of selling interstate or foreign common carrier telecommunication services within and without the State, other than as a home service provider, the tax shall be imposed on that portion of gross income received by a person from service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State notwithstanding any other state law (except for the exemption under section 237-23(a)(1)) to the contrary. If, under the Constitution and laws of the United States, the entire gross income as determined under this paragraph of a business selling interstate or foreign common carrier telecommunication services cannot be included in the measure of the tax, the gross income shall be apportioned as provided in section 237-21; provided that the apportionment factor and formula shall be the same for all persons providing those services in the State.
- (D) Where any person is engaged in the business of a home service provider, the tax shall be imposed on the gross income received or derived from providing interstate or foreign mobile telecommunications services to a customer with a place of primary use in this State when such services originate in one state and terminate in another state, territory, or foreign country; provided that all charges for mobile telecommunications services which are billed by or for the home service provider are deemed to be provided by the home service provider at the customer's place of primary use, regardless of where the mobile telecommunications originate, terminate, or pass through; provided further that the income from charges specifically derived from interstate or foreign mobile telecommunications services, as determined by books and records that are kept in the regular course of business by the home service provider in accordance with section 239-24, shall be apportioned under any apportionment factor or formula adopted under subparagraph (C). Gross income shall not include:
- (i) Gross receipts from mobile telecommunications services provided to a customer with a place of primary use outside this State;
  - (ii) Gross receipts from mobile telecommunications services that are subject to the tax imposed by chapter 239;
  - (iii) Gross receipts from mobile telecommunications services taxed under section 237-13.8; and

- (iv) Gross receipts of a home service provider acting as a serving carrier providing mobile telecommunications services to another home service provider's customer.  
For the purposes of this paragraph, "charges for mobile telecommunications services", "customer", "home service provider", "mobile telecommunications services", "place of primary use", and "serving carrier" have the same meaning as in section 239-22.
- (7) Tax on insurance producers. Upon every person engaged as a licensed producer pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to 0.15 per cent of the commissions due to that activity.
- (8) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or the producer's legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other Acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received; provided that the tax levied hereunder on any amount so received and actually disbursed to another by a producer in the form of a benefit payment shall be paid by the person or persons to whom the amount is actually disbursed, and the producer actually making a benefit payment to another shall be entitled to claim on the producer's return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.
- (9) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

**SECTION 3.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 43

S.B. NO. 2890

A Bill for an Act Relating to Application of the Internal Revenue Code to Hawaii Income Tax Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 235-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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“(b) The Internal Revenue Code, so far as made operative by this chapter, is a statute adopted and incorporated by reference. The Internal Revenue Code shall be applied using changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effectuate the intent of this section. In the Internal Revenue Code, references to terms such as:

- (1) “Secretary or his delegate” shall refer to the director of taxation and the director’s duly authorized subordinates;
- (2) “Estate taxes” shall refer to the estate and transfer tax imposed by chapter 236D[;] or the estate and generation-skipping tax imposed by chapter 236E, as applicable;
- (3) “The highest rate of tax imposed upon individuals” or “39.6 per cent” shall refer to the highest rate imposed upon individuals under section 235-51;
- (4) “The highest rate of tax imposed upon corporations” shall refer to the highest rate imposed upon corporations under section 235-71; and
- (5) “Interest at the underpayment rate” or “interest at the overpayment rate” shall refer to the interest rate set forth in section 231-39(b)(4) or section 231-23(d)(1), as the case may be.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply retroactively to January 26, 2012.

(Approved April 23, 2014.)

## ACT 44

S.B. NO. 2887

A Bill for an Act Relating to the Estate and Generation-Skipping Transfer Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 220, Session Laws of Hawaii 2012, enacted the Estate and Generation-Skipping Transfer Tax Reform Act, designated as chapter 236E, Hawaii Revised Statutes, which established the estate and generation-skipping transfer taxes based on the valuations, deduction, and expenses allowed for federal transfer tax purposes but with tax rates independent of the federal transfer taxes. The purposes of this Act are to:

- (1) Fulfill the requirement to make annual conforming amendments to chapter 236E; and
- (2) Amend the definition of “applicable exclusion amount” to close a loophole that allows a decedent to completely or substantially avoid the estate and generation-skipping transfer taxes by gifting away property prior to death, even on the eve of death.

SECTION 2. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§236E-3 Conformance to the Internal Revenue Code; general application.** For all decedents dying after January 25, 2012, as used in this chapter, “Internal Revenue Code” means subtitle B of the federal Internal Revenue Code of 1986, as amended as of [January 2, 2013,] December 31, 2013, as it applies to the

determination of gross estate, adjusted gross estate, federal taxable estate, and generation-skipping transfers, except those provisions of the Internal Revenue Code and federal public laws that, pursuant to this chapter, do not apply or are otherwise limited in application.”

SECTION 3. Section 236E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An exclusion from a Hawaii taxable estate shall be allowed to the estate of every decedent against the tax imposed by section 236E-8. For the purpose of this section, the applicable exclusion amount is the same as the federal applicable exclusion amount, [or] the exemption equivalent of the unified credit, without reduction for taxable gifts, reduced by the amount of taxable gifts made by the decedent that reduces the amount of the federal applicable exclusion amount, or the exemption equivalent of the unified credit on the decedent's federal estate tax return, as set forth for the decedent in chapter 11 of the Internal Revenue Code as further adjusted below:

- (1) For residents, 100 per cent of the applicable exclusion amount;
- (2) For nonresidents, an amount computed by multiplying the applicable exclusion amount by a fraction, the numerator of which is the value of the property in the State subject to tax under this chapter, and the denominator of which is the federal gross estate; and
- (3) For nonresidents not citizens, an amount computed by multiplying the exemption equivalent of the unified credit by a fraction, the numerator of which is the value of the property in the State subject to tax under this chapter, and the denominator of which is the federal gross estate.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval and shall apply to decedents dying or taxable transfers occurring after December 31, 2013.

(Approved April 23, 2014.)

## ACT 45

S.B. NO. 2492

A Bill for an Act Relating to Advanced Practice Registered Nurses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that advanced practice registered nurses provide a wide variety of health care services to people in Hawaii. The legislature further finds that section 323-3, Hawaii Revised Statutes, requires each hospital within the State to allow advanced practice registered nurses to practice within the full scope of the practice, including as primary care providers. Advanced practice registered nurses are also recognized as participating primary health care providers for insurance purposes under the State's insurance code.

However, the legislature also finds that certain sections within the Hawaii Revised Statutes omit advanced practice registered nurses from the definitions or designations of health care entities who may provide health care, prescribe drugs, or sign forms. These outdated or obsolete statutes need to be amended to authorize increased participation by advanced practice registered nurses and recognize appropriately trained advanced practice registered nurses as primary

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care providers. Authorizing increased participation by advanced practice registered nurses in certain circumstances, especially with regard to global signature authority, will enable improved access to health care services, expedite the processing of paperwork, and provide optimal care at the initial point of access for Hawaii patients, especially in rural and underserved areas.

The purpose of this Act is to improve patient access to medical care by clarifying the circumstances under which advanced practice registered nurses may practice their profession to the fullest extent of their training and education.

**SECTION 2.** Section 246-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person who is totally disabled, as defined in section 235-1, so long as the person is totally disabled, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding, a taxable value of \$15,000. The disability shall be certified to by a physician or osteopathic physician licensed under chapter 453 or by an advanced practice registered nurse licensed under chapter 457, on forms prescribed by the department of taxation.”

**SECTION 3.** Section 286-107, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who holds a category (1), (2), or (3) license issued under this part who is unable to appear in person before the examiner of drivers to apply for a renewal of the driver's license, may, if the person is not disqualified from renewing the license under subsection (a) except as provided under subsection (h), apply for a renewal by mail. The applicant's request to have the license renewed by mail must be received by the examiner of drivers within ninety days after the expiration of the license or it shall be treated as an application for reactivation of an expired license under section 286-107.5. The examiner of drivers shall, upon receipt of the request, furnish the applicant with all necessary forms and instructions. An application for renewal made pursuant to this subsection shall be accompanied by a statement from a licensed physician [or], physician assistant, or advanced practice registered nurse certifying that the applicant was examined by the licensed physician [or], physician assistant, or advanced practice registered nurse not more than six months prior to the expiration date of the applicant's license and that the applicant was found by the examination to have met the physical requirements established by the state director of transportation for the renewal of licenses. The application for renewal shall also be accompanied by:

- (1) A notarized statement of the applicant certifying that the applicant does not possess any valid license to operate the same or similar category or categories of motor vehicles, issued by another licensing authority (unless the license is concurrently surrendered); and
- (2) Such other information as may be required by the examiner of drivers that is reasonably necessary to confirm the identity of the applicant and the applicant's fitness to continue to operate a motor vehicle.”

**SECTION 4.** Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person shall be guilty of violating this section if:

- (1) The person is in a motor vehicle [which] that is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;

- (2) The person not restrained by a seat belt assembly is in a vehicle in which the number of persons exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;
- (3) The person not restrained by a seat belt assembly has a condition [which] that prevents appropriate restraint by the seat belt assembly; provided the condition is duly certified by a physician [or], a physician assistant, or an advanced practice registered nurse who shall state the nature of the condition, as well as the reason the restraint is inappropriate;
- (4) The person not restrained by a seat belt assembly is operating a taxicab or other motor vehicle used in performing a bona fide metered taxicab service which is regulated under chapter 269 or by county ordinance and is carrying passengers in the vehicle in the course of performing taxicab services; or
- (5) Otherwise exempted by rules adopted by the department of transportation pursuant to chapter 91."

SECTION 5. Section 291-51, Hawaii Revised Statutes, is amended by amending the definition of "certificate of disability" to read as follows:

"Certificate of disability" means a medical statement issued by a licensed practicing physician[.] or advanced practice registered nurse which verifies that a person is disabled, limited, or impaired in the ability to walk."

SECTION 6. Section 291-51.4, Hawaii Revised Statutes, is amended to read as follows:

**"[§291-51.4] Fraudulent verification of an applicant as a person with a disability; penalty.** A physician or advanced practice registered nurse who fraudulently verifies that an applicant is a person with a disability to enable the person to represent to the issuing agency that the person is qualified to obtain a removable windshield placard, temporary removable windshield placard, or special license plates shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense."

SECTION 7. Section 302A-1156, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1156 Exemptions.** A child may be exempted from the required immunizations:

- (1) If a licensed physician [or], physician assistant, or advanced practice registered nurse certifies that the physical condition of the child is such that immunizations would endanger the child's life or health; or
- (2) If any parent, custodian, guardian, or any other person in loco parentis to a child objects to immunization in writing on the grounds that the immunization conflicts with that person's bona fide religious tenets and practices. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school."

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SECTION 8. Section 325-34, Hawaii Revised Statutes, is amended to read as follows:

**"§325-34 Exemptions.** Section 325-32 shall be construed not to require the vaccination or immunization of any person for three months after a duly licensed physician, physician assistant, advanced practice registered nurse, or an authorized representative of the department of health has signed two copies of a certificate stating the name and address of the person and that because of a stated cause the health of the person would be endangered by the vaccination or immunization, and has forwarded the original copy of the certificate to the person or, if the person is a minor or under guardianship, to the person's parent or guardian, and has forwarded the duplicate copy of the certificate to the department for its files.

No person shall be subjected to vaccination, revaccination or immunization, who shall in writing object thereto on the grounds that the requirements are not in accordance with the religious tenets of an established church of which the person is a member or adherent, or, if the person is a minor or under guardianship, whose parent or guardian shall in writing object thereto on such grounds, but no objection shall be recognized when, in the opinion of the director of health, there is danger of an epidemic from any communicable disease."

SECTION 9. Section 347-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every disabled person shall have the right to use a life jacket or other flotation device in a public swimming pool; provided that:

- (1) The person suffers from a physical disability or condition that requires the use of a life jacket or other flotation device; and
- (2) The person obtains a statement signed by a licensed physician [or], physician assistant, or advanced practice registered nurse attesting to the person's need to use a life jacket or other flotation device."

SECTION 10. Section 431:10H-217, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:10H-217] Disclosure; benefit triggers.** Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits". Any additional benefit triggers shall also be explained in this section. If these benefit triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician, advanced practice registered nurse, or other specified person [must] is required to certify a certain level of functional dependency in order to be eligible for benefits, this [too] requirement shall be specified."

SECTION 11. Section 431:13-103, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

- (A) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy;
  - (B) Misrepresents the dividends or share of the surplus to be received on any insurance policy;
  - (C) Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy;
  - (D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;
  - (E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;
  - (F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;
  - (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy;
  - (H) Misrepresents any insurance policy as being shares of stock;
  - (I) Publishes or advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or
  - (J) Publishes or advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital;
- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading;
  - (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance;
  - (4) Boycott, coercion, and intimidation.
    - (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or
    - (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer;
  - (5) False financial statements.
    - (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing, directly or indirectly, to be made, pub-

- lished, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer; or
- (B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer;
- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;
- (7) Unfair discrimination.
- (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any policy of life insurance or annuity contract or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract;
- (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder;
- (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
- (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or
- (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;
- (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
- (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or
- (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;

- (E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits;
  - (F) Terminating or modifying coverage, or refusing to issue or renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health or sickness insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract;
  - (G) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual based solely upon the individual's having taken a human immunodeficiency virus (HIV) test prior to applying for insurance; or
  - (H) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because the individual refuses to consent to the release of information which is confidential as provided in section 325-101; provided that nothing in this subparagraph shall prohibit an insurer from obtaining and using the results of a test satisfying the requirements of the commissioner, which was taken with the consent of an applicant for insurance; provided further that any applicant for insurance who is tested for HIV infection shall be afforded the opportunity to obtain the test results, within a reasonable time after being tested, and that the confidentiality of the test results shall be maintained as provided by section 325-101;
- (8) Rebates. Except as otherwise expressly provided by law:
- (A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to the contract other than as plainly expressed in the contract, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits, or any valuable consideration or inducement not specified in the contract; or
  - (B) Giving, selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the contract;
- (9) Nothing in paragraph (7) or (8) shall be construed as including within the definition of discrimination or rebates any of the following practices:
- (A) In the case of any life insurance policy or annuity contract, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided that any bonus or abate-

ment of premiums shall be fair and equitable to policyholders and in the best interests of the insurer and its policyholders;

- (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year; and

- (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this article;

- (10) Refusing to provide or limiting coverage available to an individual because the individual may have a third-party claim for recovery of damages; provided that:

- (A) Where damages are recovered by judgment or settlement of a third-party claim, reimbursement of past benefits paid shall be allowed pursuant to section 663-10;

- (B) This paragraph shall not apply to entities licensed under chapter 386 or 431:10C; and

- (C) For entities licensed under chapter 432 or 432D:

- (i) It shall not be a violation of this section to refuse to provide or limit coverage available to an individual because the entity determines that the individual reasonably appears to have coverage available under chapter 386 or 431:10C; and

- (ii) Payment of claims to an individual who may have a third-party claim for recovery of damages may be conditioned upon the individual first signing and submitting to the entity documents to secure the lien and reimbursement rights of the entity and providing information reasonably related to the entity's investigation of its liability for coverage.

Any individual who knows or reasonably should know that the individual may have a third-party claim for recovery of damages and who fails to provide timely notice of the potential claim to the entity, shall be deemed to have waived the prohibition of this paragraph against refusal or limitation of coverage. "Third-party claim" for purposes of this paragraph means any tort claim for monetary recovery or damages that the individual has against any person, entity, or insurer, other than the entity licensed under chapter 432 or 432D;

- (11) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

- (A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

- (B) With respect to claims arising under its policies, failing to respond with reasonable promptness, in no case more than fifteen working days, to communications received from:

- (i) The insurer's policyholder;

- (ii) Any other persons, including the commissioner; or  
(iii) The insurer of a person involved in an incident in which the insurer's policyholder is also involved.
- The response shall be more than an acknowledgment that such person's communication has been received, and shall adequately address the concerns stated in the communication;
- (C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (F) Failing to offer payment within thirty calendar days of affirmation of liability, if the amount of the claim has been determined and is not in dispute;
- (G) Failing to provide the insured, or when applicable the insured's beneficiary, with a reasonable written explanation for any delay, on every claim remaining unresolved for thirty calendar days from the date it was reported;
- (H) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- (I) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
- (J) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (K) Attempting to settle claims on the basis of an application which was altered without notice, knowledge, or consent of the insured;
- (L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- (M) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician or advanced practice registered nurse of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage to influence settlements under other portions of the insurance policy coverage;
- (P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or appli-

- cable law for denial of a claim or for the offer of a compromise settlement; and
- (Q) Indicating to the insured on any payment draft, check, or in any accompanying letter that the payment is "final" or is "a release" of any claim if additional benefits relating to the claim are probable under coverages afforded by the policy; unless the policy limit has been paid or there is a bona fide dispute over either the coverage or the amount payable under the policy;
- (12) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431:2-302. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this section, "complaint" means any written communication primarily expressing a grievance;
- (13) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, producer, or individual; and
- (14) Failure to obtain information. Failure of any insurance producer, or an insurer where no producer is involved, to comply with section 431:10D-623(a), (b), or (c) by making reasonable efforts to obtain information about a consumer before making a recommendation to the consumer to purchase or exchange an annuity."

SECTION 12. Section 432E-36, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) An enrollee or the enrollee's appointed representative may make an oral request for an expedited external review of the adverse action if the enrollee's treating physician or advanced practice registered nurse certifies, in writing, that the health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated. A written request for an expedited external review pursuant to this subsection shall include, and oral request shall be promptly followed by, a certification signed by the enrollee's treating physician or treating advanced practice registered nurse and the authorization for release and disclosures required by section 432E-33. Upon receipt of all items required by this subsection, the commissioner shall immediately notify the health carrier."

2. By amending subsection (g) to read:

"(g) Except for a request for an expedited external review made pursuant to subsection (b), within three business days after the date of receipt of the request, the commissioner shall notify the health carrier that the enrollee has requested an expedited external review pursuant to this section. Within five business days following the date of receipt of notice, the health carrier shall determine whether:

- (1) The individual is or was an enrollee in the health benefit plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was an enrollee in the health benefit plan at the time the health care service or treatment was provided;

- (2) The recommended or requested health care service or treatment that is the subject of the adverse action:
  - (A) Would be a covered benefit under the enrollee's health benefit plan but for the health carrier's determination that the service or treatment is experimental or investigational for the enrollee's particular medical condition; and
  - (B) Is not explicitly listed as an excluded benefit under the enrollee's health benefit plan;
- (3) The enrollee's treating physician or treating advanced practice registered nurse has certified in writing that:
  - (A) Standard health care services or treatments have not been effective in improving the condition of the enrollee;
  - (B) Standard health care services or treatments are not medically appropriate for the enrollee; or
  - (C) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the health care service or treatment that is the subject of the adverse action;
- (4) The enrollee's treating physician[:]or treating advanced practice registered nurse:
  - (A) Has recommended a health care service or treatment that the physician or advanced practice registered nurse certifies, in writing, is likely to be more beneficial to the enrollee, in the physician's or advanced practice registered nurse's opinion, than any available standard health care services or treatments; or
  - (B) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the enrollee's condition, or who is an advanced practice registered nurse qualified to treat the enrollee's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment that is the subject of the adverse action is likely to be more beneficial to the enrollee than any available standard health care services or treatments;
- (5) The enrollee has exhausted the health carrier's internal appeals process or the enrollee is not required to exhaust the health carrier's internal appeals process pursuant to section 432E-33(b); and
- (6) The enrollee has provided all the information and forms required by the commissioner that are necessary to process an external review, including the release form and disclosure of conflict of interest information as provided under section 432E-5."

SECTION 13. Section 435E-41, Hawaii Revised Statutes, is amended to read as follows:

**"§435E-41 Unfair methods of competition and deceptive acts or practices.** The following are unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements under this chapter:

- (1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised

- thereby, or making any misleading representation or any misrepresentation as to the financial condition of an interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce the member to lapse, forfeit, or surrender his or her rights to indemnification under the interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy".
- (2) Making or disseminating or causing to be made or disseminated before the public in this State, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy".
  - (3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.
  - (4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial conditions of such a cooperative corporation or interindemnity arrangement with intent to deceive.
  - (5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report or who has authority by law to examine into its conditions or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to a cooperative corporation or interindemnity arrangement in any book, report, or statement of a cooperative corporation or interindemnity arrangement.
  - (6) Making or disseminating, or causing to be made or disseminated, before the public in this State, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is insured against insolvency, or otherwise protected by law.

- (7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:
- (A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.
  - (B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.
  - (C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such interindemnity arrangement.
  - (D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.
  - (E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.
  - (F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.
  - (G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.
  - (H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.
  - (I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.
  - (J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.
  - (K) Delaying the investigation or payment of claims by requiring a claimant, or [his or her] the claimant's physician[.] or advanced practice registered nurse, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.
  - (L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.
  - (M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, or the denial of a claim or for the offer of a compromise settlement.

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- (N) Directly advising a claimant not to obtain the services of an attorney.
- (O) Misleading a claimant as to the applicable statute of limitations."

SECTION 14. Section 457-8.8, Hawaii Revised Statutes, is amended to read as follows:

**"[§§457-8.8 Advanced practice registered nurses; global signature authority.]** Notwithstanding any other law to the contrary, advanced practice registered nurses shall be authorized to sign, certify, or endorse all documents relating to health care within their scope of practice provided for their patients, including workers' compensation verification documents, verification and evaluation forms of the department of human services and department of education, verification and authorization forms of the department of health, and physical examination forms; provided that nothing in this section shall be construed to expand the scope of practice of advanced practice registered nurses.

~~[(b) This section shall not apply to a certificate of disability that may be used to obtain parking privileges for disabled persons pursuant to part III of chapter 291.]~~

SECTION 15. Section 612-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A prospective juror is disqualified to serve as a juror if the prospective juror:

- (1) Is incapable, by reason of the prospective juror's disability, of rendering satisfactory jury service; but a prospective juror claiming this disqualification may be required to submit a physician's [or], physician assistant's, or advanced practice registered nurse's certificate as to the disability, and the certifying physician [or], physician assistant, or advanced practice registered nurse is subject to inquiry by the court at its discretion;
- (2) Has been convicted of a felony in a state or federal court and not pardoned; or
- (3) Fails to meet the qualifications in subsection (a)."

SECTION 16. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 46

S.B. NO. 2491

A Bill for an Act Relating to Nursing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Prior to the establishment of the National Council of State Boards of Nursing's consensus model for advanced practice registered nurse reg-

ulation, each state independently determined the advanced practice registered nurse legal scope of practice, recognized roles, certification criteria, and certification examination. This created a significant barrier for advanced practice registered nurses to move from state to state and decreased access to patient care. The legislature finds that the importance of advanced practice registered nurses in caring for patients' current and future health needs cannot be understated. Nationally, advanced practice registered nurse education, accreditation, certification, and licensure must align to ensure patient safety and to expand access to patient care.

Subsequent to the establishment of the consensus model, Hawaii adopted every criteria of the consensus model for advanced practice registered nurse regulation except one. To fully align itself with the consensus model, the legislature finds that Hawaii must replace references to advanced practice registered nurse recognition with advanced practice registered nurse licensure, the latter of which is nationally accepted. The legislature further finds that this amendment will neither change the requirements to obtain or maintain advanced practice registered nurse status nor affect the advanced practice registered nurse scope of practice.

The purpose of this Act is to eliminate a barrier to licensure in other state boards that question the equivalency of Hawaii advanced practice registered nurse recognition to the standard of advanced practice registered nurse licensure.

**SECTION 2.** Section 457-1, Hawaii Revised Statutes, is amended to read as follows:

**“§457-1 Purpose.** In order to safeguard life and health, any person practicing or offering to practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse in this State for compensation shall be required to submit evidence that the person is qualified to so practice, and shall be [recognized or] licensed as provided in this chapter. It shall be unlawful for any person not [recognized or] licensed under this chapter to practice or offer to practice nursing as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse; or to use any sign, card, or device, or in any manner indicate or imply that the person is an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.”

**SECTION 3.** Section 457-2, Hawaii Revised Statutes, is amended by amending the definitions of “advanced practice registered nurse” and “the practice of nursing as a registered nurse” to read as follows:

““Advanced practice registered nurse” means a registered nurse who has met the qualifications for advanced practice registered nurse licensure set forth in this chapter and through rules of the board, which shall include educational requirements.

“The practice of nursing as a registered nurse” means the performance of professional services commensurate with the educational preparation and demonstrated competency of the individual having specialized knowledge, judgment, and skill based on the principles of the biological, physical, behavioral, and sociological sciences and nursing theory, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include but shall not be limited to observation, assessment, development, implementation, and evaluation of a plan of care, health counseling, supervision and teaching of other personnel, and teaching of individuals, families, and groups in any stage of health or illness; administration, supervi-

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sion, coordination, delegation, and evaluation of nursing practice; provision of health care to the patient in collaboration with other members of the health care team as autonomous health care professionals providing the nursing component of health care; or use of reasonable judgment in carrying out prescribed medical orders of a licensed dentist, physician, osteopathic physician, or podiatrist licensed in accordance with chapter 448, 453, or 463E; orders of an advanced practice registered nurse [recognized] licensed in accordance with this chapter; or the orders of a physician assistant licensed pursuant to chapter 453, practicing with physician supervision as required by chapter 453, and acting as the agent of the supervising physician.”

SECTION 4. Section 457-3, Hawaii Revised Statutes, is amended to read as follows:

**“§457-3 State board of nursing; appointment; term of office.** The board shall consist of nine members as follows:

- (1) Six shall be registered nurses, one of whom shall be [recognized] licensed as an advanced practice registered nurse in this State;
- (2) One shall be a licensed practical nurse; and
- (3) Two shall be public members.

Both nursing education and direct providers of nursing services shall be represented on the board. The term of office for members of the board shall be three years. No member shall be appointed to more than two consecutive terms or serve more than six consecutive years. Six members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu.”

SECTION 5. Section 457-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) Each advanced practice registered nurse member of the board shall:
- (1) Have current, unencumbered [recognition] licensure by the board as an advanced practice registered nurse; and
  - (2) Have at least five years of experience in the practice of nursing as an advanced practice registered nurse and at least three years of active nursing experience as an advanced practice registered nurse immediately preceding appointment or reappointment.”

SECTION 6. Section 457-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other powers and duties authorized by law, the board may:

- (1) Adopt, amend, or repeal rules, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter, including the definition of the scope of practice of nursing and the delegation of nursing tasks based upon professional nursing standards, which include but are not limited to the standards set forth by national certifying bodies recognized by the board;
- (2) Prescribe standards for preparing persons for licensure as practical [nurses]-or, registered nurses, and [for recognition as] advanced practice registered nurses under this chapter;
- (3) Conduct surveys of educational programs as it may deem necessary and practical;

- (4) Approve educational programs that meet the requirements of this chapter and the rules of the board;
- (5) Deny or withdraw approval of educational programs for failure to meet or maintain the standards prescribed in this chapter;
- (6) License qualified applicants by examination or endorsement, [re-eognize] including advanced practice registered nurses, and renew, reinstate, and restore licenses [and recognitions];
- (7) Conduct hearings upon request of a denied applicant or upon charges calling for discipline of a licensee;
- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (9) Cause the prosecution of all persons violating this chapter and incur necessary expenses therefor;
- (10) Keep a record of all its proceedings;
- (11) Provide consultation, conduct conferences, forums, studies, and research on nursing education and practice;
- (12) Communicate with national organizations that promote the improvement of the legal standards of practice of nursing for the protection of public health, safety, and welfare;
- (13) Authorize the administration of examinations to eligible applicants for licensure as registered nurses or licensed practical nurses, or other examinations required by the board as designated in its rules;
- (14) Employ, contract, and cooperate, to the extent allowable by law, with any board-approved organization in the preparation and grading of an appropriate nationally uniform examination; provided the board shall retain sole discretion and responsibility for determining the standard of successful completion of such an examination. When such a national examination is used, access to questions and answers shall be restricted by the board; and
- (15) Develop and adopt rules as necessary relating to the practice of nursing in telehealth.”

SECTION 7. Section 457-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“§457-8.5 Advanced practice registered nurse; qualifications; [reognition; licensure; endorsement; fees; eligibility.** (a) The board shall grant [reognition-as] an advanced practice registered nurse license to a nurse who has:

- (1) A current, unencumbered license as a registered nurse in this State;
- (2) An unencumbered license as a registered nurse in all other states in which the nurse has a current and active license;
- (3) An unencumbered [reognition] license as an advanced practice registered nurse or similar designation in all other states in which the nurse has a current and active [reognition] license as an advanced practice registered nurse;
- (4) Completed an accredited graduate-level education program preparing the nurse for one of the four recognized advanced practice registered nurse roles;
- (5) A current, unencumbered certification of having passed a national certification examination that measures role and population-focused competencies and is recognized by the board;

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- (6) Maintained continued competencies through recertification in role and population-focused competencies through a national certification program recognized by the board;
- (7) Acquired advanced clinical knowledge and skills preparing the nurse to provide direct care to patients through a significant educational and practical concentration on the direct care of patients;
- (8) Demonstrated a greater breadth of knowledge, a greater synthesis of data, greater complexity of skills and interventions, and greater role autonomy than demonstrated by a registered nurse;
- (9) Been educationally prepared to assume responsibility and accountability for health promotion and maintenance and to assess, diagnose, and manage patient problems through the use and prescription of pharmacologic and non-pharmacologic interventions;
- (10) Acquired clinical experience of sufficient depth and breadth to reflect the intended license; and
- (11) Paid the appropriate fees.

(b) Any person [reeognized] licensed as an advanced practice registered nurse prior to October 1, 2009, whose [reeognition] license was granted based on a master's degree in nursing or a current certification for specialized and advanced nursing practice from a national certifying body recognized by the board shall be eligible to renew that [reeognition;] license; provided that all nurse licenses[; reecognitions,] and prescriptive authorities or similar designations held by the person in any jurisdiction are unencumbered.

(c) Any person applying for advanced practice registered nurse [reeognition] licensure by endorsement shall be [granted reecognition] licensed as an advanced practice registered nurse; provided that:

- (1) The person applying is licensed as a registered nurse in this State; and
- (2) All nurse licenses[; reecognitions,] and prescriptive authorities or similar designations held by the person under the laws of this State, another state, or a United States territory are unencumbered, and the originating state's requirements were equal to or greater than the board's advanced practice registered nurse requirements which were in effect prior to October 1, 2009.

An advanced practice registered nurse shall be eligible to renew the [reeeognition] license granted under this subsection; provided that all nurse licenses[; reecognitions,] and prescriptive authorities or similar designations held by the person in this State, another state, or a United States territory are unencumbered.

(d) Only a person who has a current, unencumbered [reeognition] license from the board to practice as an advanced practice registered nurse shall use the title "Advanced Practice Registered Nurse" and the abbreviation "A.P.R.N.". No other person shall assume the title "nurse" or in any manner imply that the person is a nurse except as defined in section 457-2 or as provided in sections 457-7 and 457-8 or use the abbreviation "A.P.R.N." or any other words, letter, sign, or device to indicate that the person using the same is an advanced practice registered nurse. Nothing in this section shall preclude a registered nurse who is not [reeognized] licensed by the board as an advanced practice registered nurse and who is currently certified by a national certifying body recognized by the board from using another title designated by certification."

SECTION 8. Section 457-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The license of every person licensed[; reecognized,] or granted prescriptive authority shall expire on June 30 of every odd-numbered year and shall

be renewed biennially, except as provided in this section. Biennially in each odd-numbered year, the board shall make available an application for renewal of license before the deadline set forth by the board to every person to whom a license was issued or renewed during the biennium. The applicant shall complete the application and submit it to the board with a renewal fee and all required documents on or before the deadline set by the board. The applicant shall provide documents from proper agencies or parties of any criminal conviction or any disciplinary action taken or pending in this State or any other state in the United States or any territory or possession under the jurisdiction of the United States within the two years prior to application for renewal of license. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium expiring two years hence on the deadline set by the board. The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form."

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

**SECTION 10.** This Act shall take effect upon its approval; provided that the amendments made in section 3 of this Act to the definition of "the practice of nursing as a registered nurse" shall not be repealed when that definition is reenacted on July 1, 2017, pursuant to section 5 of Act 255, Session Laws of Hawaii 2012.

(Approved April 23, 2014.)

## ACT 47

S.B. NO. 2233

### A Bill for an Act Relating to Bureau of Conveyances.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that Act 120, Session Laws of Hawaii 2009, provided for the voluntary deregistration of land registered in the land court system and established a procedure to move these transactions to the regular system in the bureau of conveyances.

The legislature further finds that Act 119, Session Laws of Hawaii 2013, separated the deregistration of time share interests from the voluntary deregistration of other lands under part II of chapter 501, Hawaii Revised Statutes. Under Act 119, deregistration of time share interests was made mandatory and permanent, while the December 31, 2014, repeal date for voluntary deregistration and transfer of fee non-time share interests remained in place.

The legislature additionally finds that an ad hoc working group has been considering the implications of the voluntary deregistration under Act 119 and evaluating different models for implementation of voluntary deregistration of fee non-time share interests. Extending the sunset date for the voluntary deregistration of fee non-time share interests would permit the working group to continue its work on part II of chapter 501, Hawaii Revised Statutes.

The purpose of this Act is to:

- (1) Extend the sunset date of Act 119, Session Laws of Hawaii 2013, relating to the deregistration of fee non-time share interests; and

- (2) Clarify the actions taken after a certificate of title for a fee time share interest is deregistered and marked canceled by the assistant registrar.

**SECTION 2.** Section 501-261, Hawaii Revised Statutes, is amended to read as follows:

**“§501-261 Deregistration of fee time share interests.** The certificate of title for each fee time share interest shall be canceled effective as of the date and time of deregistration of such fee time share interest. Notwithstanding the provisions of section 501-261 in existence prior to July 1, 2012, a fee time share interest for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, shall be deregistered on July 1, 2012, at 12:01 a.m.

- (1) Beginning on July 1, 2012, and continuing for so long as shall be reasonably necessary in the ordinary course of business, the assistant registrar shall:

(A) Note on the certificate of title for each fee time share interest all documents and instruments affecting the fee time [share] interest:

(i) That were or are registered as of a date and time prior to the date and time of deregistration of the fee time share interest; and

(ii) That were not yet noted on the certificate of title of the fee time share interest as of the date and time of deregistration thereof; and

(B) Certify each certificate of title.

- (2) Section 501-196 shall apply to a certificate of title updated pursuant to paragraph (1) upon approval of the same by the assistant registrar, which approval shall be evidenced by a certification of the assistant registrar endorsed upon the certificate of title. A certificate of title for a fee time share interest, including but not limited to a certificate of title recorded prior to July 1, 2012, pursuant to part II of this chapter 501, shall not be considered completed or approved, and shall be subject to modification by the assistant registrar, at any time prior to certification thereof by the assistant registrar. Subsequent to the certification, the certificate of title for a fee time share interest may only be modified pursuant to section 501-196 or as otherwise provided in this chapter.

- (3) Upon certification of the certificate of title for a fee time share interest by the assistant registrar, the assistant registrar shall mark the certificate of title “canceled”, note the cancellation of the certificate of title in the registration book, and notify the court and the state surveyor of the cancellation. The registrar shall thereupon be authorized to file a record of the cancellation in the application or consolidation file, and the state surveyor shall then be authorized to annotate the land court map or maps by identifying thereon the deregistered land and noting thereon the bureau of conveyances document number of the canceled certificate. Regardless of the date upon which such administrative acts are performed, the cancellation of the certificate of title for a fee time share interest shall be effective as of the date and time of deregistration of that fee time share interest.

- (4) If only part of the land described in the certificate of title consists of a fee time share interest, then upon the petition of the registered owner of that portion of the registered land not constituting a fee time share interest, a new certificate of title shall be issued to such owner for that portion of the registered land not constituting a fee time share interest. If registered land is held in the condominium form of ownership, then for purposes of this subsection each unit for which a separate certificate of title has been issued shall be treated as if it were a separate parcel of registered land.
- (5) Except as provided in paragraph (4), no order of court shall be required prior to or in connection with the performance of any of the foregoing actions."

**SECTION 3.** Act 119, Session Laws of Hawaii 2013, is amended by amending section 13 to read as follows:

"**SECTION 13.** This Act shall take effect upon its approval; provided that section 2 of this Act shall be repealed on December 31, [2014.] 2016."

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved April 23, 2014.)

**ACT 48**

S.B. NO. 2120

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 11-359, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

"(b) A contribution by the candidate's immediate family shall be exempt from section [11-355.] 11-357, but shall be limited in the aggregate to \$50,000 in any election period; provided that the aggregate amount of loans and contributions received from the candidate's immediate family does not exceed \$50,000 during an election period."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved April 23, 2014.)

**ACT 49**

S.B. NO. 2078

A Bill for an Act Relating to Condominiums.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to clarify the applicability of section 205-4.6, Hawaii Revised Statutes, relating to private restrictions on agricultural uses and activities, to condominium projects on lands classified as agricultural.

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SECTION 2. Section 205-4.6, Hawaii Revised Statutes, is amended to read as follows:

**“§205-4.6 Private restrictions on agricultural uses and activities; not allowed.** (a) Agricultural uses and activities as defined in sections 205-2(d) and 205-4.5(a) on lands classified as agricultural shall not be restricted by any private agreement contained in any [deed];

- (1) Deed, agreement of sale, or other conveyance of land recorded in the bureau of conveyances after July 8, 2003, that subject such agricultural lands to any servitude, including but not limited to covenants, easements, or equitable and reciprocal negative servitudes[.]; and
- (2) Condominium declaration, map, bylaws, and other documents executed and submitted in accordance with chapter 514A or 514B.

Any such private restriction limiting or prohibiting agricultural use or activity shall be voidable, subject to special restrictions enacted by the county ordinance pursuant to section 46-4; except that restrictions taken to protect environmental or cultural resources, agricultural leases, utility easements, and access easements shall not be subject to this section.

(b) For purposes of this section, “agricultural leases” means leases where the leased land is primarily utilized for purposes set forth in section 205-4.5(a). ”

SECTION 3. Section 514B-5, Hawaii Revised Statutes, is amended to read as follows:

**“[§514B-5] Conformance with county land use laws.** Any condominium property regime established under this chapter shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 514B-6, to ensure the conformance of condominium property regimes to the purposes and provisions of county zoning and development ordinances and chapter 205[-], including section 205-4.6 where applicable. In the case of a property which includes one or more existing structures being converted to condominium status, the condominium property regime shall comply with section 514B-32(a)(13) or 514B-84(a).”

SECTION 4. Section 514B-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) A declaration shall describe or include the following:
- (1) The land submitted to the condominium property regime;
  - (2) The number of the condominium map filed concurrently with the declaration;
  - (3) The number of units in the condominium property regime;
  - (4) The unit number of each unit and common interest appurtenant to each unit;
  - (5) The number of buildings and projects in the condominium property regime, and the number of stories and units in each building;
  - (6) The permitted and prohibited uses of each unit;
  - (7) To the extent not shown on the condominium map, a description of the location and dimensions of the horizontal and vertical boundaries of any unit. Unit boundaries may be defined by physical struc-

- tures or, if a unit boundary is not defined by a physical structure, by spatial coordinates;
- (8) The condominium property regime's common elements;
  - (9) The condominium property regime's limited common elements, if any, and the unit or units to which each limited common element is appurtenant;
  - (10) The total percentage of the common interest that is required to approve rebuilding, repairing, or restoring the condominium property regime if it is damaged or destroyed;
  - (11) The total percentage of the common interest, and any other approvals or consents, that are required to amend the declaration. Except as otherwise specifically provided in this chapter, and except for any amendments made pursuant to reservations set forth in paragraph (12), the approval of the owners of at least sixty-seven per cent of the common interest shall be required for all amendments to the declaration;
  - (12) Any rights that the developer or others reserve regarding the condominium property regime, including, without limitation, any development rights, and any reservations to modify the declaration or condominium map. An amendment to the declaration made pursuant to the exercise of those reserved rights shall require only the consent or approval, if any, specified in the reservation; and
  - (13) A declaration, subject to the penalties set forth in section 514B-69(b), that the condominium property regime is in compliance with all zoning and building ordinances and codes, and all other permitting requirements pursuant to section 514B-5[,] and [specifying in chapter 205, including section 205-4.6 where applicable. In the case of a project in the agricultural district classified pursuant to chapter 205, the declaration, subject to the penalties set forth in section 514B-69(b), shall include an additional statement that there are no private restrictions limiting or prohibiting agricultural uses or activities in compliance with section 205-4.6. In the case of a property that includes one or more existing structures being converted to condominium property regime status[;], the declaration required by this section shall specify]:
    - (A) Any variances that have been granted to achieve the compliance; and
    - (B) Whether, as the result of the adoption or amendment of any ordinances or codes, the project presently contains any legal nonconforming conditions, uses, or structures[;].

[except that a] A property that is registered pursuant to section 514B-51 shall instead provide [this] the required declaration pursuant to section 514B-54. If a developer is converting a structure to condominium property regime status and the structure is not in compliance with all zoning and building ordinances and codes, and all other permitting requirements pursuant to section 514B-5, and the developer intends to use purchaser's funds pursuant to the requirements of section 514B-92 or 514B-93 to cure the violation or violations, then the declaration required by this paragraph may be qualified to identify with specificity each violation and the requirement to cure the violation by a date certain."

SECTION 5. Section 514B-52, Hawaii Revised Statutes, is amended to read as follows:

**"[§§514B-52] Application for registration.** (a) An application for registration of a project shall:

- (1) Be accompanied by nonrefundable fees as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91; and
- (2) Contain the documents and information concerning the project and the condominium property regime as required by sections 514B-54, 514B-83, and 514B-84, as applicable, and as otherwise may be specified by the commission.

**(b) An application for registration of a project in the agricultural district classified pursuant to chapter 205 shall include a verified statement, signed by an appropriate county official, that the project as described and set forth in the project's declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities, in compliance with section 205-4.6. The commission shall not accept the registration of a project where a county official has not signed a verified statement.**

**[¶] (c) The commission need not process any incomplete application and may return an incomplete application to the developer and require that the developer submit a new application, including nonrefundable fees. If an incomplete application is not completed within six months of the date of the original submission, it shall be deemed abandoned and registration of the project shall require the submission of a new application, including nonrefundable fees.**

**[¶] (d) A developer shall promptly file amendments to report either any actual or expected pertinent or material change, or both, in any document or information contained in the application."**

**SECTION 6.** Section 514B-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a) Prior to the issuance of an effective date for a developer's public report, the commission shall have received the following:**

- (1) Nonrefundable fees as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;
- (2) The developer's public report prepared by the developer disclosing the information specified in section 514B-83 and, if applicable, section 514B-84;
- (3) A copy of the deed, master lease, agreement of sale, or sales contract evidencing either that the developer holds the fee or leasehold interest in the property or has a right to acquire the same;
- (4) Copies of the executed declaration, bylaws, and condominium map that meet the requirements of sections 514B-32, 514B-33, and 514B-108;
- (5) A specimen copy of the proposed contract of sale for units;
- (6) An executed copy of an escrow agreement with a third party depository for retention and disposition of purchasers' funds that meets the requirements of section 514B-91;
- (7) As applicable, the documents and information required in section 514B-92 or 514B-93;
- (8) A declaration[¶] by the developer, subject to the penalties set forth in section 514B-69(b), that the project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to chapter 205, including section 205-4.6, where applicable, and sections 514B-5 and 514B-32(a)(13); [and]

- (9) In the case of a project in the agricultural district classified pursuant to chapter 205, a verified statement signed by an appropriate county official that the project as described and set forth in the project's declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities in compliance with section 205-4.6; and
- [9] (10) Other documents and information that the commission may require."

SECTION 7. Section 514B-67, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The commission, after notice and hearing, may issue an order terminating the registration of a condominium project upon determination that a developer, or any officer, principal, or affiliate of a developer has:

- (1) Failed to comply with a cease and desist order issued by the commission affecting that condominium project;
- (2) Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of units in that condominium project;
- (3) Failed to perform any stipulation or agreement made to induce the commission to issue an order relating to that condominium project;
- (4) Misrepresented or failed to disclose a material fact in the application for registration; [or]
- (5) Failed to meet any of the conditions described in this part necessary to qualify for registration[.]; or
- (6) Failed to conform or comply with county zoning and development ordinances as required by chapter 205, including section 205-4.6 where applicable, and section 514B-5."

SECTION 8. Section 514B-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) A developer's public report shall contain:
- (1) The name and address of the project, and the name, address, telephone number, and electronic mail address, if any, of the developer or the developer's agent;
  - (2) A statement of the deadline, pursuant to section 514B-89, for completion of construction or, in the case of a conversion, for the completion of any repairs required to comply with section 514B-5, and the remedies available to the purchaser, including but not limited to cancellation of the sales contract, if the completion of construction or repairs does not occur on or before the completion deadline;
  - (3) A breakdown of the annual maintenance fees and the monthly estimated cost for each unit, certified to have been based on generally accepted accounting principles, and a statement regarding when a purchaser shall become obligated to start paying the fees pursuant to section 514B-41(b);
  - (4) A description of all warranties for the individual units and the common elements, including the date of initiation and expiration of any such warranties, or a statement that no warranties exist;
  - (5) A summary of the permitted uses of the units and, if applicable, the number of units planned to be devoted to a particular use;
  - (6) A description of any development rights reserved to the developer or others;

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- (7) A declaration, subject to the penalties set forth in section 514B-69(b), that the project is in compliance with all county zoning and building ordinances and codes, chapter 205, including section 205-4.6 where applicable, and all other county permitting requirements applicable to the project, pursuant to sections 514B-5 and 514B-32(a)(13); and
- (8) Any other facts, documents, or information that would have a material impact on the use or value of a unit or any appurtenant limited common elements or amenities of the project available for an owner's use, or that may be required by the commission."

SECTION 9. Section 514B-84, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to the information required by section 514B-83, the developer's public report for a project in the agricultural district pursuant to chapter 205 shall disclose:

- (1) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable state and county land use laws[;] and with chapter 205, including section 205-4.6 where applicable;
- (2) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable county real property tax laws, and the penalties for noncompliance; and
- (3) Other disclosures and information that the commission may require."

SECTION 10. This Act applies to a condominium project on lands classified as agricultural pursuant to chapter 205, Hawaii Revised Statutes, for which a developer submits an application for registration of a project pursuant to section 514A-31, Hawaii Revised Statutes.

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 50

H.B. NO. 33

A Bill for an Act Relating to Public Order.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 84, Session Laws of Hawaii 2004, as amended by section 1 of Act 77, Session Laws of Hawaii 2008, as amended by section 2 of Act 75, Session Laws of Hawaii 2010, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect upon its approval and shall be repealed on December 31, [2014.] 2016."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 51

H.B. NO. 1660

A Bill for an Act Relating to Sidewalks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 711-1105, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

"(1) A person commits the offense of obstructing if, whether alone or with others and having no legal privilege to do so, the person knowingly or recklessly [~~obstructs~~]:

- (a) Obstructs any highway or public passage[, ~~whether alone or with others~~; or]
  - (b) Provides less than thirty-six inches of space for passage on any paved public sidewalk.
- (2) A person in a gathering commits the offense of obstructing if the person refuses to obey a reasonable request or order by a law enforcement officer [~~to move~~]:
- (a) To move to prevent [obstruction of a highway or other public passage;] or to cease any activity prohibited under subsection (1); or
  - (b) To move to maintain public safety by dispersing those gathered in dangerous proximity to a public hazard."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2014.)

## ACT 52

S.B. NO. 2775

A Bill for an Act Relating to Renewable Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within the agricultural district, all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. “Farm dwelling”, as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings that are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section [§205-2(d)(15)];
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);
- (11) Agricultural parks;
- (12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:
  - (A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;
  - (B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or

- (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (13) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2;
- (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
- (16) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuel processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.
- For the purposes of this paragraph:
- "Appurtenances" means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuel processing facilities.
- "Biofuel processing facility" means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy;
- (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.
- As used in this paragraph:
- "Agricultural activity" means any activity described in paragraphs (1) to (3) of this subsection.

"Agricultural-energy enterprise" means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.

"Agricultural-energy facility" means a facility that generates, stores, or distributes renewable energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.

"Appurtenances" means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities;

- (18) Construction and operation of wireless communication antennas; provided that, for the purposes of this paragraph, "wireless communication antenna" means communications equipment that is either freestanding or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection;
- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this section, "agricultural education programs" means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;
- (20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser; provided that this use shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A[;]unless the solar energy facilities are:
  - (A) Located on a paved or unpaved road in existence as of December 31, 2013, and the parcel of land upon which the paved or unpaved road is located has a valid county agriculture tax dedication status or a valid agricultural conservation easement;
  - (B) Placed in a manner that still allows vehicular traffic to use the road; and
  - (C) Granted a special use permit by the commission pursuant to section 205-6; or
- [(21)] Geothermal resources exploration and geothermal resources development, as defined under section 182-1."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that:

- (1) This Act shall be repealed on June 30, 2019, and section 205-4.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act; and
- (2) Any solar energy facility permitted under this Act as of June 30, 2019, shall continue to be permissible under the provisions of this Act until the end of its operable life, at which time it shall be appropriately and properly replaced or decommissioned and removed within twelve months.

(Approved April 28, 2014.)

## ACT 53

S.B. NO. 2875

### A Bill for an Act Relating to the Endangered Species Recovery Committee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 195D-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department for administrative purposes only, the endangered species recovery committee, which shall serve as a consultant to the board and the department on matters relating to endangered, threatened, proposed, and candidate species. The committee shall consist of two field biologists with expertise in conservation biology, the chairperson of the board or the chairperson’s designee, the ecoregion director of the United States Fish and Wildlife Service or the director’s designee, the director of the United States Geological Survey, Biological Resources Division or the director’s designee, [and] the director of the University of Hawaii Environmental Center or the director’s designee[-], and a person possessing a background in native Hawaiian traditional and customary practices, as evidenced by:

- (1) A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, or related subject area;
- (2) Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices; or
- (3) Substantial experience in native Hawaiian traditional and customary practices.

Nongovernmental members shall be appointed by the governor pursuant to section 26-34. Nongovernmental members shall not serve for more than two consecutive terms. Nongovernmental members shall serve for four-year staggered terms, except that one of the members first appointed shall serve for two years.

Governmental members from the federal agencies are requested but not required to serve on the committee. The ability of the committee to carry out its functions and purposes shall not be affected by the vacancy of any position allotted to a federal governmental member.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 2014.)

## A Bill for an Act Relating to the Uniform Controlled Substances Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

"(d) Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alpha-ethyltryptamine (AET);
- (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- (3) 2,5-dimethoxyamphetamine (2,5-DMA);
- (4) 3,4-methylenedioxy amphetamine;
- (5) 3,4-methylenedioxymethamphetamine (MDMA);
- (6) N-hydroxy-3,4-methylenedioxymethamphetamine (N-hydroxy-MDA);
- (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
- (8) 5-methoxy-3,4-methylenedioxymethamphetamine;
- (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);
- (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- (11) 3,4,5-trimethoxy amphetamine;
- (12) Bufotenine;
- (13) 4-methoxyamphetamine (PMA);
- (14) Diethyltryptamine;
- (15) Dimethyltryptamine;
- (16) 4-methyl-2,5-dimethoxy-amphetamine;
- (17) Gamma hydroxybutyrate (GHB) (some other names include gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- (18) Ibogaine;
- (19) Lysergic acid diethylamide;
- (20) Marijuana;
- (21) Parahexyl;
- (22) Mescaline;
- (23) Peyote;
- (24) N-ethyl-3-piperidyl benzilate;
- (25) N-methyl-3-piperidyl benzilate;
- (26) Psilocybin;
- (27) Psilocyn;
- (28) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- (29) Ethylamine analog of phencyclidine (PCE);
- (30) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- (31) Thiophene analog of phencyclidine (TPCP; TCP);
- (32) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number 96-48-0 when any such substance is intended for human ingestion;

- (33) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4- diol with Chemical Abstract Service number 110-63-4 when any such substance is intended for human ingestion;
- (34) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts, and salts of isomers;
- (35) N-benzylpiperazine (BZP; 1-benzylpiperazine) its optical isomers, salts, and salts of isomers;
- (36) 1-(3-trifluoromethylphenyl)piperazine (TFMPP), its optical isomers, salts, and salts of isomers;
- (37) Alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;
- (38) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts, and salts of isomers;
- (39) Salvia divinorum;
- (40) Salvinorin A;
- (41) Divinorin A; [and]
- (42) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT) (some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT)[.];
- (43) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- (44) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
- (45) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
- (46) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- (47) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
- (48) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
- (49) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- (50) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
- (51) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
- (52) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);
- (53) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and
- (54) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)."

2. By amending subsection (g) to read:

"(g) Any of the following cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta

- 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);
- (2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
  - (3) Naphthylmethylinides; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
  - (4) Naphthoypyroles; meaning any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;
  - (5) Naphthylmethyldenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;
  - (6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent;
  - (7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;
  - (8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent;

- (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (another trade name is WIN 55,212-2);
- (10) (6a,10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other trade names are: HU-210 and HU-211); [and]
- (11) Tetramethylcyclopropanoylindoles; meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent[-];
- (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: APINACA, AKB48);
- (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: PB-22, QUPIC);
- (14) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);
- (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-FUBINACA); and
- (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: ADB-PINACA)."

SECTION 2. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof, including the substance butalbital;
- (4) Chlorhexadol;
- (5) Embutramide (Tributame);
- (6) Ketamine, its salts, isomers, and salts of isomers, also known as (+ or -)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- (7) Lysergic acid;
- (8) Lysergic acid amide;
- (9) Methyprylon;

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- (10) Sulfondiethylmethane;
- (11) Sulfonethylmethane;
- (12) Sulfonmethane;
- (13) Tiletamine/Zolazepam (Telazol, 2-(ethylamino)-2-(thienyl)-cyclohexanone, flupyrazapon) or any salts thereof; [and]
- (14) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers that are contained in a drug product for which an application has been approved under section 505 of the federal Food, Drug, and Cosmetic Act[.];
- (15) Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl)benzonitrile], including its salts, isomers, and salts of isomers; and
- (16) Alfaxalone 5[alpha]-pregnan-3[alpha]-ol-11,20-dione, including its salts, isomers, and salts of isomers.”

SECTION 3. Section 329-20, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Phentermine;
- (9) Pemoline (including organometallic complexes and chelates thereof);
- (10) Pipradrol;
- (11) Sibutramine; [and]
- (12) SPA (1-dimethylamino-1,2-diphenylethane, lefetamine)[-]; and
- (13) Lorcaserin.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 28, 2014.)

## ACT 55

S.B. NO. 2658

A Bill for an Act Relating to Solar Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to enable the complementary uses of utility scale solar energy generation and local food production on agricultural land with an overall productivity rating of class B or C.

SECTION 2. Section 205-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Agricultural districts shall include:

- (1) Activities or uses as characterized by the cultivation of crops, crops for bioenergy, orchards, forage, and forestry;
- (2) Farming activities or uses related to animal husbandry and game and fish propagation;
- (3) Aquaculture, which means the production of aquatic plant and animal life within ponds and other bodies of water;
- (4) Wind generated energy production for public, private, and commercial use;
- (5) Biofuel production, as described in section 205-4.5(a)(16), for public, private, and commercial use;
- (6) Solar energy facilities; provided that:
  - (A) This paragraph shall apply only to land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class B, C, D, or E; and
  - (B) Solar energy facilities placed within land with soil classified as overall productivity rating class B or C shall not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser[.], unless a special use permit is granted pursuant to section 205-6;
- (7) Bona fide agricultural services and uses that support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, regardless of whether conducted on the same premises as the agricultural activities to which they are accessory, including farm dwellings as defined in section 205-4.5(a)(4), employee housing, farm buildings, mills, storage facilities, processing facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, agricultural-energy facilities as defined in section 205-4.5(a)(17), vehicle and equipment storage areas, and plantation community subdivisions as defined in section 205-4.5(a)(12);
- (8) Wind machines and wind farms;
- (9) Small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities occupying less than one-half acre of land; provided that these facilities shall not be used as or equipped for use as living quarters or dwellings;
- (10) Agricultural parks;
- (11) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (12) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona

fide agricultural activity. For the purposes of this paragraph, “bona fide agricultural activity” means a farming operation as defined in section 165-2;

- (13) Open area recreational facilities;
- [§(14)] Geothermal resources exploration and geothermal resources development, as defined under section 182-1; and
- [§(15)] Agricultural-based commercial operations, including:
  - (A) A roadside stand that is not an enclosed structure, owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii;
  - (B) Retail activities in an enclosed structure owned and operated by a producer for the display and sale of agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer’s agricultural operations, and other food items; and
  - (C) A retail food establishment owned and operated by a producer and permitted under [§]title 11,§ chapter 12 of the rules of the department of health that prepares and serves food at retail using products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.

The owner of an agricultural-based commercial operation shall certify, upon request of an officer or agent charged with enforcement of this chapter under section 205-12, that the agricultural products displayed or sold by the operation meet the requirements of this paragraph.

Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d). Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.”

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within the agricultural district, all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B and for solar energy facilities, class B or C, shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. “Farm dwelling”, as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings that are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not includ-

- ing dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section [205-2(d)(15)];
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);
- (11) Agricultural parks;
- (12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:
- (A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;
  - (B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or
  - (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (13) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona

- fide agricultural activity" means a farming operation as defined in section 165-2;
- (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
- (16) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuel processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.
- For the purposes of this paragraph:
- "Appurtenances" means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuel processing facilities.
- "Biofuel processing facility" means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy;
- (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.
- As used in this paragraph:
- "Agricultural activity" means any activity described in paragraphs (1) to (3) of this subsection.
- "Agricultural-energy enterprise" means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.
- "Agricultural-energy facility" means a facility that generates, stores, or distributes renewable energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.
- "Appurtenances" means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities;
- (18) Construction and operation of wireless communication antennas; provided that, for the purposes of this paragraph, "wireless communication antenna" means communications equipment that is either freestanding or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications

- services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection;
- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this section, "agricultural education programs" means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;
- (20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is less  
~~er[;]~~ or for which a special use permit is granted pursuant to section 205-6; provided that this use shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A; ~~[or]~~
- (21) ~~Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:~~
- (A) ~~The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;~~
  - (B) ~~Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission prior to date of commencement of commercial generation; and~~
  - (C) ~~Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:~~
    - (i) ~~Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and~~
    - (ii) ~~Restoration of the disturbed earth to substantially the same physical condition as existed prior to the development of the solar energy facility.~~

~~For the purposes of this paragraph, "agricultural activities" means the activities described in paragraphs (1) to (3); or~~
- [(21)] (22) Geothermal resources exploration and geothermal resources development, as defined under section 182-1."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

#### Note

1. So in original.

**A Bill for an Act Relating to Industrial Hemp.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that Section 7606 of the United States Agricultural Act of 2014 authorizes institutions of higher education and state departments of agriculture to conduct industrial hemp research. The legislature also finds that industrial hemp can be grown or cultivated for research purposes.

The legislature further finds that the State will benefit from research for phytoremediation, which is the environmentally-friendly science of using plants and trees to remove toxins in the soil, such as metals, pesticides, solvents, explosives, and crude oil. These toxins can be reduced by planting specific plants and trees, called hyperaccumulators, in polluted areas. Specifically, these plants and trees draw in the toxins, along with beneficial nutrients, through their roots as nourishment and concentrate them in their stems, shoots, and leaves, which can then be harvested and disposed of safely. The nutrient uptake process leaves a clean, balanced, and nutrient rich soil, which can then be safely used for agriculture or improving conservation habitats.

The legislature additionally finds that hemp is a superior phytoremediator because it grows quickly and can extract toxins without the need to remove any of the contaminated topsoil. Other factors that make hemp a superior phytoremediator are its ability to grow unaffected by the toxins it accumulates, its fast rate of absorption, and its ability to bind compound contaminants from the air and the soil. A factor that makes the State a particularly compelling candidate for hemp-based phytoremediation is that the State's extensive agricultural operations in the past have left toxins in vast tracts of land. Phytoremediation will remove those toxins.

The legislature also finds that industrial hemp is an environmentally friendly and efficient feedstock for biofuel. Biodiesel plants already in existence in the State are capable of meeting eight per cent of the State's biodiesel needs for ground transportation. These biodiesel plants could increase their efficiency by utilizing industrial hemp as a feedstock, thus reducing the State's reliance on imported fuel.

The purpose of this Act is to authorize the dean of the college of tropical agriculture and human resources at the University of Hawaii at Manoa to establish a two-year industrial hemp remediation and biofuel crop research program.

**SECTION 2.** (a) The dean of the college of tropical agriculture and human resources at the University of Hawaii may establish a two-year industrial hemp remediation and biofuel crop research program that shall include the authority to grow or cultivate industrial hemp in accordance with the requirements established under section 7606 of the federal Agricultural Act of 2014 (Public Law 113-79), provided that the authority to grow or cultivate industrial hemp under this Act shall only apply to industrial hemp grown or cultivated for the research program established under this Act. Through the research program, the dean may determine how soils and water may be made more pristine and healthy by phytoremediation, removal of contaminants, and rejuvenation through the growth of industrial hemp, as well as the viability of industrial hemp as a biofuel feedstock. The dean may work in collaboration with the United States Army Corps of Engineers, its affiliates, and the department of molecular biosciences and bioengineering at the University of Hawaii John A. Burns school of medicine to determine the viability of industrial hemp as a biofuel feedstock.

(b) The department of agriculture shall certify that the seed stock to be used in the research program is for growing industrial hemp. The research program established under subsection (a) shall only use industrial hemp seed stock that is certified by the department of agriculture. If the seed stock cannot be verified by the department of agriculture as industrial hemp seed stock, the dean shall not commence the growing or cultivation of industrial hemp for the research program.

(c) The research program shall use only one test site to grow and cultivate industrial hemp.

(d) The dean of the college of tropical agriculture and human resources at the University of Hawaii shall submit a final report, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2016 on the following:

- (1) The rate of contamination uptake from soil and water;
- (2) The mode of efficient uptake from soil and water;
- (3) The rate of carbon fixation in the Calvin cycle;
- (4) The locations in the roots, stems, leaves, and flowers of the plants at which contaminants are fixated;
- (5) What contaminants are stabilized in the plants;
- (6) What contaminants on the site need additional treatment in order to make the soil or water healthy and pristine;
- (7) A baseline for plants cultivated in a clean soil;
- (8) The viability of industrial hemp as a biofuel feedstock; and
- (9) Any other data deemed important by the dean.

(e) For purposes of this Act, the term "industrial hemp" means the plant *Cannabis sativa L.* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry weight basis. Any plant that meets the definition of "industrial hemp" under this Act shall not constitute "marijuana" as defined in section 329-1 or 712-1240, Hawaii Revised Statutes.

**SECTION 3.** (a) No person shall be subject to any civil or criminal sanctions in this State for growing or possessing industrial hemp; provided that the person's growing or possession of industrial hemp is part of the person's participation in the two-year industrial hemp remediation and biofuel crop research program and the person's participation is in full compliance with the requirements of the program.

(b) The department of agriculture shall test and monitor the plants growing on the test site to ensure that no marijuana is grown on the site. If marijuana is found to be growing or being cultivated on the test site, then the research project shall cease immediately.

**SECTION 4.** This Act shall take effect on July 1, 2014, and shall be repealed on July 1, 2016.

(Approved April 30, 2014.)

## ACT 57

H.B. NO. 286

A Bill for an Act Relating to Tourism.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that tourism is the mainstay of the State's economy, with approximately one out of every three jobs in the State

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linked directly or indirectly to the tourism industry. A deep inventory of hotels and condominium hotels of sufficient quality and accommodation is important to the maintenance and development of this crucial industry. Recent Hawaii tourism trends reveal an increasing number of families vacationing in condominium hotels, with an increased demand for units within hotels and condominium hotels that allow room service, mini-bar access, and other amenities tied to liquor licensing requirements.

The purpose of this Act is to support the State's tourism industry by increasing the inventory of condominium hotel and hotel rooms in which liquor is available by eliminating the requirement that a condominium hotel or hotel have a kitchen and dining room to qualify for a hotel class liquor license.

**SECTION 2.** Section 281-1, Hawaii Revised Statutes, is amended by amending the definitions of "condominium hotel" and "hotel" to read as follows:

**"Condominium hotel"** means an establishment consisting of one or more buildings that includes:

- (1) Guest rooms that are apartments, as defined in section 514A-3, or units, as defined in section 514B-3, which are used to provide transient lodging for periods of less than thirty days under a written contract with the owner of the apartment or unit in the condominium hotel operation; and
- (2) Guest rooms that are units, owned or managed by the condominium hotel operator providing transient lodging for periods of less than thirty days, which are offered for adequate pay to transient guests; and
- (3) ~~A suitable and adequate kitchen and dining room, where meals are regularly prepared and served to guests and other customers].~~

A "condominium hotel" does not include a hotel that may be part of a condominium property regime established under chapter 514A or 514B, that does not have guest rooms that are separate apartments, as defined in section 514A-3, or units, as defined in section 514B-3.

"Hotel" means an establishment consisting of one or more buildings which contain [(1)] such total number of rooms as may be prescribed by the commission and in which rooms sleeping accommodations are provided and offered for adequate pay to transient or permanent guests; and (2) ~~a suitable and adequate kitchen and dining room, where meals are regularly prepared and served to hotel guests and other customers].~~"

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## **ACT 58**

H.B. NO. 716

A Bill for an Act Relating to the Disciplinary Authority of the Board of Public Accountancy.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 466-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) In addition to any other actions or conditions authorized by law, in accordance with chapter 91, the board may take any one or more of the following [action:] actions:

- (1) ~~[Cancel or revoke any]~~ Revoke a license or permit [~~issued under section 466-5, 466-6, or 466-7, or corresponding provisions of prior law;~~];
- (2) Suspend a license or permit [~~for a period of not more than two years;~~];
- (3) Refuse to renew a license or permit [~~for a period of not more than two years;~~];
- (4) Reprimand, censure, or limit the scope of practice of any licensee or firm;
- (5) Impose an administrative fine not exceeding ~~[\$1,000;]~~ \$5,000 per violation;
- (6) Place a licensee or firm on probation;
- (7) Require a firm to have a peer review conducted in the manner specified by the board; or
- (8) Require a licensee to attain satisfactory completion of additional continuing professional education hours as specified by the board.

(b) In addition to any other grounds for disciplinary action authorized by law, any one or more of the following shall constitute grounds for disciplinary action:

- (1) Fraud or deceit in obtaining a license or permit;
- (2) Disciplinary action taken by another state where the license is canceled, revoked, suspended, denied, or refused renewal;
- (3) Failure, on the part of a holder of a license or a permit [~~under section 466-5, 466-6, or 466-7,~~] to maintain compliance with the requirements for issuance of a license or a permit, or renewal of a license or permit, or to report changes to the board;
- (4) Revocation or suspension of the right to practice before any state or federal agency;
- (5) Dishonesty, deceit, fraud, or gross negligence in the practice of public accountancy or in the filing or failure to file a licensee's or firm's own income tax returns;
- (6) Violation of any provision of this chapter or of any rule adopted by the board;
- (7) Violation of any provision of professional conduct established by the board under this chapter;
- (8) Conviction of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the act involved would have constituted a crime under the laws of this State;
- (9) Performance of any fraudulent act while holding a license or permit issued under this chapter; or
- (10) Any conduct reflecting adversely upon the licensee's or permit holder's fitness to engage in the practice of public accountancy."

SECTION 2. Section 466-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Any person or firm who violates this chapter may be fined not more than ~~[\$1,000]~~ \$5,000 for each violation."

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SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## **ACT 59**

H.B. NO. 1300

A Bill for an Act Relating to a Fiduciary's Standard of Care and Performance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that other states have been aggressively enacting legislation with the goal of attracting trust business and that Hawaii residents are creating trusts in these states or moving the situs of existing trusts outside of Hawaii. The legislature finds that as a result, the State is losing business. In addition, Hawaii residents who are presently hesitant to establish directed trusts (generally, a trust where the trust administration duties and the investment management duties are separated) without the protections afforded by a statute that clearly allows them to do so, are forced to endure additional costs and inconveniences when forming such trusts elsewhere. Thirty-four states currently have laws in place that allow for directed trusts. Although Hawaii law arguably allows for directed trusts, estate planners and advisors continue to recommend that their clients establish directed trusts in, or move their existing trusts to, other states until directed trusts are clearly authorized by Hawaii law.

The purpose of this Act is to protect Hawaii's economy from attempts to lure local trust business to other states by:

- (1) Allowing the settlor of a trust to designate the investment and other responsibilities to an advisor and maintain the administrative functions with the trustee;
- (2) Limiting the trustee's liability for investments, transactions, and other functions over which the trustee does not exercise responsibility; and
- (3) Waiving a dissenting trustee's fiduciary duty for specific transactions subject to certain limitations.

SECTION 2. Section 554G-4.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (b), whenever there is a dispute, deadlock, or difference of opinion between a trustee and an advisor, the transferor may direct that the determination of the advisor shall be binding upon the trustee; provided that the trustee shall bear no liability or accountability for any act or transaction entered into or omitted as a result of the enforcement of the advisor's determination. The trustee's administrative and non-administrative fiduciary duty to the beneficiaries shall be waived as to the specific act or [executed] transaction[;] entered into or omitted as a result of the enforcement of the advisor's determination; provided that [the]:

- (1) The trustee dissents in writing [before]:
  - (A) Before the act or transaction is completed[-];
  - (B) To a failure to act; or

- (C) In a reasonably timely manner to enter into a transaction; or  
 (2) If the advisor is appointed by the transferor under the terms of the trust and section 560:7-302 applies to the trust and the advisor, the trustee is not required to dissent in writing for the waiver of the trustee's administrative and nonadministrative fiduciary duties to the beneficiaries to take effect."

SECTION 3. Section 560:7-302, Hawaii Revised Statutes, is amended to read as follows:

**"§560:7-302 Trustee's standard of care and performance[.]; standards for trustee actions under an advisor's authority.** (a) Except as otherwise provided by the terms of the trust, the trustee shall observe the standards in dealing with the trust assets that would be observed by a prudent person dealing with the property of another, and if the trustee has special skills or is named trustee on the basis of representations of special skills or expertise, the trustee is under a duty to use those skills.

(b) Whenever the terms of a trust direct that an advisor, rather than the trustee, shall have authority for certain fiduciary actions, the standard of care and performance for actions that are within the scope of the advisor's authority under the terms of a trust shall be as follows:

- (1) Where one or more persons are given authority by the terms of a trust, and accept this authority, to direct, consent to, or disapprove a trustee's actual or proposed investment decisions, distribution decisions, or any other decision of the trustee, those persons shall be considered to be advisors and shall have the duties and obligations of fiduciaries when exercising the given authority, unless the trust provides otherwise;
- (2) If a trust provides that a trustee is to follow the direction of an advisor, and the trustee acts in accordance with the advisor's direction, then except in cases of wilful misconduct or gross negligence on the part of the trustee so directed, the trustee shall not be liable for any loss resulting directly or indirectly from any such act;
- (3) If a trust provides that a trustee is to make decisions with the consent of an advisor, then except in cases of wilful misconduct or gross negligence on the part of the trustee, the trustee shall not be liable for any loss resulting directly or indirectly from any act taken or omitted as a result of the advisor's failure to provide consent after having been requested to do so by the trustee; and
- (4) Whenever a trust provides that a trustee is to follow the direction of an advisor with respect to investment decisions, distribution decisions, or any other decision of the trustee, then except to the extent that the terms of the trust provide otherwise, the trustee shall have no duty to:
  - (A) Monitor the conduct of the advisor;
  - (B) Provide advice to the advisor or consult with the advisor; or
  - (C) Communicate with or warn or apprise any beneficiary or third party concerning instances in which the trustee would or might have exercised the trustee's own discretion in a manner different from the manner directed by the advisor.

Absent clear and convincing evidence to the contrary, the actions of the trustee pertaining to matters within the scope of the advisor's authority, such as confirming that the advisor's directions have been carried out and recording and reporting actions taken at the advi-

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sor's direction, shall be presumed to be administrative actions taken by the trustee solely to allow the trustee to perform the duties assigned to the trustee under the trust, and the administrative actions shall not be deemed to constitute an undertaking by the trustee to monitor the advisor or otherwise participate in actions within the scope of the advisor's authority.

(c) For purposes of this section:

"Advisor" includes a protector that has been granted powers and authority by the terms of a trust, including:

- (1) The power to remove and appoint trustees, advisors, trust committee members, and other protectors;
- (2) The power to modify or amend the trust to achieve favorable tax status or to facilitate the efficient administration of the trust; and
- (3) The power to modify, expand, or restrict the terms of a power of appointment granted to a beneficiary by the trust.

"Investment decision" means the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in any investment, or the valuation of nonpublicly traded investments."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## ACT 60

H.B. NO. 1503

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§521- Medical marijuana; tenant use; eviction.** A provision in a rental agreement allowing for eviction of a tenant who has a valid certificate for the medical use of marijuana as provided in section 329-123 in any form is void, unless the rental agreement allows for eviction for smoking tobacco and the medical marijuana is used by means of smoking; provided that this section shall not apply where the articles of incorporation, declaration, bylaws, administrative rules, house rules, association documents, or a similar document of a condominium property regime or planned community association prohibits the medical use of marijuana.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on November 1, 2014.

(Approved April 30, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 61

H.B. NO. 1866

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§206E- Assignment of powers and duties prohibited.** Notwithstanding anything contained in this chapter to the contrary, the authority shall not assign to any person or agency, including the executive director of the authority, any of its powers and duties related to the approval of any variance, exemption, or modification of any provision of a community development plan or community development rules.”

SECTION 2. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any law to the contrary, no sale of lands described in subsection (a) in fee simple including land sold for roads and streets, or gift of lands described in subsection (a) in fee simple to the extent such gift is otherwise permitted by law, shall occur without the prior approval of the sale or gift by the legislature by concurrent resolution to be adopted by each house by at least a two-thirds majority vote of the members to which each house is entitled in a regular or special session at which a concurrent resolution is submitted for approval of the sale; provided that the provisions of this section shall not apply to remnants, as that term is defined in section 171-52, or portions thereof; provided further that this section shall not apply to the issuance of licenses, permits, easements, and leases executed in conformance with the laws applicable to the lands listed in subsection (a); provided further that this section shall not apply to non- ceded lands conveyed to the University of Hawaii after December 31, 1989, to which the University of Hawaii holds title[.]; provided further that this section shall not apply to reserved housing, as that term is defined in section 206E-101, conveyed by the Hawaii community development authority.”

SECTION 3. Section 206E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The authority shall consist of [nine voting members for each community development district established in this chapter. The director of finance, the director of business, economic development, and tourism, the comptroller, and the director of transportation, or their respective designated representatives, shall serve as ex officio, voting members of the authority; provided that, in addition:

- (1) A cultural expert shall be appointed by the governor pursuant to section 26-34 as a voting member;
- (2) One member shall be appointed by the governor pursuant to section 26-34 as a voting member; provided further that this paragraph shall not apply to the Kalaeloa community development district; and
- (3) The chairperson of the Hawaiian homes commission or the chair- person's designee, shall serve as an ex officio, voting member for the Kalaeloa community development district only, shall be considered in determining quorum and majority only on issues relating to the Kalaeloa community development district, and shall vote only on issues relating to the Kalaeloa community development district.

Three additional members, hereinafter referred to as county members, shall be selected by the governor from a list of ten prospective appointees recommended by the local governing body of the county in which each designated district is situated; provided that when vacancies occur in any of the three positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of four recommendations, two from a list of seven recommendations, or three from a list of ten recommendations. The list of recommendations shall be made by the local governing body of the county. Of the three members appointed as county members recommended by the local governing body of the county in which each designated district is situated, two members shall represent small businesses and shall be designated as the small business representatives on the board whose purpose, among other things, is to vote on matters before the board that affect small businesses. The small business representatives shall be owners or active managers of a small business with its principal place of operation located within the physical boundaries of each designated district. Notwithstanding section 84-14(a), the small business representatives may vote on any matter concerning any district under the board's jurisdiction other than matters concerning the Heeia community development district; provided that the matter is not limited to solely benefiting the specific interest of that member and the matter concerns broader interests within the district. One of the county members shall be a resident of the designated district; provided that for purposes of this section, the county member who is a resident of the Kalaeloa community development district shall be a resident of the Ewa zone (zone 9, sections 1 through 2), or the Waianae zone (zone 8, sections 1 through 9) of the first tax map key division. The county members shall be considered in determining quorum and majority only on issues not relating to the Heeia community development district and may only vote on issues not related to the Heeia community development district.

Three additional voting members shall be appointed to the authority by the governor pursuant to section 26-34 to represent the Heeia community development district. These three members shall be considered in determining quorum and majority only on issues relating to the Heeia community development district and may vote only on issues related to the Heeia community development district. The three members shall be residents of the Heeia community development district or the Koolaupoko district which consists of sections 1 through 9 of zone 4 of the first tax map key division.

If an additional district is designated by the legislature, the governor shall appoint three county members as prescribed above for each additional designated district.] the director of finance or the director's designee; the director of transportation or the director's designee; a cultural specialist; an at-large member; an at-large member nominated by the senate president; an at-large member nominated by the speaker of the house; three representatives of the Heeia community development district, comprising two residents of that district or the Koolaupoko district, which consists of sections 1 through 9 of zone 4 of the first tax map key division, and one owner of a small business or one officer or director of a nonprofit organization in the Heeia community development district or Koolaupoko district, nominated by the county council of the county in which the Heeia community development district is located; three representatives of the Kalaeloa community development district, comprising two residents of the Ewa zone (zone 9, sections 1 through 2) or the Waianae zone (zone 8, sections 1 through 9) of the first tax map key division, and one owner of a small business or one officer or director of a nonprofit organization in the Ewa or Waianae zone, nominated by the county council of the county in which the Kalaeloa community development district is located; three representatives of the Kakaako com-

munity development district, comprising two residents of the district and one owner of a small business or one officer or director of a nonprofit organization in the district, nominated by the county council of the county in which the Kakaako community development district is located; the director of planning and permitting of each county in which a community development district is located or the director's designee, who shall serve in an ex officio, nonvoting capacity; and the chairperson of the Hawaiian homes commission or the chairperson's designee, who shall serve in an ex officio, nonvoting capacity.

All members except the director of finance, director of transportation, county directors of planning and permitting, and chairperson of the Hawaiian homes commission or their designees shall be appointed by the governor pursuant to section 26-34. The two at-large members nominated by the senate president and speaker of the house and the nine representatives of the respective community development districts shall each be appointed by the governor from a list of three nominees submitted for each position by the nominating authority specified in this subsection.

The authority shall be organized and shall exercise jurisdiction as follows:

- (1) For matters affecting the Heeia community development district, the following members shall be considered in determining quorum and majority and shall be eligible to vote:
  - (A) The director of finance or the director's designee;
  - (B) The director of transportation or the director's designee;
  - (C) The cultural specialist;
  - (D) The three at-large members; and
  - (E) The three representatives of the Heeia community development district;  
provided that the director of planning and permitting of the relevant county or the director's designee shall participate in these matters as an ex officio, nonvoting member and shall not be considered in determining quorum and majority;
- (2) For matters affecting the Kalaeloa community development district, the following members shall be considered in determining quorum and majority and shall be eligible to vote:
  - (A) The director of finance or the director's designee;
  - (B) The director of transportation or the director's designee;
  - (C) The cultural specialist;
  - (D) The three at-large members; and
  - (E) The three representatives of the Kalaeloa community development district;  
provided that the director of planning and permitting of the relevant county and the chairperson of the Hawaiian homes commission, or their respective designees, shall participate in these matters as ex officio, nonvoting members and shall not be considered in determining quorum and majority;
- (3) For matters affecting the Kakaako community development district, the following members shall be considered in determining quorum and majority and shall be eligible to vote:
  - (A) The director of finance or the director's designee;
  - (B) The director of transportation or the director's designee;
  - (C) The cultural specialist;
  - (D) The three at-large members; and
  - (E) The three representatives of the Kakaako community development district;

provided that the director of planning and permitting of the relevant county or the director's designee shall participate in these matters as an ex officio, nonvoting member and shall not be considered in determining quorum and majority.

In the event of a vacancy, a member shall be appointed to fill the vacancy in the same manner as the original appointment within thirty days of the vacancy or within ten days of the senate's rejection of a previous appointment, as applicable.

The terms of the director of finance, director of transportation, county directors of planning and permitting, and chairperson of the Hawaiian homes commission or their respective designees shall run concurrently with each official's term of office. The terms of the appointed voting members shall be for four years, commencing on July 1 and expiring on June 30; provided that the initial terms of all voting members initially appointed pursuant to Act , Session Laws of Hawaii 2014, shall commence on March 1, 2015. The governor shall provide for staggered terms of the initially appointed voting members so that the initial terms of four members selected by lot shall be for two years, the initial terms of four members selected by lot shall be for three years, and the initial terms of the remaining five members shall be for four years.

The governor may remove or suspend for cause any member after due notice and public hearing.

Notwithstanding section 92-15, a majority of all eligible voting members as specified in this subsection shall constitute a quorum to do business, and the concurrence of a majority of all eligible voting members as specified in this subsection shall be necessary to make any action of the authority valid[except as provided in this subsection]. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

For purposes of this section, "small business" means a business which is independently owned and which is not dominant in its field of operation."

SECTION 4. Section 206E-4, Hawaii Revised Statutes, is amended to read as follows:

**"§206E-4 Powers; generally.** Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76;
- (7) Prepare or cause to be prepared a community development plan for all designated community development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, ex-

- change, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (9) Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;
  - (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project, and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project that the authority has theretofore sold or otherwise conveyed, transferred, or disposed of;
  - (11) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;
  - (12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on terms and conditions as it deems advisable;
  - (13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify the plans, specifications, designs, or estimates;
  - (14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
  - (15) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
  - (16) Contract for and accept gifts or grants in any form from any public agency or from any other source;
  - (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter; and
  - (18) Allow satisfaction of any affordable housing requirements imposed by the authority upon any proposed development project through the construction of reserved housing, as defined in section 206E-101, by a person on land located outside the geographic boundaries of the authority's jurisdiction; provided that the authority [shall not] may permit [any person to make] cash payments in lieu of providing reserved housing[, except to account for any fractional unit that results after calculating the percentage requirement against residential floor space or total number of units developed]. The substituted housing shall be located on the same island as the development project and shall be substantially equal in value to the required reserved housing units that were to be developed on site. The authority shall establish the following priority in the development of reserved housing:
    - (A) Within the community development district;

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- (B) Within areas immediately surrounding the community development district;
- (C) Areas within the central urban core;
- (D) In outlying areas within the same island as the development project.

The Hawaii community development authority shall adopt rules relating to the approval of reserved housing that are developed outside of a community development district. The rules shall include, but are not limited to, the establishment of guidelines to ensure compliance with the above priorities."

SECTION 5. Section 206E-5.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority shall adopt community and public notice procedures pursuant to chapter 91 that shall include at a minimum:

- (1) A means to effectively engage the community in which the authority is planning a development project to ensure that community concerns are received and considered by the authority;
- (2) The posting of the authority's proposed plans for development of community development districts, public hearing notices, and minutes of its proceedings on the authority's website; [and]
- (3) The posting of every application for a development permit for any project within a community development district on the authority's website when the application is deemed complete;
- (4) Notification by the applicant of any application for a development permit for a project valued at \$250,000 or more by first class United States mail, postage prepaid to owners and lessees of record of real property located within a three hundred foot radius of the perimeter of the proposed project identified from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located when the application is deemed complete; provided that notice mailed pursuant to this paragraph shall include but not be limited to notice of:
  - (A) Project specifications;
  - (B) Requests for variance, exemption, or modification of a community development plan or the authority's community development rules; and
  - (C) Procedures for intervention and a contested case hearing; and
- [3)] (5) Any other information that the public may find useful so that it may meaningfully participate in the authority's decision-making processes."

SECTION 6. Section 206E-5.6, Hawaii Revised Statutes, is amended to read as follows:

**"[§206E-5.6] Public hearing for decision-making; separate [hearing] hearings required[.]; contested case hearing; judicial review.** (a) When rendering a decision regarding:

- (1) An amendment to any of the authority's community development rules established pursuant to chapter 91 and section 206E-7; or
- (2) The acceptance of a developer's proposal to develop lands under the authority's control,

the authority shall render its decision at a public hearing separate from the hearing that the proposal under paragraph (1) or (2) was presented.

(b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website; provided that the decision-making hearing shall not occur earlier than five business days after the notice is posted. Public notice issued pursuant to this subsection for public hearings on the acceptance of a developer's proposal to develop lands under the authority's control shall state that any written motion to intervene as a formal party to the proceeding shall be received within twenty days after the publication date of the public notice.

(c) Prior to rendering a decision, the authority shall provide the general public with the opportunity to testify at its decision-making hearing[.]; provided that members of the public who are not intervenors in the proceeding shall not be considered formal parties to the proceeding.

[e] (d) The authority shall notify the president of the senate and speaker of the house:

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a report detailing the public's reaction at the public hearing, within one week after the hearing.

(e) When considering any developer's proposal to develop lands under the authority's control that includes any request for a variance, exemption, or modification of a community development plan or of the authority's community development rules, the authority shall consider the request for variance, exemption, or modification at a public hearing, noticed in accordance with section 1-28.5, separate from and subsequent to the hearing at which the developer's proposal was presented; provided that the authority may consider all requests applicable to a single proposal at the same public hearing. The authority's decision on requests subject to this subsection shall be rendered at the decision-making hearing on the developer's proposal.

(f) No final decision of the authority on a developer's proposal shall be issued until after all proceedings required by this section are finally concluded.

(g) Proceedings regarding the acceptance of a developer's proposal to develop lands under the authority's control shall be considered a contested case hearing.

(h) Any party aggrieved by a final decision of the authority regarding the acceptance of a developer's proposal to develop lands under the authority's control may seek judicial review of the decision within thirty days, pursuant to section 91-14.

(i) The authority shall not approve any developer's proposal to develop lands under the authority's control unless the authority finds that the proposed development project is reasonable and is consistent with the development rules and policies of the relevant development district. In making its finding pursuant to this subsection, the authority shall consider:

- (1) The extent to which the proposed project:
  - (A) Advances the goals, policies, and objectives of the applicable district plan;
  - (B) Protects, preserves, or enhances desirable neighborhood characteristics through compliance with the standards and guidelines of the applicable district rules;
  - (C) Avoids a substantially adverse effect on surrounding land uses through compatibility with the existing and planned land use character of the surrounding area; and
  - (D) Provides housing opportunities for all income groups, particularly low, moderate, and other qualified income groups;

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- (2) The impact of the proposed project on the following areas of urban design, as applicable:
  - (A) Pedestrian oriented development, including complete streets design;
  - (B) Transit oriented development, including rail, bus, and other modes of rapid transit; and
  - (C) Community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector;
- (3) The impact of the proposed project on the following areas of state concern:
  - (A) Preservation of important natural systems or habitats;
  - (B) Maintenance of valued cultural, historical, or natural resources;
  - (C) Maintenance of other resources relevant to the State's economy;
  - (D) Commitment of state funds and resources;
  - (E) Employment opportunities and economic development; and
  - (F) Maintenance and improvement of the quality of educational programs and services provided by schools.
- (4) The representations and commitments made by the developer in the permit application process.”

SECTION 7. Section 206E-7, Hawaii Revised Statutes, is amended to read as follows:

**“[§206E-7] Community development rules.** (a) The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the community development plan or by a community development rule, provide that lands within a community development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands.

(b) Development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the community development district rules in effect at the time of initial approval by the authority and shall govern development on lands subject to such permit and agreement.”

SECTION 8. Section 206E-8, Hawaii Revised Statutes, is amended to read as follows:

**“[§206E-8] Use of public lands; acquisition of state lands.** [(a) Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside public lands located within community development districts to the authority for its use.]

(b)] (a) If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having

the control and management of those required lands [shall,] may, upon request by the authority and with the approval of the governor, convey[,] or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

[{e}] (b) Notwithstanding the foregoing, no public lands shall be [set aside,] conveyed[,] or leased to the authority as above provided if such [setting aside,] conveyance[,] or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department, or board."

SECTION 9. Section 206E-31.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§206E-31.5] Prohibitions.** Anything contained in this chapter to the contrary notwithstanding, the authority is prohibited from:

- (1) Selling or otherwise assigning the fee simple interest in any lands in the Kakaako community development district to which the authority in its corporate capacity holds title, except with respect to:
  - (A) Utility easements;
  - (B) Remnants as defined in section 171-52;
  - (C) Grants to any state or county department or agency; or
  - (D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or
  - (E) Reserved housing as defined in section 206E-101; or
- (2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district makai of Ala Moana boulevard and between Kewalo basin and the foreign trade zone."

SECTION 10. Section 206E-33, Hawaii Revised Statutes, is amended to read as follows:

**"§206E-33 Kakaako community development district; development guidance policies.** The following shall be the development guidance policies generally governing the authority's action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district; while the authority's development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that those activities are necessary to implement the intent of this chapter. The studies or coordinative activities shall be limited to facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority may engage in construction activities outside of the district; provided that such construction relates to infrastructure development or residential or business relocation activities; provided further, notwithstanding section 206E-7, that such construction shall comply

- with the general plan, development plan, ordinances, and rules of the county in which the district is located;
- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
  - (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
  - (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review; provided that no portion of any building or structure in the Kakaako Mauka area shall exceed four hundred eighteen feet in height;
  - (5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
  - (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
  - (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
  - (8) Residential development may require a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income may be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development; and
  - (9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it.”

SECTION 11. Section 206E-182, Hawaii Revised Statutes, is amended to read as follows:

**“§206E-182 Powers.** In addition and supplemental to the powers granted to the authority by law, the authority may:

- (1) With the approval of the governor, enter into a special facility lease or an amendment or supplement thereto whereby the authority agrees to construct, acquire, or remodel and furnish or equip a special facility solely for the use by another person to a special facility lease;
- (2) With the approval of the governor, issue special facility revenue bonds in principal amounts not to exceed the total amount of bonds authorized by the legislature, that may be necessary to yield all or a portion of the cost of any construction, acquisition, remodeling, furnishing, and equipping of any special facility;

- (3) With the approval of the governor, issue refunding special facility revenue bonds, in principal amounts not to exceed the total amount of bonds authorized by the legislature, with which to provide for the payment of outstanding special facility revenue bonds (including any special facility revenue bonds theretofore issued for this purpose) or any part thereof; provided any issuance of refunding special facility revenue bonds shall not reduce the principal amount of the bonds which may be issued as provided in paragraph (2);
- (4) Perform and carry out the terms and provisions of any special facility lease;
- (5) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease;
- (6) Construct any special facility on land owned by the State; provided that no funds derived herein will be expended for land acquisition; and
- (7) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by another person."

SECTION 12. Section 206E-185, Hawaii Revised Statutes, is amended to read as follows:

**"[§206E-185] Special facility revenue bonds.** All special facility revenue bonds authorized to be issued in principal amounts not to exceed the total amount of bonds authorized by the legislature shall be issued pursuant to part III of chapter 39, except as follows:

- (1) No revenue bonds shall be issued unless at the time of issuance the authority shall have entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;
- (2) The revenue bonds shall be issued in the name of the authority, and not in the name of the State;
- (3) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the authority from the special facility for which they are issued;
- (4) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease;
- (5) If deemed necessary or advisable by the authority, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the authority, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the authority to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. If any trustee shall be appointed, any trust indenture or agreement entered into by the authority with the trustee may contain the covenants and provisions authorized by part III of chapter 39 to be inserted in a resolution adopted or certificate

issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or agreement". The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the authority pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The authority may pledge and assign to the trustee the special facility lease and the rights of the authority including the revenues thereunder;

- (6) If the authority, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The authority, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the authority may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the authority, with the approval of the director of finance, to appoint the trustee, or granted in sections 36-3 and 39-13 and the third sentence of section 39-68 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;
- (7) The authority may sell the revenue bonds either at public or private sale;
- (8) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the Hawaii community development revolving fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing the revenue bonds;
- (9) If the resolution, certificate, trust indenture, or trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of the revenue bonds, signatures of the of-

- ficers of the State upon the bonds required by section 39-56 may be facsimiles of their signatures;
- (10) Proceeds of the revenue bonds may be used and applied by the authority to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs; and
- (11) If the special facility lease shall require the other person to operate, maintain, and repair the special facility which is the subject of the lease, at the other person's expense, the requirement shall constitute compliance by the authority with section 39-61(a)(2), and none of the revenues derived by the authority from the special facility shall be required to be applied to the purposes of section 39-62(2). Sections 39-62(4), 39-62(5), and 39-62(6) shall not apply to the revenues derived from a special facility lease."

**SECTION 13.** The term of office of each existing member of the Hawaii community development authority in office as of the day before the effective date of this Act shall terminate on March 1, 2015. The nomination and appointment of successor members of the authority pursuant to section 3 of this Act shall not cause the term of office of any existing member to terminate before that date, regardless of the date of the successor member's appointment by and with the advice and consent of the senate.

No existing member of the authority as it is constituted on the day prior to the effective date of this Act shall serve as a holdover member due to a vacancy as of March 1, 2015, in the membership of the authority as it is constituted by section 3 of this Act; provided that a new term of office for the director of transportation, director of finance, county directors of planning and permitting, and chairperson of the Hawaiian homes commission, or their respective designees, shall automatically commence on March 1, 2015, pursuant to section 3 of this Act.

The nomination and appointment by and with the advice and consent of the senate of members of the Hawaii community development authority pursuant to section 3 of this Act shall take place as expeditiously as possible so that, to the extent possible, there are no vacancies in the membership of the authority as of March 1, 2015. The speaker of the house of representatives, president of the senate, and applicable county council shall each submit lists of three nominees for each appointment subject to their respective nominating authority, as required by section 3 of this Act, no later than December 30, 2014. The governor shall make all appointments of members of the authority, including from each of the lists submitted, no later than January 29, 2015.

**SECTION 14.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 15.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 16.** This Act shall take effect on July 1, 2014.

(Approved April 30, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Center for Nursing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 198, Session Laws of Hawaii 2003, established the center for nursing to address issues related to the State's current and future shortage of registered nurses and others within the health care workforce who provide nursing care. The center for nursing is required to: collect and analyze data and prepare and disseminate written reports; conduct research on best practices and quality outcomes; develop a plan for implementing strategies to recruit and retain nurses; and research, analyze, and report data related to the retention of the nursing workforce.

The legislature further finds that, as the nursing profession transforms to meet a changing health care landscape, the ongoing process of developing a strategic plan requires the center for nursing to have an active, engaged advisory board with members capable of addressing workforce issues in a timely manner. However, the legislature finds that the six labor organization positions on the advisory board have not been filled for many years. This has impeded the advisory board's ability to attain quorum for its monthly meetings and access relevant expertise. This situation has also prevented prospective candidates from sitting on the advisory board and sharing expertise in relevant areas such as nursing practice, research, education, administration, and financing care.

The legislature additionally finds that the center for nursing is a member of the National Forum of State Nursing Workforce Centers, and notes that these areas of expertise are represented in other states' nursing workforce centers.

Aligning the center for nursing more closely with other states' nursing workforce centers would help the center for nursing meet the challenges of a changing health care landscape and ensure that the center for nursing is able to carry out its mission. To do so, it is necessary that a majority of members on the advisory board comprise nurses or representatives of nursing organizations and other members with backgrounds in critical areas of expertise. Accordingly, amendments to the composition of the center for nursing advisory board are needed.

The legislature also notes that amendments to the center for nursing advisory board's powers and duties are necessary, as some powers and duties currently delegated to the advisory board are codified elsewhere in statute or within the purview of the University of Hawaii system.

Accordingly, the purpose of this Act is to:

- (1) Decrease the number of voting members on the center for nursing advisory board to nine, a majority of whom shall be nurses or representatives of nursing organizations;
- (2) Specify the membership of the advisory board to better facilitate the center for nursing's mission;
- (3) Clarify term limits and appointments to the advisory board; and
- (4) Amend certain powers and duties of the advisory board.

SECTION 2. Section 304A-1404, Hawaii Revised Statutes, is amended to read as follows:

**“§304A-1404 Center for nursing; establishment; advisory board.** (a) There is established, within the University of Hawaii school of nursing and dental hygiene, a center for nursing.

- (b) The dean of the school of nursing and dental hygiene, or the dean's designee, shall direct the activities of the center for nursing. There shall be an advisory board composed of [fifteen] nine voting members, a majority of whom shall be nurses or representatives of nursing organizations, appointed by the governor pursuant to section 26-34 to staggered terms [as follows], including:
- [1] Five members from the business and labor community:
    - (A) One of whom shall represent the Healthcare Association of Hawaii;
    - (B) Two of whom shall represent other business entities; and
    - (C) Two of whom shall represent labor organizations;
  - (2) Five members from the nursing profession:
    - (A) One of whom shall represent the American Organization of Nurse Executives;
    - (B) One of whom shall represent the Hawaii Government Employees Association; and
    - (C) Three of whom shall represent the Hawaii Nurses' Association, provided that:
      - (i) Two members shall represent the professional component; and
      - (ii) One member shall be a non-managerial staff nurse;
  - (3) Two members from among the State's nurse educators:
    - (A) One of whom shall be a doctorally prepared nurse educator; and
    - (B) The other, a doctorally prepared nurse researcher; and
  - (4) Three members from community agencies or consumer groups with an interest in healthcare.]
  - (1) Five members who are nurses with an active Hawaii nursing license, including but not limited to:
    - (A) A nursing executive;
    - (B) An advanced practice registered nurse;
    - (C) A nurse affiliated with a nurse collective bargaining organization; and
    - (D) A doctorally-prepared nurse educator or a doctorally-prepared nurse researcher; and
  - (2) Four members who have a background or experience in health care delivery, finance, workforce, representation of hospitals and acute care hospitals of the State, and community agencies or consumer groups.

The center may invite other members of the public with specific backgrounds to participate as ex officio nonvoting members.

- (c) The members of the advisory board for the center for nursing shall serve without compensation.
- (d) Each appointed member of the advisory board shall serve a term of four years. No member may be appointed to more than two consecutive terms. Any vacancy in an unexpired term shall be filled by appointment for the remainder of the unexpired term."

SECTION 3. Section 304A-1405, Hawaii Revised Statutes, is amended to read as follows:

**"[§304A-1405]] Advisory board for the center for nursing; powers and duties.** The advisory board for the center for nursing shall have the powers and duty to:

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- [1] ~~Employ an executive director and no more than two other staff members, at least one of whom shall be an independent doctorally-prepared nurse researcher;~~
- [2] ~~Adopt a mission statement and operational policy;~~
- [3] ~~(1) Elect a chairperson;~~
- [4] ~~(2) Establish committees of the board as needed;~~
- [5] ~~(3) Seek input from individuals and community groups interested in the issue of nursing shortages;~~
- [6] ~~(4) Implement the major functions of the center for nursing; and~~
- [7] ~~(5) Seek and accept nonstate funds for carrying out the mission of the center for nursing.”~~

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## ACT 63

H.B. NO. 1882

A Bill for an Act Relating to Podiatrists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to adopt the national standard of a minimum of twenty-four months in an accredited podiatric residency prior to licensure as a podiatrist.

SECTION 2. Section 463E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§463E-3 Qualification for [examination.] licensure.** No person shall be licensed to practice podiatric medicine unless the [applicant] person has passed the examinations described in section 463E-4 and has been found to [be possessed of] possess the necessary qualifications as required by the board.

Before any applicant shall be eligible for [the examinations,] licensure, the applicant shall furnish satisfactory proof to the board that:

- (1) The applicant is a graduate in podiatric medicine of a college approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and by the Hawaii medical board;<sup>1</sup>
- [2] The applicant has taken and satisfactorily completed in a college, a residence course of professional instruction in podiatric medicine, which has been approved by the board; and
- (3) The applicant is of demonstrated competence and professional knowledge]; and
- (2) The applicant has completed at least twenty-four months in an accredited podiatric residency, as approved by the Council on Podiatric Medical Education, prior to applying for licensure; provided that an applicant who has graduated from an approved college before January 1, 2004, shall:
  - (A) Have completed at least twelve months in an accredited podiatric residency;

- (B) Have at least ten years of active licensed experience in podiatric medicine in another state; and
- (C) Hold a current, unencumbered license in podiatric medicine in another state;  
provided further that the residency and active licensed experience requirements in this paragraph shall not apply to podiatrists with current, active licenses to practice podiatric medicine in Hawaii.”

SECTION 3. Statutory material to be repealed is bracketed and stricken.  
 New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2015.

(Approved April 30, 2014.)

**Note**

1. Semicolon should be bracketed and stricken.

**ACT 64**

H.B. NO. 1938

A Bill for an Act Relating to Measurement Standards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486-56, Hawaii Revised Statutes, is amended to read as follows:

**“[§486-56] Adoption of standards and rules.** The standards as published by the American Society for Testing and Materials (ASTM) and the Society of Automotive Engineers (SAE) are adopted except as amended or modified by rule of the board pursuant to chapter 91. The board may also adopt rules on the advertising, labeling, standards for, handling, storing, dispensing, and selling of petroleum products. Notwithstanding the foregoing, rules adopted by the board referring to ASTM D4814, relating to standard specification for automotive spark-ignition engine fuel, shall be deemed to refer to version ASTM D4814-13b adopted in 2013, as modified by the National Institute of Standards and Technology Handbook 130, part IV, subpart G, section 2.1 adopted in 2013.”

SECTION 2. Statutory material to be repealed is bracketed and stricken.  
 New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

**ACT 65**

H.B. NO. 2045

A Bill for an Act Relating to Planned Community Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that while planned community associations in Hawaii have the statutory lien against delinquent units for unpaid assessments under section 421J-10.5, Hawaii Revised Statutes, certain delinquent units have been sold without curing the assessment debt owed to the master associations in voluntary conveyances.

## ACT 65

The legislature further finds that this problem could arise from the oversight of escrow officers in charge of closing when a master association has not recorded its lien in the bureau of conveyances or filed its lien in the land court. It could also be the result of sales transacted without escrow service, such as transfers to individual trusts, companies controlled by owners, or family members.

In these cases, planned community associations or master associations failed to receive proper notification of the sale and payment on delinquent association dues. When the prior owners move to the mainland or undergo financial hardship, it is very difficult for the planned community associations or master associations to collect their debts.

The purpose of this Act is to provide a legislative remedy for community associations to be able to hold individuals liable for unpaid assessments for their share of the common expenses up to the time of a grant or conveyance of property, which is similar to the remedy afforded to condominium associations.

SECTION 2. Section 421J-10.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All sums assessed by the association, but unpaid for the share of the assessments chargeable to any unit, shall constitute a lien on the unit. The priority of the association's lien shall, except as otherwise provided by law, be as provided in the association documents or, if no priority is provided in the association documents, by the recordation date of the liens; provided that any amendment to the association documents that governs the priority of liens on the unit shall not provide that an association lien shall have priority over a mortgage lien that is recorded before the amendment is recorded. A lien recorded by an association for unpaid assessments shall expire six years from the date of recordation unless proceedings to enforce the lien are instituted prior to the expiration of the lien; provided that the expiration of a recorded lien shall in no way affect the association's automatic lien that arises pursuant to this subsection or the association documents. Any proceedings to enforce an association's lien for any assessment shall be instituted within six years after the assessment became due; provided that if the owner of a unit subject to a lien of the association files a petition for relief under the United States Bankruptcy Code (11 U.S.C. §101 et seq.), the period of time for instituting proceedings to enforce the association's lien shall be tolled until thirty days after the automatic stay of proceedings under section 362 of the United States Bankruptcy Code (11 U.S.C. §362) is lifted.

The lien of the association may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board, acting on behalf of the association and in the name of the association; provided that no association may exercise the nonjudicial or power of sale remedies provided in chapter 667 to foreclose a lien against any unit that arises solely from fines, penalties, legal fees, or late fees, and the foreclosure of any such lien shall be filed in court pursuant to part IA of chapter 667. In any association foreclosure, the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the association documents or the law, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed by the unit owner or any tenant of the unit. If the association is the plaintiff, it may request that its managing agent be appointed as receiver to collect the rental from the tenant. The managing agent or board, acting on behalf of the association and in the name of the association, may bid on the unit at foreclosure sale and acquire and hold, lease, mortgage, and convey the unit thereafter as the board deems reasonable. Action to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the unpaid assessments owed.

In the case of a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Any such grantor or grantee is entitled to a statement from the board, either directly or through its managing agent or resident manager, setting forth the amount of the unpaid assessments against the grantor. The grantee is not liable and the unit conveyed is not subject to a lien for any unpaid assessments against the grantor in excess of the amount set forth in the statement, except as to the amount of subsequently dishonored checks mentioned in the statement as having been received within the thirty day period immediately preceding the date of such statement."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## ACT 66

H.B. NO. 2269

A Bill for an Act Relating to Health Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 14G to be appropriately designated and to read as follows:

**“§431:14G- Publication of premium information.** (a) Upon the commissioner's request, all managed care plans shall provide health insurance premium information to the commissioner within thirty days of the request.

(b) The commissioner shall publish annually, by electronic or online publication on the official website of the insurance division, a list of all managed care plans with representative annual premiums for health insurance. The commissioner shall have information on premiums for health insurance, which shall be available to the public on request.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act, upon its approval, shall take effect on July 1, 2014.

(Approved April 30, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 67

H.B. NO. 2666

A Bill for an Act Relating to Personal Information.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487J-6, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

**"§487J-6 Unlawful use of [Hawaii] identification card or driver's license.**

(a) No business may scan the machine-readable zone of an individual's [Hawaii] identification card or driver's license, except for the following purposes:

- (1) To verify authenticity of the identification card or driver's license or to verify the identity of the individual if the individual pays for goods or services with a method other than cash, returns an item, or requests a refund or an exchange;
- (2) To verify the individual's age when providing age-restricted goods or services to the individual if [the business has] there is a reasonable doubt of the individual having reached the minimum age required for purchasing the age-restricted goods or services;
- (3) To prevent fraud or other criminal activity if the individual returns an item or requests a refund or an exchange and the business uses a fraud prevention service company or system. Information collected by scanning an individual's [Hawaii] identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
  - (A) Name;
  - (B) Address;
  - (C) Date of birth; and
  - (D) Driver's license number or identification card number;
- (4) To establish or maintain a contractual relationship. Information collected by scanning the individual's [Hawaii] identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
  - (A) Name;
  - (B) Address;
  - (C) Date of birth; and
  - (D) Driver's license number or identification card number;
- (5) To record, retain, or transmit information as required by state or federal law;
- (6) To transmit information to a consumer reporting agency, financial institution, or debt collector to be used as permitted by the federal Fair Credit Reporting Act, Gramm-Leach-Bliley Act, or the Fair Debt Collection Practices Act; and
- (7) To record, retain, or transmit information by a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, parts 160 and 164 of title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996."

SECTION 2. Act 195, Session Laws of Hawaii 2013, is amended by amending section 3 to read as follows:

~~"SECTION 3. This Act shall take effect upon its approval[; provided that on July 31, 2014, this Act shall be repealed and section 487J-6(a), Hawaii Revised Statutes, shall be reenacted in the form it read on the day prior to the effective date of this Act]."~~

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

**ACT 68**

S.B. NO. 2249

A Bill for an Act Relating to Public Agency Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

**ACT 69**

S.B. NO. 2467

A Bill for an Act Relating to Podiatrists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow a qualified podiatric physician to perform ankle fracture surgery and to conform the definition of “podiatric medicine” to national standards relative to diagnosis and treatment of the foot and ankle.

SECTION 2. Chapter 463E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§463E- Qualifications; ankle fracture surgery.** A podiatric physician may perform ankle fracture surgery if the podiatric physician is board qualified or board certified in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery and has completed a thirty-six-month podiatric surgical residency.”

SECTION 3. Section 463E-1, Hawaii Revised Statutes, is amended by amending the definition of “podiatric medicine” to read as follows:

“Podiatric medicine” means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, malleoli, and [soft tissues about the] ankle, [except for ankle fractures,] including the [nonsurgical] surgical treatment of the muscles and tendons of the leg governing the

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functions of the foot, but does not include [any] amputation[,—except for digital amputation,] above the ankle, treatment of systemic conditions, or the use of any anesthetic except local anesthetic.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 70**

S.B. NO. 2481

A Bill for an Act Relating to Time Shares.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that time share developers frequently develop projects in more than one state or country. Hawaii law requires that a developer register a time share plan located outside of Hawaii prior to offering and selling time share interests in Hawaii, which is appropriate because the offer and sale of the time share interests in a time share plan located outside of Hawaii take place in Hawaii. However, managers of time share plans located outside of Hawaii do not conduct business in Hawaii. Requiring these managers to register in Hawaii may raise difficult questions, including whether these managers should acquire a Hawaii real estate license, even though they have no presence and conduct no business in the State. Amendments to address managers of time share plans located outside of Hawaii are therefore necessary.

The legislature finds that chapter 514E, Hawaii Revised Statutes, was amended in 1982 to establish a comprehensive scheme to protect the rights of time share purchasers from blanket liens that might deprive the purchasers of the right to use the property of a time share plan. These amendments required that an association of time share owners be established as a nonprofit corporation, whether in Hawaii or elsewhere. However, since that time new kinds of business organizations have been created. Amendments to modernize chapter 514E, Hawaii Revised Statutes, are therefore necessary.

Accordingly, the purpose of this Act is to:

- (1) Eliminate the requirement that a manager of a time share plan located outside of Hawaii register in Hawaii as a time share plan manager;
- (2) Require the disclosure statement for an offering of a time share plan to disclose that the manager of a time share plan located outside of Hawaii is not registered under Hawaii's time share law;
- (3) Recognize that an association of time share owners may be any kind of nonprofit or not-for-profit entity; and
- (4) Make housekeeping amendments.

SECTION 2. Section 514E-9, Hawaii Revised Statutes, is amended to read as follows:

**"§514E-9 Disclosure statement.** (a) Any offering of a time sharing plan to the public shall disclose:

- (1) The name and address of the developer and of the time share units;
  - (2) The name and address of the plan manager, if any, and a description of the plan manager's responsibilities and authority;
  - (3) A description of the time share units, including the developer's schedule for completion of all buildings, units, and amenities and dates of availability;
  - (4) If the time share plan is located in a condominium property regime, a description of the project and any pertinent provisions of the project instruments;
  - (5) Any restraints on the transfer of the buyer's time share interest in the time share units or plan;
  - (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
  - (7) A statement that there is a seven-calendar-day period of mutual rescission;
  - (8) A statement that pursuant to section 514E-11.3, every sale or transfer, made in violation of this chapter is voidable at the election of the purchaser;
  - (9) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
  - (10) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
  - (11) The total financial obligation of the purchaser, which shall consist of:
    - (A) A statement that the purchaser is obligated to pay the initial price stated in the purchaser's purchase agreement; and
    - (B) A list or description of any additional charges to which the purchaser may be subject;
  - (12) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; [and]
  - (13) The disclosure statement under subsection (d), if applicable; and
  - [13] (14) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91.
- (b) The requirements of this section shall not apply to the following transactions:
- (1) Any transaction pursuant to order of any court;
  - (2) Any disposition by a government or governmental agency;
  - (3) Normal hotel operations; or
  - (4) Any gratuitous transfer.
- (c) A developer or sales agent shall promptly amend or supplement the disclosure statement to report any material change in the information required by this section.
- (d) If all the time share units are located outside the State, the disclosure statement shall contain the following statement:

**"BECAUSE THE TIME SHARE UNITS OF THIS TIME SHARE PLAN ARE LOCATED OUTSIDE THE STATE OF HAWAII, THE PLAN MANAGER IS EXEMPT FROM REGISTRATION UNDER HAWAII'S TIME SHARE LAW, AND HAWAII'S TIME SHARE**

## ACT 71

### LAW PROVIDES NO PROTECTIONS TO PURCHASERS WITH RESPECT TO THE PLAN MANAGER.”

SECTION 3. Section 514E-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All time share plans shall have an association which shall be a non-profit or not-for-profit corporation[.], a nonprofit or not-for-profit limited liability company, or any other entity organized on a nonprofit or not-for-profit basis, or that qualifies as a homeowners association under title 26 United States Code section 528. Each owner shall be a member of the association.”

SECTION 4. Section 514E-30, Hawaii Revised Statutes, is amended to read as follows:

**“§514E-30 Scope of chapter.** This chapter applies to the offer and sale in Hawaii of time share interests in time share units located in Hawaii. If time share units are located outside of Hawaii, but any offer or sale is made within the State, this chapter, except for sections 514E-3, 514E-4, 514E-5, 514E-6, 514E-7, 514E-10(c), and 514E-14, shall apply. As to the offer and sale outside of Hawaii of time share interest in a time share plan which includes time share units located in Hawaii, this chapter, except for sections 514E-2.5, 514E-8, 514E-9, 514E-10(b) [and (e)], 514E-11, and 514E-11.1 shall apply.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

## ACT 71

S.B. NO. 2726

### A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§286- All-terrain vehicle; utility-terrain vehicle; permitted use.** (a) All-terrain vehicles and utility-terrain vehicles may be operated on a street, as defined in section 291C-1; provided that the all-terrain vehicle or utility-terrain vehicle is:

- (1) Used as farm equipment, or used by a city, county, or state worker while acting within the scope of that person's official duties;
- (2) Operated by a person who holds a current category (3) driver's license under section 286-102 or a commercial driver's license under part XIII;
- (3) Driven on streets that are no more than two lanes, with posted speed limits of no more than thirty-five miles per hour;
- (4) Used to travel between properties zoned for agriculture, or used by a city, county, or state worker while acting within the scope of that person's official duties to travel between properties under the jurisdiction of the city, county, or state;

- (5) Used in counties with populations of less than five hundred thousand residents; and
- (6) Driven on streets during daylight hours; provided further that while in operation, any operator and passenger of an all-terrain vehicle or utility-terrain vehicle shall wear a safety helmet with a securely fastened chin strap that meets the specifications and requirements established by rules adopted by the director.

- (b) For purposes of this section:

**"All-terrain vehicle"** means a motor vehicle that:

- (1) Is designed for off-highway operation by a single operator carrying no more than one passenger, if so designed as provided in paragraph (5) of this definition;
- (2) Is fifty inches or less in width;
- (3) Has an unladen weight of nine hundred pounds or less;
- (4) Is suspended on three or more tires;
- (5) Has a single seat designed to be straddled by the operator, or a single seat designed to be straddled by the operator and a seat for not more than one passenger sitting behind the operator; and
- (6) Has handlebars for steering control.

**"Farm equipment"** refers to any kind of machinery used on a farm to help with farming, including but not limited to a tractor, cultivator, plow, all-terrain vehicle, or utility-terrain vehicle.

**"Utility-terrain vehicle"** means a motor vehicle that:

- (1) Is designed to be operated off highway;
- (2) Is sixty inches or less in width;
- (3) Has an unladen weight of one thousand three hundred pounds or less;
- (4) Is suspended on four to six tires;
- (5) Has a steering wheel for steering control;
- (6) Is equipped with roll-over protection;
- (7) Accommodates one driver and one passenger sitting side-by-side; and
- (8) Is equipped with seat belts for driver and passenger protection.

(c) Any person who violates this section shall be fined \$250 for each violation.

(d) All-terrain vehicles and utility-terrain vehicles used as farm equipment shall be regulated as farm equipment and not as motor vehicles.

(e) All-terrain vehicles and utility-terrain vehicles used by a city, county, or state worker while acting within the scope of that person's official duties shall not be regulated as motor vehicles."

**SECTION 2.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 30, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Commercial Driver's Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-236, Hawaii Revised Statutes, is amended to read as follows:

**“§286-236 Commercial driver’s license qualification standards.** (a) No person shall be issued a commercial driver’s license unless that person meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E, has passed a knowledge and driving skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in title 49 Code of Federal Regulations, part 383, subparts G and H, is domiciled in this State as defined in title 49 Code of Federal Regulations, part 383.5, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, title XII, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed by the director and administered by the respective county examiner of drivers. The test examiners shall communicate with the applicant only in English during the skills test. As of January 30, 2012, the examiner of drivers shall verify that the medical certification status of a driver who self-certified according to title 49 Code of Federal Regulations section 383.71(a)(1)(ii)(A), non-excepted interstate, is certified. If a driver submits a current medical examiner’s certificate, the examiner of drivers shall date-stamp the certificate and post all required information to the commercial driver’s license information system pursuant to title 49 Code of Federal Regulations section 383.73(a)(5) and in accordance with title 49 Code of Federal Regulations section 383.73(j). A person who is not physically qualified to drive under title 49 Code of Federal Regulations section 391.41(b)(1), (2), or (3) and who is otherwise qualified to drive a motor vehicle may be granted an intrastate waiver by the director. The process for granting intrastate waivers shall be the same as that for interstate waivers in title 49 Code of Federal Regulations section 391.49, except that the intrastate waiver requests shall be submitted to the director; provided that the director shall adopt rules under chapter 91 to establish a screening process, including approval by a licensed physician, for granting an intrastate waiver to persons who are not physically qualified under title 49 Code of Federal Regulations section 391.41(b)(3).

[b] Pursuant to chapter 91, the director may authorize a third party examiner to administer the driving skills test specified in this section, provided:

- (1) The test is the same as that administered by the respective county examiners of drivers; and
- (2) The third party examiner has entered into an agreement with the State which complies with requirements of title 49 Code of Federal Regulations, section 383.75.

[e] (b) The examiner of drivers may waive the driving skills test specified in this section for a commercial driver’s license applicant who meets the requirements of title 49 Code of Federal Regulations section 383.77 or 383.123(b).

[d] (c) A commercial driver’s license or commercial learner’s permit, including a provisional or temporary license or permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person’s driver’s license is suspended, revoked, or

canceled in any state; or while the person holds a driver's license issued by any other state unless the person first surrenders that license.

[~~(e)~~] (d) A commercial learner's permit may be issued to an individual who holds a valid driver's license, is at least eighteen years of age, meets the qualification standards of title 49 Code of Federal Regulations, part 391, sub-parts B and E, and has passed the written tests required for the desired class of a commercial driver's license.

[~~(f)~~] (e) The commercial learner's permit shall not be valid for a period in excess of one hundred eighty days. When driving a commercial motor vehicle, the holder of a commercial learner's permit shall be accompanied by a person with a valid commercial driver's license to operate that category of commercial motor vehicle with the proper endorsements. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The commercial learner's permit may be renewed no more than an additional one hundred eighty days without requiring the commercial learner's permit holder to retake the general or endorsement knowledge tests, and the applicant requalifies meeting the requirements of subsection [~~(e)~~] (d). The commercial learner's permit holder is eligible to take the commercial driver's license skills test no earlier than fourteen days after obtaining the permit.

[~~(g)~~] (f) The examiner of drivers may waive the knowledge and skills tests specified in this section for any person who is at least twenty-one years of age and who possesses a valid commercial driver's license issued by any state of the United States, Mexico, or a province of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial driver's licenses. The examiner of drivers shall accept the test scores of a Hawaii commercial learner's permit holder who completes training in another state in the United States and is tested in compliance with federal motor carrier safety regulations by that state in association with the training. The testing state shall electronically transmit in a secure manner the skills test results directly to the examiner of drivers, and if the applicant passed, and meets all other requirements, a Hawaii commercial driver's license shall be issued. To retain a hazardous materials endorsement, the applicant shall pass the knowledge test for a hazardous materials endorsement and be determined by the federal Transportation Security Administration not to pose a security risk warranting denial of the endorsement.

[~~(h)~~] (g) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test prior to obtaining a commercial learner's permit."

SECTION 2. Section 286-238, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The application for a commercial driver's license or commercial learner's permit shall include the following with respect to the applicant:

- [~~(1)~~] The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Social security number;
- (5) Signature;
- (6) Color photograph, digitized color image or black and white laser- engraved photographs<sup>1</sup> of the driver;

- [7] (1) Certifications including those required by title 49 Code of Federal Regulations section 383.71(a), except that this certification applies to both intrastate and interstate drivers;
- [8] (2) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years; and
- [9] (3) Any other information required by section 286-111.

The applicant shall produce proof of residency to show the applicant's state of domicile as defined in title 49 Code of Federal Regulations section 383.5."

SECTION 3. Section 286-238.2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Before issuing a commercial learner's permit, the examiner of drivers shall complete a check of the applicant's driving record as provided in section [286-239(e) or (h).] 286-239(d) or (g)."

SECTION 4. Section 286-239, Hawaii Revised Statutes, is amended to read as follows:

**“§286-239 Commercial driver’s license.** (a) ~~The commercial driver’s license shall be marked “CDL” and, to the maximum extent practicable, shall be tamper proof and include, but not be limited to, the following with respect to the licensee:~~

- (1) The name and residence address;
- (2) A color photograph, digitized color image, or black and white laser-engraved photographs of the driver;
- (3) A physical description including sex and height;
- (4) Date of birth;
- (5) A commercial driver’s license number that shall not be the licensee’s social security number;
- (6) Signature;
- (7) The class or type of commercial motor vehicle or vehicles that may be driven together with any endorsements or restrictions;
- (8) The name of this State; and
- (9) The issuance and expiration dates of the license.

(b) Commercial driver’s licenses may be issued with the following categories:

- (1) Category A – Any combination of vehicles with a gross combination weight rating of [26,001] twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of [10,000] ten thousand pounds;
- (2) Category B – Any single vehicle with a gross vehicle weight rating of [26,001] twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of [10,000] ten thousand pounds; and
- (3) Category C – Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
  - (A) Designed to transport sixteen or more passengers, including the driver; or
  - (B) Used in the transportation of hazardous materials which requires the vehicle to comply with [Title] title 49 Code of Federal Regulations[, Part] part 172, [Subpart] subpart F.

[~~(e)~~] **(b)** Commercial drivers' licenses may be issued with any one or more of the following endorsements and restrictions:

- (1) "H" – Authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) "L" – Restricts the driver to vehicles not equipped with air brakes;
- (3) "T" – Authorizes driving double and triple trailers;
- (4) "P" – Authorizes driving vehicles carrying passengers;
- (5) "N" – Authorizes driving tank vehicles;
- (6) "X" – Represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S" – Authorizes driving school buses;
- (8) "V" – Indicates there is information about a medical variance on the commercial driver's license information system driver record;
- (9) "K" – Restricts the driver from operating in interstate commerce as defined in title 49 Code of Federal Regulations section 390.5;
- (10) "Z" – Restricts the driver to vehicles not equipped with full air brakes;
- (11) "E" – Restricts the driver to vehicles not equipped with any manual transmission;
- (12) "O" – Restricts the driver to non-tractor trailer commercial motor vehicles;
- (13) "M" – Restricts the driver from operating a class A passenger vehicle; and
- (14) "N" – Restricts the driver from operating a class A and B passenger vehicle.

[~~(d)~~] **(c)** The holder of a valid commercial driver's license may drive all vehicles in the category for which the license is issued, and all lesser categories of vehicles except motorcycles and except vehicles which require an endorsement, unless the proper endorsement appears on the license.

[~~(e)~~] **(d)** Before issuing a commercial driver's license, the examiner of drivers shall complete a check of the applicant's driving record to determine whether the applicant is subject to any disqualification under section 286-240, or any license suspension, revocation, or cancellation under state law, and whether the applicant has a driver's license from more than one state or jurisdiction. The record check shall be made no earlier than twenty-four hours prior to the initial issuance or transfer and no sooner than ten days before renewals and upgrades of a commercial driver's license. The record check shall include but is not limited to the following:

- (1) A check of the applicant's driving record as maintained by the applicant's state of licensure;
- (2) A check with the commercial [~~or~~] driver's license information system;
- (3) A check with the National Driver Register; and
- (4) A request for the applicant's complete driving record from all states where the applicant was previously licensed to drive any motor vehicle over the last ten years. This check is only required for drivers renewing a commercial driver's license for the first time after September 30, 2002; provided that a notation is made on the driver's record confirming the check has been made and the date it was done.

[~~(f)~~] **(e)** Within ten days after issuing a commercial driver's license, the examiner of drivers, in the following situations, shall provide the operator of the commercial driver's license information system with all information obtained by the examiner that is necessary to identify the licensee:

- (1) The issuance of each commercial driver's license;

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- (2) The notation of any changes in driver identification information; and
- (3) The notation of any changes to the driver's driving record relating to the transfer of a commercial driver's license from one state to another.

[~~(g)~~] (~~f~~) Commercial driver's licenses shall expire as follows:

- (1) An initial or renewed commercial driver's license with a hazardous materials endorsement shall expire no later than five years from its date of issuance, except if the licensee is seventy-two years of age or older. The expiration date of a commercial driver's license with a hazardous materials endorsement shall be the same expiration date as the hazardous materials endorsement. If the licensee is seventy-two years of age or older, the initial or renewed commercial driver's license with a hazardous materials endorsement shall not exceed two years; and
- (2) All other initial commercial driver's licenses shall be valid for not more than an eight-year period, expiring on the driver's birthday. All other renewed licenses shall be valid for not more than an eight-year period from the expiration date of the previous valid license. With the exception of a commercial driver's license with a hazardous materials endorsement, the commercial driver's license shall expire on the next birthday of the licensee occurring not more than eight years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that, unless sooner revoked, suspended, or canceled, the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee is seventy-two years of age or older.

[~~(h)~~] (~~g~~) When applying for renewal of a commercial driver's license, the applicant shall complete the required application form [~~required by section 286-238, providing~~] and provide updated information and required certifications. If the applicant desires to retain a hazardous materials endorsement, the knowledge test for a hazardous materials endorsement shall also be taken and passed by the applicant. The examiner of drivers shall complete a check of the applicant's driving record as required under subsection [~~(e)~~] (~~d~~)."

SECTION 5. Section 286-239.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§286-239.5] Reactivation of expired commercial driver's license; fees; road test waived.** (a) Unless revoked or suspended, and except as provided in subsection (b), any commercial driver's license that has expired under section 286-239 or rules adopted pursuant to section 286-246 may be reactivated by the licensee in accordance with the requirements and procedures set forth for the renewal of commercial drivers' licenses under section [286-239(h).] 286-239(g). No person seeking reactivation of an expired commercial driver's license under this subsection shall be required to undergo reexamination of the person's driving skills under section 286-236. The examiner of drivers shall require the holder of an expired commercial driver's license to pay a reactivation fee of \$5 for each thirty-day period, or fraction thereof, that has elapsed after a ninety-day grace period.

(b) Any commercial driver's license not reactivated under subsection (a) within one year of the indicated date of expiration shall be invalid. The examiner of drivers shall examine an applicant whose commercial driver's license has been

declared invalid under this subsection in accordance with the licensing procedures established under sections 286-236[~~, 286-238,~~] and 286-239.”

**SECTION 6.** Section 291E-44.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided in sections 286-118.5 and 291E-61.6, the director shall not issue an ignition interlock permit to:

- (1) A respondent whose license is expired, suspended, or revoked as a result of action other than the instant revocation;
- (2) A respondent who does not hold a valid license at the time of arrest for the violation of section 291E-61;
- (3) A respondent who holds a license that is a learner’s permit or instruction permit; or
- (4) A respondent who holds either a category 4 license under section 286-102(b) or a commercial driver’s license under section [286-239(b)] 286-239(a) unless the ignition interlock permit is restricted to a category 1, 2, or 3 license under section 286-102(b).”

**SECTION 7.** Section 291E-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as provided in sections 286-118.5 and 291E-61.6, the court shall not issue an ignition interlock permit to:

- (1) A defendant whose license is expired, suspended, or revoked as a result of action other than the instant offense;
- (2) A defendant who does not hold a valid license at the time of the instant offense;
- (3) A defendant who holds either a category 4 license under section 286-102(b) or a commercial driver’s license under section [286-239(b)] 286-239(a), unless the ignition interlock permit is restricted to a category 1, 2, or 3 license under section 286-102(b); or
- (4) A defendant who holds a license that is a learner’s permit or instruction permit.”

**SECTION 8.** Section 286-238.5, Hawaii Revised Statutes, is repealed.

**SECTION 9.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

**SECTION 10.** Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

**SECTION 11.** This Act shall take effect upon its approval.

(Approved April 30, 2014.)

#### Notes

1. Prior to amendment “photograph” appeared here.
2. Edited pursuant to HRS §23G-16.5.

**A Bill for an Act Relating to Real Estate Appraisers.***Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds a lack of openness and transparency exists in the implementation of Act 227, Session Laws of Hawaii 2011 (Act 227), which was codified as section 466K-6, Hawaii Revised Statutes.

Act 227 requires appraisers acting as arbitrators to fully report the basis for an award and to certify compliance with the nationally accepted Uniform Standards of Professional Appraisal Practice when valuing properties and determining market value or market rent. Compliance with the Uniform Standards of Professional Appraisal Practice ensures adherence to professional standards that protect the parties to an arbitration and consumers in the State.

The legislature further finds that Hawaii has relatively few commercial appraisers who specialize in these matters and, consequently, these individuals or firms are the exclusive determiners of the market value or market rents of leasehold property in Hawaii. This results in members of the same profession gathering and selecting market data, presenting that data to arbitration panels as expert witnesses, and then deciding the matter as appointed arbitrators.

The legislature also finds that Act 227 was intended to bring data, openness, and transparency to a market controlled by few landlords and very few commercial and industrial appraisers. Unfortunately, since the passage of Act 227, confidentiality clauses have been incorporated into agreements that govern individual arbitration panels. Inclusion of these confidentiality clauses frustrates the legislature's intent in enacting Act 227 and works to the detriment of consumers because valuable market data is wilfully withheld from public use.

Real estate transactions that occur as sales transactions are recorded with the bureau of conveyances; any interested party may request a copy of a recorded real estate transaction from the bureau. Financial institutions, real estate firms, buyers, and sellers all take advantage of this data prior to participating in the market. Access to this information allows participants in the real estate market to better understand the volume and the value of that market in an open and transparent manner, allowing the market to function more efficiently.

In the resetting of industrial and commercial leasehold rents, recordation of an arbitration award and access to the record of the award at the bureau of conveyances would ensure public access to data that is currently unavailable, despite the enactment of Act 227. For the leasehold market to function with openness and transparency, and to further protect consumers in the State of Hawaii, the legislature finds that arbitration awards and reports must be available to all interested participants in the market.

It is the legislature's intent that these awards and reports be open to the public. Accordingly, the purpose of this Act is to support the openness and transparency originally contemplated by Act 227 by:

- (1) Requiring arbitration awards issued under chapter 466K, Hawaii Revised Statutes, to be public records;
- (2) Requiring real estate appraisers named or appointed as an arbitrator in a submission agreement to appraise or arbitrate entered into after July 1, 2014, to record with the bureau of conveyances all arbitration awards; records of awards, if separately issued; and any supplementary, dissenting, or explanatory opinions on awards within ninety days of the notification of the determination of the award to the parties;

- (3) Specifying that no agreement between the parties or the appraisers acting as arbitrators shall preclude or deny the requirement to record an award, the record of the award, or any supplementary, dissenting, or explanatory opinions; and
- (4) Clarifying that failure to make arbitration reports public or failing to record required information with the bureau of conveyances shall be a violation of the license or certification requirements of chapter 466K, Hawaii Revised Statutes.

SECTION 2. Section 466K-6, Hawaii Revised Statutes, is amended to read as follows:

**"[§§466K-6] Appraisers in arbitration proceedings[-]; recordation; non-confidentiality.** (a) Arbitration awards, records of awards, and supplementary, dissenting, or explanatory opinions recorded pursuant to this section shall be public records.

(b) In an arbitration proceeding to determine the fair market value, fair market rental, or fair and reasonable rent of real property where the arbitrator is a real estate appraiser licensed or certified under [this] chapter, the record of an award shall include but not be limited to findings of fact; the state-licensed or certified appraiser's rationale for the award; the state-licensed or certified appraiser's certification of compliance with the most current Uniform Standards of Professional Appraisal Practice as approved by the director; and information regarding the evidence, including the data, methodologies, and analysis that provided the basis for the award.

(c) A real estate appraiser licensed or certified under this chapter who is named or appointed as an arbitrator in a submission agreement to appraise or arbitrate entered into after July 1, 2014, shall record with the bureau of conveyances all arbitration awards; records of awards, if separately issued; and any supplementary, dissenting, or explanatory opinions on awards within ninety days of the notification of the determination of the award to the parties.

(d) No agreement between the parties or the appraisers acting as arbitrators shall preclude or deny the requirement to record an award, the record of an award, or any supplementary, dissenting, or explanatory opinions as required by this section.

(e) Failure to comply with this section shall be a violation of this chapter for purposes of licensing or certification."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Became law on April 30, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 74

H.B. NO. 2496

A Bill for an Act Relating to Hawaii Labor Relations Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) The board shall be composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairperson, shall be representative of the public. All members shall be appointed [by the governor] for terms of six years each[. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons to serve as members of the board and the governor shall first consider these persons in selecting the members of the board.] in accordance with the following procedures:

- (1) The representative of management shall be appointed by the governor, who may first consider any names submitted by the counties; provided that each county may submit no more than one name;
- (2) The representative of labor shall be appointed by the governor from a list of three nominees submitted by mutual agreement from a majority of the exclusive representatives; and
- (3) The representative of the public shall be appointed by the governor."

2. By amending subsection (e) to read:

"(e) Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board in accordance with the procedures established in subsection (b) during the temporary absence from the State, temporary inability to act due to recusal, or illness of any regular member. An acting member, during the acting member's term of service, shall have the same powers and duties as the regular member; provided that[:]

(1) If the regular member is the representative of management or labor, then employee organizations representing public employees may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;

(2) If the regular member is the representative of management, then public employers may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;

(3) Subsection] subsection (d) shall not apply to an acting member[;] and

[4) An an acting member appointed due to a regular member's recusal shall be appointed for the case in which the recusal occurred, and the acting member's appointment shall terminate when the final decision is filed or the case is withdrawn."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval, and apply to appointments to the Hawaii labor relations board occurring after the effective date of this Act.

(Became law on April 30, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 75

H.B. NO. 1977

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) If an impasse exists between a public employer and the exclusive representative of bargaining unit (2), supervisory employees in blue collar positions; bargaining unit (3), nonsupervisory employees in white collar positions; bargaining unit (4), supervisory employees in white collar positions; bargaining unit (6), educational officers and other personnel of the department of education under the same salary schedule; bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; bargaining unit (9), registered professional nurses; bargaining unit (10), institutional, health, and correctional workers; bargaining unit (11), firefighters; bargaining unit (12), police officers; bargaining unit (13), professional and scientific employees; or bargaining unit (14), state law enforcement officers and state and county ocean safety and water safety officers, the board shall assist in the resolution of the impasse as follows:

- (1) Mediation. During the first twenty days after the date of impasse, the board shall immediately appoint a mediator, representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse.
- (2) Arbitration. If the impasse continues twenty days after the date of impasse, the board shall immediately notify the employer and the exclusive representative that the impasse shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.
  - (A) Arbitration panel. Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected. Within five days after receipt of the list, the parties shall alternately strike names from the list until a single name is left, who shall be immediately appointed by the board as the neutral arbitrator and chairperson of the arbitration panel.
  - (B) Final positions. Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a final position [which] that shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions which each party is proposing for inclusion in the final agreement[-]; provided that such further provisions shall be limited to those specific proposals that were submitted in writing to the other party

## **ACT 76**

and were the subject of collective bargaining between the parties up to the time of the impasse, including those specific proposals that the parties have decided to include through a written mutual agreement. The arbitration panel shall decide whether final positions are compliant with this provision and which proposals may be considered for inclusion in the final agreement.

- (C) Arbitration hearing. Within one hundred twenty days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final positions. The arbitrator, or the chairperson of the arbitration panel together with the other two members, are encouraged to assist the parties in a voluntary resolution of the impasse through mediation, to the extent practicable throughout the entire arbitration period until the date the panel is required to issue its arbitration decision.
- (D) Arbitration decision. Within thirty days after the conclusion of the hearing, a majority of the arbitration panel shall reach a decision pursuant to subsection (f) on all provisions that each party proposed in its respective final position for inclusion in the final agreement and transmit a preliminary draft of its decision to the parties. The parties shall review the preliminary draft for completeness, technical correctness, and clarity and may mutually submit to the panel any desired changes or adjustments that shall be incorporated in the final draft of its decision. Within fifteen days after the transmittal of the preliminary draft, a majority of the arbitration panel shall issue the arbitration decision.”

SECTION 2. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2014.

(Became law on April 30, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

## **ACT 76**

S.B. NO. 2768

A Bill for an Act Relating to Kindergarten.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many studies show the importance of early childhood education. A federal Department of Education study reports that all kindergarteners increase their knowledge and skills regardless of how much they knew prior to enrollment. Kindergarteners are expected to and often do leave kindergarten knowing how to read and write. First graders who did not go to kindergarten are typically behind their peers in their academic and social development and are more likely to fail a grade in elementary school. Despite these compelling findings, kindergarten attendance is not mandatory in the State.

The purpose of this Act is to enhance the educational achievement of Hawaii's youth by making kindergarten attendance mandatory.

SECTION 2. Section 302A-411, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The department shall establish and maintain kindergartens with a program of instruction as a part of the public school system; provided that:

- (1) Attendance in kindergarten shall not be mandatory<sup>[;]</sup>, unless exempted by subsection (b) or section 302A-1132; and
- (2) Charter schools shall not be excluded from mandatory participation in the program.

(b) Beginning with the 2014-2015 school year, any parent, guardian, or other person having the responsibility for, or care of, a child who will be at least five years of age on or before July 31 of the school year [may attend a public school kindergarten.] shall enroll the child in a public school kindergarten unless the child is enrolled at a private school or the child's attendance is otherwise exempt under section 302A-1132."

SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is amended to read as follows:

**"[§302A-1132] Attendance compulsory; exceptions.** (a) Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six five years[;] on or before July 31 of the school year, and who will not have arrived at the age of eighteen years, by January 1 of any school year, shall attend either a public or private school for, and during, the school year, and any parent, guardian, or other person having the responsibility for, or care of, a child whose attendance at school is obligatory shall send the child to either a public or private school. Attendance at a public or private school shall not be compulsory in the following cases:

- (1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted), of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where the child, who has reached the fifteenth anniversary of birth, is suitably employed and has been excused from school attendance by the superintendent or the superintendent's authorized representative, or by a family court judge;
- (3) Where, upon investigation by the family court, it has been shown that for any other reason the child may properly remain away from school;
- (4) Where the child has graduated from high school;
- (5) Where the child is enrolled in an appropriate alternative educational program as approved by the superintendent or the superintendent's authorized representative in accordance with the plans and policies of the department, or notification of intent to home school has been submitted to the principal of the public school that the child would otherwise be required to attend in accordance with department rules adopted to achieve this result; or
- (6) Where:
  - (A) The child has attained the age of sixteen years;
  - (B) The principal has determined that:
    - (i) The child has engaged in behavior which is disruptive to other students, teachers, or staff; or

## ACT 77

- (ii) The child's non-attendance is chronic and has become a significant factor that hinders the child's learning; and  
(C) The principal of the child's school, and the child's teacher or counselor, in consultation with the child and the child's parent, guardian, or other adult having legal responsibility for or care of the child, develops an alternative educational plan for the child. The alternative educational plan shall include a process that shall permit the child to resume school.

The principal of the child's school shall file the plan made pursuant to subparagraph (C) with the child's school record. If the adult having legal responsibility for or care of the child disagrees with the plan, then the adult shall be responsible for obtaining appropriate educational services for the child.

- (b) Any employer who employs a child who is excused from school attendance in accordance with subsection (a)(2) shall notify the child's school within three days upon termination of the child's employment.

(c) Beginning with the 2014-2015 school year, any parent, guardian, or other person having the responsibility for, or care of, a child who will be at least five years of age on or before July 31 of the school year shall enroll the child in a public school kindergarten unless the child is enrolled at a private school or the child's attendance is otherwise exempt under this section."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2014.

(Approved May 1, 2014.)

## ACT 77

S.B. NO. 2073

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (6):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 5,302,117	\$ 7,732,008
Special Funds	\$ 4,741	\$ 9,951
G.O. Bond Funds	\$ 4,676	\$ 9,814
Federal Funds	\$ 182,469	\$ 384,503
Revolving Funds	\$ 3,838	\$ 8,231

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART II

**SECTION 3.** There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (6):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 323,761	\$ 684,464
Special Funds	\$ 5,316	\$ 11,157
Federal Funds	\$ 49,067	\$ 103,661
Revolving Funds	\$ 4,810	\$ 10,314

**SECTION 4.** Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART III

**SECTION 5.** There is appropriated from the source of funding indicated below to health premium payments (BUF 765) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (6):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 279,400	\$ 361,829

**SECTION 6.** Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

## PART IV

**SECTION 7.** There is appropriated from the source of funding indicated below to health premium payments (BUF 765) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (6):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 36,439	\$ 45,925

**SECTION 8.** Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

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### PART V

SECTION 9. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 10. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 12, 2014.)

## ACT 78

S.B. NO. 2074

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,491,419	\$ 6,534,256
Special Funds	\$ 9,685	\$ 45,547
Federal Funds	\$ 34,357	\$ 170,068
Interdepartmental Transfers	\$ 2,336	\$ 10,609
Revolving Funds	\$ 16,380	\$ 72,440

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 3,233	\$ 15,709

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART II

SECTION 3. There is appropriated from the source of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded

from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 22,253	\$ 92,911

SECTION 4. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART III

SECTION 5. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 5,604	\$ 25,522

SECTION 6. Funds appropriated by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

### PART IV

SECTION 7. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within bargaining unit (9) assigned to the judiciary:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,556	\$ 7,561

SECTION 8. Funds appropriated by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

### PART V

SECTION 9. There is authorized from the source of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the collective bargaining cost items contained in the agreement negotiated for state employees in collective bargaining unit (9) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 3,290,166	\$ 13,699,173

## ACT 78

SECTION 10. Funds authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

### PART VI

SECTION 11. There is authorized from the source of funding indicated below to Hawaii health systems corporation - corporation (HTH 210) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost items authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within bargaining unit (9) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 79,990	\$ 319,402

SECTION 12. Funds authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

### PART VII

SECTION 13. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,151,003	\$ 638,417

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,123	\$ 1,266

SECTION 14. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART VIII

SECTION 15. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sum or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 3,952	\$ 2,776

SECTION 16. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

#### PART IX

SECTION 17. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 18. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 19. This Act shall take effect upon its approval.

(Approved May 12, 2014.)

#### ACT 79

S.B. NO. 2866

A Bill for an Act Making an Emergency Appropriation to the Hawaii Health Systems Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to make an emergency appropriation to provide funds for the functions of the Hawaii health systems corporation and its regions. Without an emergency appropriation, Hawaii health systems corporation's health care operations will be severely impacted, and the impact will place the health care of the residents and visitors of the State in jeopardy.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$15,000,000 or so much thereof as may be necessary, for fiscal year 2013-2014 for the purpose of supporting the functions of the Hawaii health systems corporation.

The sum appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 12, 2014.)

#### ACT 80

S.B. NO. 2246

A Bill for an Act Making Appropriations for Claims Against the State, its Officers, or its Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

#### PART I

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 2013-2014 are appropriated out of the general revenues of

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the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

### JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:

	AMOUNT
<b>1. ALOHA TOWER DEVELOPMENT CORPORATION</b>	
In the Matter of the Application of Honolulu Construction and Draying Company, Limited v. State of Hawaii, et al., Land Court Application No. 787, Hawaii Supreme Court No. SCWC-30484	\$ 165,929.42 Judgment
<b>SUBTOTAL:</b>	<hr/> <b>\$ 165,929.42</b>
<b>2. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:</b>	
Claim by Estria Foundation	\$ 18,000.00 Settlement
<b>SUBTOTAL:</b>	<hr/> <b>\$ 18,000.00</b>
<b>3. DEPARTMENT OF EDUCATION:</b>	
Barnett v. State of Hawaii, et al. Civil No. 10-1-0236, Fifth Circuit	\$ 41,511.54 Judgment
Garner, et al. v. State of Hawaii, et al. Civil No. 03-1-000305, First Circuit	\$ 132,819.00 Settlement
In the Matter of the Arbitration Between Hawaii State Teachers Association and Na Wai Ola (Waters of Life) Public Charter School, State of Hawaii, Grievance of Ginger Krauss	\$ 44,951.43 Judgment
Javier, et al. v. State of Hawaii, et al. Civil No. 07-1-0160(1), Second Circuit	\$ 124,169.60 Settlement
Chang v. Matayoshi, et al. Civil No. 13-00004 JMS BMK, USDC	\$ 63,333.34 Settlement
Duvauchelle-Puu v. Matayoshi, et al. Civil No. 13-00073 JMS BMK, USDC	\$ 63,333.33 Settlement
Lopez v. Matayoshi, et al. Civil No. 13-00134 JMS BMK, USDC	\$ 63,333.33 Settlement
<b>SUBTOTAL:</b>	<hr/> <b>\$ 533,451.57</b>
<b>4. DEPARTMENT OF HEALTH</b>	
Johnson v. Rainbow Rehabilitation, et al. Civil No. 07-1-1855-10, First Circuit	\$ 221,080.66 Judgment
<b>SUBTOTAL:</b>	<hr/> <b>\$ 221,080.66</b>

## 5. DEPARTMENT OF HUMAN SERVICES:

Louis, et al. v. State of Hawaii, et al.	\$ 180,000.00
Civil No. 05-1-0935-05, First Circuit	Settlement
Kolio, et al. v. State of Hawaii, et al.	\$ 20,000.00
Civil No. 11-00266 LEK RLP, USDC	Settlement
Rhodes v. State of Hawaii, et al.	\$ 40,000.00
Civil No. 09-1-2146-09, First Circuit	Settlement
<b>SUBTOTAL:</b>	<b>\$ 240,000.00</b>

## 6. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS:

Hawaii Pacific Health, et al. v. Dwight	\$ 89,645.15
Takamine, Civil No. 11-00706 SOM/RLP, USDC	Settlement
<b>SUBTOTAL:</b>	<b>\$ 89,645.15</b>

## 7. DEPARTMENT OF LAND AND NATURAL RESOURCES:

Coziar v. State of Hawaii	\$ 30,000.00
Civil No. 13-1-0018(1), Second Circuit	Settlement
Imig v. State of Hawaii, et al.	\$ 60,000.00
Civil No. 13-1-2995-11 (ECN), First Circuit	Settlement
In the Matter of the Arbitration Between Central Supply, Inc., et al. v. State of Hawaii, et al., S.P. No. 12-1-0029, and	\$ 44,324.00
In the Matter of the Arbitration Between State of Hawaii, et al. v. Yamada Consolidated, Inc., et al., S.P. No. 13-1-0035	Settlement
<b>SUBTOTAL:</b>	<b>\$ 134,324.00</b>

## 8. DEPARTMENT OF PUBLIC SAFETY:

Buan v. State of Hawaii, et al.	\$ 50,000.00
Civil No. 11-1-1222-06, First Circuit	Settlement
Fontanilla v. State of Hawaii, et al.	\$ 35,000.00
Civil No. 12-00641 BMK, USDC	Settlement
Kiyabu v. Frank, et al.	\$ 80,000.00
Civil No. 13-00582, USDC	Settlement
Steed v. State of Hawaii, et al.	\$ 25,000.00
Civil No. 11-1-1122-06, First Circuit	Settlement
<b>SUBTOTAL:</b>	<b>\$ 190,000.00</b>

## 9. OFFICE OF THE GOVERNOR:

Oahu Publications, Inc., dba Honolulu Star-Advertiser v. Abercrombie,	\$ 70,272.66
Civil No. 11-1-1871-08 KKS, First Circuit	Judgment
<b>SUBTOTAL:</b>	<b>\$ 70,272.66</b>

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### 10. MISCELLANEOUS CLAIMS:

Aimee Clay	\$ 497.48
Thomas K. Nagano	\$ 222.96
Yoshikatsu Asano	\$ 1,939.00
Bruce A. Menin	\$ 421,346.13
Marie-Gertrude N. Leopoldo	\$ 417.00
Billing Dispute Between the Department of Education and Automated Health Care Solutions/Prescription Partners	\$ 67,000.00
<b>SUBTOTAL:</b>	<b>\$ 491,422.57</b>
Total (SECTION 1):	\$ 2,154,126.03

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

## PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2013-2014 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

### JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:

#### DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

	AMOUNT
Adams, et al. v. Yokooji, et al.	\$ 25,000.00
Civil No. 07-1-1567, First Circuit	Settlement
Booth v. State of Hawaii, et al.	\$ 65,000.00
Civil No. 12-1-0262, Fifth Circuit	Settlement
Nakandakare, et al. v. State of Hawaii, et al.	\$ 32,500.00
Civil No. 11-1-1740-08, First Circuit	Settlement
Shaya, et al. v. Franco, et al.	\$ 700,000.00
Civil No. 11-1-0551, Second Circuit	Settlement
<b>SUBTOTAL:</b>	<b>\$ 822,500.00</b>
<b>TOTAL (SECTION 2):</b>	<b>\$ 822,500.00</b>

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

## PART III

SECTION 3. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 4. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 5. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2015, shall lapse.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 13, 2014.)

## ACT 81

H.B. NO. 2434

A Bill for an Act Relating to the Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a method to use transient accommodations tax revenues to pay for the debt service on revenue bonds, the proceeds of which will be used to acquire the conservation easement in Turtle Bay, Oahu. This Act:

- (1) Authorizes the Hawaii tourism authority to issue \$40,000,000 in revenue bonds and use the proceeds to acquire a conservation easement in Turtle Bay, Oahu;
- (2) Allocates transient accommodations tax revenues of \$3,000,000 annually to the Hawaii tourism authority for use to pay the debt service on the revenue bonds;
- (3) Reduces the transient accommodations tax revenue allocation to the convention center enterprise special fund from \$33,000,000 to \$26,500,000; and
- (4) Requires the Hawaii tourism authority and department of budget and finance to restructure the convention center debt owed to the department to accommodate an annual payment for debt service of not more than \$16,500,000.

As a result of the events specified above, this Act is intended to produce an additional \$3,500,000 in transient accommodations tax revenues to the general fund.

SECTION 2. Chapter 201B, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§201B-A Revenue bonds for conservation easement in Turtle Bay, Oahu.”**

(a) As authorized by section 6 of Act , Session Laws of Hawaii 2014, the authority shall issue revenue bonds to acquire a conservation easement in Turtle

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Bay, Oahu. The public shall have perpetual public access to said conservation easement. The conservation easement shall be in compliance with chapter 198.

Prior to executing the agreement to acquire the conservation easement, the authority shall:

- (1) Obtain an appraisal and perform its due diligence on the conservation easement and property rights proposed to be acquired; and
- (2) Offer to hold an informational briefing for the legislature. The offer shall be made through the president of the senate and speaker of the house of representatives.

(b) For the purpose of this section, the authority shall be deemed a "department" and the acquisition of the conservation easement shall be deemed an "undertaking" under chapter 39.

(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund established pursuant to section 201B-B. For this purpose, the revenues allocated shall be deemed "user taxes" for the undertaking.

(d) The revenue bonds shall be issued in accordance with chapter 39, part III. The authority shall request the director of finance, on behalf of the authority, to perform the duties specified under section 39-68 regarding the preparation, sale, and administration of the revenue bonds.

**§201B-B Turtle Bay conservation easement special fund.** (a) There is established the Turtle Bay conservation easement special fund.

(b) Transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to pay the debt service on revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, pursuant to section 201B-A.

(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."

**SECTION 3.** Section 201B-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the convention center enterprise special fund shall be used by the authority for the payment of any and all [debt service] of the following:

(1) Debt owed to the department of budget and finance relating to the convention center[, any expense], provided that, after the restructuring required by section 5 of Act , Session Laws of Hawaii 2014, the annual debt service payment owed to the department shall not exceed \$16,500,000 from fiscal year 2014-2015 until fully retired; and

(2) Expenses arising from any and all use, operation, maintenance, alteration, improvement, or any unforeseen or unplanned repairs of the convention center, including without limitation the food and beverage service and parking service provided at the convention center facility, the sale of souvenirs, logo items, or other items, for any future major repair, maintenance, and improvement of the convention center facility as a commercial enterprise or as a world class facility for conventions, entertainment, or public events, and for marketing the facility pursuant to section 201B-7(a)(7)."

SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) ~~[\$33,000,000]~~ \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (2) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
  - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
  - (B) Of the \$82,000,000 allocated:
    - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
    - (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and
  - (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;
- (3) \$93,000,000 shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; [and]
- (4) \$3,000,000 shall be allocated to the Turtle Bay conservation easement special fund established under section 201B-B for the payment of debt service on revenue bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, until the bonds are fully amortized; and
- [4] (5) Of the excess revenues deposited into the general fund pursuant to this subsection, \$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan for:

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- (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands connected with enhancing the visitor experience.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

**SECTION 5.** (a) The executive director of the Hawaii tourism authority and the director of finance shall enter into negotiations to restructure the debt owed to the department of budget and finance for the convention center so that the annual amount payable on the debt service is not more than \$16,500,000 until fully retired.

(b) If the debt is not restructured as required under subsection (a), no state funds, including revenue bond funds, shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu, notwithstanding the authorization under section 201B-A, Hawaii Revised Statutes, and sections 6 and 7 of this Act.

**SECTION 6.** (a) The board of directors of the Hawaii tourism authority, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of acquiring a conservation easement in Turtle Bay, Oahu, as authorized under section 201B-A, Hawaii Revised Statutes.

(b) The board of directors, with the approval of the governor, shall issue the revenue bonds under such terms, conditions, and maturity dates that do not require any debt service payment to exceed \$3,000,000 in any fiscal year.

(c) If the board of directors cannot issue revenue bonds in accordance with the conditions of this section or section 201B-A or chapter 39, part III, Hawaii Revised Statutes, no state funds shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu.

**SECTION 7.** There is appropriated out of the revenue bond proceeds authorized by section 6 of this Act the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to carry out the purpose of section 6; provided that any unexpended or unencumbered balance of the appropriation shall not lapse at the end of fiscal year 2014-2015 and shall lapse instead on June 30, 2016.

The sum appropriated shall be expended by the Hawaii tourism authority for the purpose of this Act.

**SECTION 8.** This Act shall not be severable. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, then the entire Act shall be invalid.

**SECTION 9.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 11. This Act shall take effect on July 1, 2014.

(Approved May 19, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 82**

S.B. NO. 2609

A Bill for an Act Relating to Minimum Wage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

**“§387-2 Minimum wages.** (a) Except as provided in section 387-9 and this section, every employer shall pay to each employee employed by the employer, wages at the rate of not less than:

- (1) \$6.25 per hour beginning January 1, 2003;
- (2) \$6.75 per hour beginning January 1, 2006; [and]
- (3) \$7.25 per hour beginning January 1, 2007[.];
- (4) \$7.75 per hour beginning January 1, 2015;
- (5) \$8.50 per hour beginning January 1, 2016;
- (6) \$9.25 per hour beginning January 1, 2017; and
- (7) \$10.10 per hour beginning January 1, 2018.

(b) The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than:

- (1) 25 cents;
- (2) 50 cents per hour beginning January 1, 2015; and
- (3) 75 cents per hour beginning January 1, 2016.

below the applicable minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least 50 cents more than the applicable minimum wage[.]; provided that beginning January 1, 2015, the combined amount the employee receives from the employee's employer and in tips is at least \$7.00 more than the applicable minimum wage.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 2014.)

**ACT 83**

H.B. NO. 1714

A Bill for an Act Relating to Climate Change.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known as the Hawaii Climate Adaptation Initiative Act. The legislature finds that climate change is the paramount chal-

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lenge of this century, posing both an urgent and long-term threat to the State's economy, sustainability, security, and way of life.

The 2012 Pacific Islands Regional Climate Assessment found that throughout the Pacific, warmer and drier conditions will decrease fresh water supplies. Rising sea levels, exacerbated by storms, will increase coastal flooding and erosion, damaging coastal ecosystems and infrastructure and affecting agriculture, tourism, military bases, and other industries. Higher sea-surface temperatures will increase coral bleaching, leading to coral death and habitat loss. Increasing ocean acidification will have negative consequences for the entire marine ecosystem. In the long term, open-ocean fisheries will decline. Rising temperatures, and in some areas reduced rainfall, will increase the risk of extinctions. Threats to the traditional lifestyles of indigenous communities may include destruction of coastal artifacts and structures and reduced availability of traditional food sources and subsistence fisheries, which will make it difficult for Pacific Island communities to sustain their connection with a defined place and their unique set of customs, beliefs, and languages.

The legislature further finds that beach erosion, drought, and rising temperature are already having measurable impacts on Hawaii and are expected to accelerate in the years to come. With beaches continuing to erode, rain continuing to diminish, and sea levels projected to rise one foot by 2050 and three feet by 2100, Hawaii is highly vulnerable.

Act 286, Session Laws of Hawaii 2012, created climate change adaptation priority guidelines encouraging collaboration to address climate change and recognizing that it will impact the following: agriculture; conservation lands; coastal and nearshore marine areas; natural and cultural resources; education; energy; higher education; health; historic preservation; water resources; the built environment, such as housing, recreation, transportation; and the economy.

In 2013, Hawaii's landmark policies were included in the international Majuro Declaration for Climate Leadership when Hawaii signed on as the first sub-national government, after which President Obama appointed Governor Abercrombie as one of eight governors to the State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience.

Hawaii is one of the few coastal states that has not adopted a statewide climate adaptation plan, yet is among the most vulnerable.

The legislature also finds that it is time to ensure that Hawaii adapts to the effects of climate change before the effects grow beyond the State's ability to prevent the worst impacts on Hawaii's economy, environment, and way of life.

The purpose of this Act is to address the effects of climate change through 2050 to protect the State's economy, health, environment, and way of life. Recognizing Hawaii's unique geography as the only island state and its susceptibility to sea level rise, the initial focus of this Act is to address the impact of sea level rise on Hawaii and to support ongoing climate change adaptation efforts of the State by:

- (1) Establishing an interagency climate adaptation committee, attached administratively to the department of land and natural resources, to develop a sea level rise vulnerability and adaptation report for Hawaii through the year 2050;
- (2) Authorizing the office of planning to coordinate the development of a statewide climate adaptation plan and to use the sea level rise vulnerability and adaptation report as a framework for addressing other climate threats and climate change adaptation priorities identified in Act 286, Session Laws of Hawaii 2012; and
- (3) Allocating funds and creating positions to carry out these purposes.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **"CHAPTER CLIMATE ADAPTION"**

**§ -1 Purpose.** The purpose of this chapter is to address the effects of climate change to protect the State's economy, environment, health, and way of life.

**§ -2 Definitions.** As used in this chapter:

"Committee" means the interagency climate adaptation committee.

**§ -3 Interagency climate adaptation committee; general functions, duties, and powers.** (a) There is established an interagency climate adaptation committee that shall be placed within the department of land and natural resources for administrative purposes only.

(b) Coordination of the committee shall be headed jointly by the chairperson of the board of land and natural resources, or the chairperson's designee, and the director of the office of planning, or the director's designee. Among the various potential impacts of climate change, the committee shall, as a first step, focus on and develop sea level rise vulnerability and adaptation reports that shall include:

- (1) Identification of the major areas of sea level rise impacts affecting the State and counties through 2050;
- (2) Identification of expected impacts of sea level rise based on the latest scientific research for each area through 2050;
- (3) Identification of the economic ramifications of sea level rise;
- (4) Identification of applicable federal laws, policies, or programs that impact affected areas; and
- (5) Recommendations for planning, management, and adaptation for hazards associated with increasing sea level rise.

The report shall be made publicly available no later than December 31, 2017.

(d) The committee shall include the following members:

- (1) The chairs of the standing committees of the legislature with subject matter jurisdiction encompassing environmental protection and land use;
- (2) The chairperson of the board of land and natural resources or the chairperson's designee, who shall be the co-chair of the committee;
- (3) The director of the office of planning or the director's designee, who shall be the co-chair of the committee;
- (4) The director of business, economic development, and tourism or the director's designee;
- (5) The chairperson of the board of directors of the Hawaii tourism authority or the chairperson's designee;
- (6) The chairperson of the board of agriculture or the chairperson's designee;
- (7) The chief executive officer of the office of Hawaiian affairs or the officer's designee;
- (8) The chairperson of the Hawaiian homes commission or the chairperson's designee;
- (9) The director of transportation or the director's designee;
- (10) The director of health or the director's designee;
- (11) The adjutant general or the adjutant general's designee;

- (12) The chairperson of the board of education or the chairperson's designee;
  - (13) The directors of each of the county planning departments, or the directors' designees; and
  - (14) The manager of the coastal zone management program.
- (e) In addition to the members listed in subsection (d), the chairs of the committee may request the participation or input of members of the public; experts in the field; and county, state, or federal officials necessary for the formulation of the report.
- (f) In developing the report, the committee shall:
  - (1) Solicit public views and concerns; and
  - (2) Coordinate with the various county, state, and federal agencies involved in ongoing climate change adaptation planning initiatives.
- (g) The committee shall reevaluate and update the sea level rise vulnerability and adaptation report every five years.
- (h) The members of the committee shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in carrying out their duties."

**SECTION 3.** Section 225M-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The office of planning shall gather, analyze, and provide information to the governor to assist in the overall analysis and formulation of state policies and strategies to provide central direction and cohesion in the allocation of resources and effectuation of state activities and programs and effectively address current or emerging issues and opportunities. More specifically, the office shall engage in the following activities:

- (1) State comprehensive planning and program coordination. Formulating and articulating comprehensive statewide goals, objectives, policies, and priorities, and coordinating their implementation through the statewide planning system established in part II of chapter 226;
- (2) Strategic planning. Identifying and analyzing significant issues, problems, and opportunities confronting the State, and formulating strategies and alternative courses of action in response to identified problems and opportunities by:
  - (A) Providing in-depth policy research, analysis, and recommendations on existing or potential areas of critical state concern;
  - (B) Examining and evaluating the effectiveness of state programs in implementing state policies and priorities;
  - (C) Monitoring through surveys, environmental scanning, and other techniques—current social, economic, and physical conditions and trends; and
  - (D) Developing, in collaboration with affected public or private agencies and organizations, implementation plans and schedules and, where appropriate, assisting in the mobilization of resources to meet identified needs;
- (3) Planning coordination and cooperation. Facilitating coordinated and cooperative planning and policy development and implementation activities among state agencies and between the state, county, and federal governments, by:
  - (A) Reviewing, assessing, and coordinating, as necessary, major plans, programs, projects, and regulatory activities existing or proposed by state and county agencies;

- (B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes; and
  - (C) Recognizing the presence of federal defense and security forces and agencies in the State as important state concerns;
- (4) Statewide planning and geographic information system. Collecting, integrating, analyzing, maintaining, and disseminating various forms of data and information, including geospatial data and information, to further effective state planning, policy analysis and development, and delivery of government services by:
- (A) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
  - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications and other spatial data analyses to enhance decision-making. The office shall promote and encourage free and open data sharing among and between all government agencies. To ensure the maintenance of a comprehensive, accurate, up-to-date geospatial data resource that can be drawn upon for decision-making related to essential public policy issues such as land use planning, resource management, homeland security, and the overall health, safety, and well-being of Hawaii's citizens, and to avoid redundant data development efforts, state agencies shall provide to the shared system either their respective geospatial databases or, at a minimum, especially in cases of secure or confidential data sets that cannot be shared or must be restricted, metadata describing existing geospatial data. In cases where agencies provide restricted data, the office of planning shall ensure the security of that data; and
  - (C) Maintaining a centralized depository of state and national planning references;
- (5) Land use planning. Developing and presenting the position of the State in all boundary change petitions and proceedings before the land use commission, assisting state agencies in the development and submittal of petitions for land use district boundary amendments, and conducting periodic reviews of the classification and districting of all lands in the State, as specified in chapter 205;
- (6) Coastal and ocean policy management. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also, developing and maintaining an ocean and coastal resources information, planning, and management system further developing and coordinating implementation of the ocean resources management plan, and formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries;

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- (7) Regional planning and studies. Conducting plans and studies to determine:
  - (A) The capability of various regions within the State to support projected increases in both resident populations and visitors;
  - (B) The potential physical, social, economic, and environmental impact on these regions resulting from increases in both resident populations and visitors;
  - (C) The maximum annual visitor carrying capacity for the State by region, county, and island; and
  - (D) The appropriate guidance and management of selected regions and areas of statewide critical concern.

The studies in subparagraphs (A) to (C) shall be conducted at appropriate intervals, but not less than once every five years; [and]
- (8) Regional, national, and international planning. Participating in and ensuring that state plans, policies, and objectives are consistent, to the extent practicable, with regional, national, and international planning efforts[.]; and
- (9) Climate adaptation planning. Conducting plans and studies and preparing reports as follows:
  - (A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under Act 286, Session Laws of Hawaii 2012, through the year 2050.
  - (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change; and
  - (C) Publish its findings, recommendations, and progress reports on actions taken no later than December 31, 2017, and its annual report to the governor and the legislature thereafter.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$108,874 or so much thereof as may be necessary for fiscal year 2014-2015 to provide the office of planning with staffing, including one full-time equivalent (FTE) position, and resources to carry out the purposes of this Act.

The sum appropriated shall be expended by the office of planning for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$58,874 or so much thereof as may be necessary for fiscal year 2014-2015 to provide the department of land and natural resources with staffing, including one full-time equivalent (FTE) position, and resources to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the department of land and natural resources to assist the interagency climate adaptation committee in researching and developing a coordinated, multidisciplinary sea level rise vulnerability and adaptation report pursuant to this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that sections 4 through 6 shall take effect on July 1, 2014.

(Approved June 9, 2014.)

## ACT 84

S.B. NO. 2877

A Bill for an Act Relating to Use Permits for Small Boat Harbor Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 200-10, Hawaii Revised Statutes, is amended to read as follows:

**“§200-10 Permits and fees for state small boat harbors[.] permit transfers.”**

- (a) No person shall moor a vessel in a state small boat harbor without:
  - (1) First obtaining a use permit from the department; and
  - (2) Being the owner of the vessel.
- (b) In order to obtain a permit or a permit renewal, the owner of a vessel shall provide, at the owner's own expense:
  - (1) A marine surveyor's inspection no more than two years old, certifying that the surveyor has inspected the vessel and considers it to fulfill the requirements set by the department; and
  - (2) Documentation that the person is the owner of the vessel. The documentation shall meet requirements established by the department.
- (c) The permittee shall pay moorage fees to the department for the use permit that shall be based on but not limited to the use of the vessel, its effect on the harbor, use of facilities, and the cost of administering this mooring program; and, furthermore:
  - (1) Except for commercial maritime activities where there is a tariff established by the department of transportation, moorage fees shall be established by appraisal by a state-licensed appraiser approved by the department and shall be higher for nonresidents than for residents. The moorage fees shall be set by appraisal categories schedule A and schedule B, to be determined by the department, and may be increased annually by the department, to reflect a cost-of-living index increase; provided that:
    - (A) Schedule A shall include existing mooring permittees; and
    - (B) Schedule B shall apply to all new mooring applicants and transient slips on or after July 1, 2011;
 provided further that schedule A rates shall be increased by the same amount each year so that schedule A rates equal schedule B rates by July 1, 2014;
  - (2) For commercial maritime activities where there is a tariff established by the harbors division of the department of transportation, the department may adopt the published tariff of the harbors division of the department of transportation or establish the fee by appraisal by a state-licensed appraiser approved by the department;
  - (3) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. The application fee shall be:

- (A) Set by the department; and  
(B) Not less than \$100 for nonresidents;
- (4) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee that shall be calculated at a rate of:  
(A) \$5.20 a foot of vessel length a month if the permittee is a state resident; and  
(B) \$7.80 a foot of vessel length a month if the permittee is a nonresident;  
provided that the liveaboard fees established by this paragraph may be increased by the department at the rate of the annual cost-of-living index, but not more than five per cent in any one year, beginning July 1 of each year;
- (5) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay, in lieu of the moorage and liveaboard fee, a fee based on three per cent of the gross revenues derived from the use of the vessel or two times the moorage fee assessed for a recreational vessel of the same size, whichever is greater; and
- (6) The department is authorized to assess and collect utility fees, including electrical and water charges, and common-area maintenance fees in small boat harbors.
- (d) The department shall not renew or issue a permit to a person who is not the owner of the vessel which is moored or which the person desires to moor in a state small boat harbor. No use permit may be transferred unless specifically provided by law. Any individual who is an owner of a vessel used for commercial purposes, including commercial fishing as a principal means of livelihood, and possesses a valid mooring permit or commercial permit, or both, in accordance with the rules adopted by the chairperson pursuant to chapter 91, may transfer ownership of the vessel from personal ownership to corporate or other business ownership without terminating the right to moor or operate the vessel under the permit or permits. The existing permit or permits shall be reissued in the name of the transferee corporation or other business entity.
- (e) For the purposes of this section, "person" means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity, and "owner" includes the legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel under a lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. "Controlled group" means parent-subsidiary corporations, brother-sister corporations, or constructive owner. "Transfer" includes any change in control, by whatever means, of any entity that owns or controls, directly or indirectly, a use permit. No permittee shall be allowed to moor a leased vessel in a berth unless the terms of the lease are set at fair market value. A "legal owner" includes a person who holds unencumbered title to a vessel or is a secured party under a security interest in the vessel. An owner who is issued a permit to moor a vessel in a state small boat harbor shall notify the department in writing of a transfer of interest or possession in the vessel within seven days of transfer.
- (f) Any person owning an interest in a corporation or other business entity or is part of a controlled group possessing a valid commercial permit issued by the department, in accordance with rules adopted by the chairperson pursuant to chapter 91, may transfer any or all stock or other interest to another person without terminating the right of the corporation or business entity to

retain or renew its commercial permit or any other permit issued to it by the department; provided that:

- (1) The corporation or business entity has been engaged in the same commercial vessel activity, as defined in section 200-9, for a minimum of one year; [and]
- (2) The seller shall pay the department a business transfer fee based on the passenger-carrying capacity of the vessels owned or operated by the corporation or business entity as provided by rules adopted by the chairperson pursuant to chapter 91[.], except for transfers of stock or interest in a corporation or other business entity between spouses or first-generation lineal descendants; and
- (3) In the case of a controlled group, the transferee must retain eighty per cent control of the transferor.

Any person possessing a commercial permit shall be required to meet minimum revenue standards, as a condition of retaining or renewing the commercial permit.

[e] (g) The department may designate moorage space within state small boat harbors to accommodate commercial fishing vessels and transient vessels.

[f] (h) All revenues from the foregoing operations shall be deposited in the boating special fund."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved June 16, 2014.)

## ACT 85

S.B. NO. 2330

A Bill for an Act Relating to the Kaneohe Bay Regional Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 200D-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) The director of health; [the superintendent of education; two representatives] a representative of the department of land and natural resources[; including one from the] division of boating and ocean recreation [and one from]; the administrator of the aquatic resources division; the commanding officer of the Kaneohe Marine Corps Air Station; and the director of the office of planning; [and the director of business, economic development, and tourism;] or their designated representatives shall serve as ex officio nonvoting members of the council. Additionally, the council may designate representatives of other appropriate agencies as ex officio nonvoting members of the council."

2. By amending subsection (e) to read:

"(e) [A] The chairperson shall be [elected annually by the council from among the council's voting members; provided that:

(1) Only a nongovernmental member shall be elected as chairperson; and

(2) No member may serve as chairperson for more than two consecutive years.]

the administrator of the aquatic resources division."

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SECTION 2. Section 200D-3, Hawaii Revised Statutes, is amended to read as follows:

**“§200D-3 Kaneohe Bay regional council; general powers, duties, and functions.** The council shall have the following powers and duties and perform the following functions:

- (1) Facilitate the implementation of the master plan as it relates to ocean use activities;
- (2) Review and periodically amend the master plan as it relates to ocean use activities;
- (3) Serve as a central coordinative clearinghouse of public and private activities in Kaneohe Bay, and as a repository and disseminator of information on the bay;
- (4) Facilitate productive interaction between users of the bay and the general public in order to develop a common vision and make recommendations for public policy related to the bay;
- (5) Recommend research, studies, data collection, and planning activities designed to provide additional information on Kaneohe Bay, with particular reference to the specific needs of the bay, and to publicize the results thereof, to the extent that these functions do not duplicate or supplant activities provided by other state or county agencies;
- (6) Advise and make recommendations to the State and the county on matters regarding the use of Kaneohe Bay by the general public, marine research programs, and commercial ocean use activities, including legislative matters;
- (7) Develop short- and long-term goals based on the master plan, resources, and programs for Kaneohe Bay;
- (8) Educate the public and users of Kaneohe Bay on the problems and needs of the bay through public education programs;
- (9) Serve as the public advocate for Kaneohe Bay;
- (10) Initiate and maintain contact with public, private, county, and state organizations, agencies, and individuals engaging in activities in Kaneohe Bay;
- (11) Establish a Kaneohe Bay fishing panel to monitor fishing activities in the bay, as recommended in the master plan as it relates to ocean use activities; and
- (12) Hold [annual public hearings until 1999] quarterly meetings on the status of the implementation of the master plan [as it relates to ocean use activities and research being conducted by the Hawaii institute of marine biology].”

SECTION 3. (a) The Kaneohe bay regional council shall review and evaluate the provisions of section 200D-3, Hawaii Revised Statutes, to determine whether its powers, duties, and functions remain applicable and relevant and if changes to its mission and functions are required.

(b) The Kaneohe bay regional council shall submit a report of its findings and recommendations, including the results of its review and evaluation pursuant to subsection (a), and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 16, 2014.)

**ACT 86**

S.B. NO. 1007

A Bill for an Act Relating to Public Land Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 82, which will sunset on June 30, 2014, established a process by which a legally adequate warning system could be developed for improved public lands. The legislature finds that Act 82 has increased public safety and protects the State and counties from unlimited liability arising out of recreational activities on public lands and, therefore, should be made permanent.

The purpose of this Act is to make permanent liability protections for warning signs for outdoor recreation on public lands by amending Act 82, Session Laws of Hawaii 2003, as amended.

**SECTION 2.** Act 82, Session Laws of Hawaii 2003, as amended by section 5 of Act 152, Session Laws of Hawaii 2007, as amended by section 3 of Act 81, Session Laws of Hawaii 2009, is amended by amending section 8 to read as follows:

**“SECTION 8.** This Act shall take effect on July 1, 2003[~~, and shall be repealed on June 30, 2014~~].”

**SECTION 3.** Statutory material to be repealed is bracketed and stricken.

**SECTION 4.** This Act shall take effect on June 29, 2014.

(Approved June 16, 2014.)

**ACT 87**

H.B. NO. 2246

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Prior to a person purchasing a firearm in the State of Hawaii, a National Instant Criminal Background Check System (NICS) check is completed by the police department in the county in which the firearm is being purchased to determine whether the person is federally prohibited from possessing a firearm. NICS is a federal database to which states are asked to contribute data, in order to identify those who are federally prohibited from possessing a firearm. Recent events have resulted in some states being criticized for failing to provide sufficient information to NICS. This Act addresses Hawaii's noncompliance with NICS information requirements with respect to those with mental illness.

Under the NICS Improvement Amendments Act of 2007, Pub. L. 110-180 (18 U.S.C. §922(d)(4) and (g)(4)), a person “who has been adjudicated as a mental defective or has been committed to any mental institution” may not possess firearms or ammunition. That prohibition is extended to Hawaii law pursuant

ant to section 134-7(a), Hawaii Revised Statutes, which provides: "No person who . . . is a person prohibited from possessing firearms or ammunition under federal law shall own, possess, or control any firearm or ammunition therefor."

Hawaii, however, does not submit involuntary civil commitment information to NICS. Persons who have been involuntarily civilly committed have been found by a court to be mentally ill and to be an imminent danger to themselves or others. Pursuant to Hawaii's confidentiality law on mental health information and records, the State cannot submit civil commitment information to NICS, nor share it with law enforcement agencies responsible for granting firearm permits and registering firearms. This Act amends sections 334-5 and 334-60.5, Hawaii Revised Statutes, to require the courts to forward information about involuntary civil commitment orders to the Hawaii criminal justice data center, which in turn will forward the information to the Federal Bureau of Investigation for inclusion in the NICS database. It also requires the Hawaii criminal justice data center to maintain the information for disclosure to law enforcement for the purpose of firearms permitting and registration.

This Act also addresses a provision of the NICS Improvement Amendments Act of 2007 to implement a relief from disabilities programs. It creates a relief program that would allow someone, who is prohibited under federal law from possessing a firearm because the person was adjudicated a "mental defective" or involuntarily committed to a psychiatric institution, to obtain relief from that federal prohibitor once the person's mental health issues have been addressed and the person is no longer a danger to the public. The person could petition the court and obtain relief by proving to the court that the person will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest. With the implementation of a relief program, Hawaii would be eligible for federal funding. There are now twenty-three states with relief programs that have qualified for over \$50,000,000 in federal fiscal years 2009, 2010, 2011, and 2012 to assist them in ensuring that appropriate information is being properly reported to NICS.

**SECTION 2.** Chapter 134, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§134- Relief from federal firearms mental health prohibitor.** (a) Any person who is prohibited from shipping, transporting, possessing, or receiving any firearm or ammunition, pursuant to title 18 United States Code section 922(d)(4) or (g)(4), having been adjudicated as a mental defective or having been committed to a mental institution under the laws of this State, may petition the circuit court in the circuit where the adjudication or commitment was made, in a civil proceeding, for relief from the federal firearm prohibitor based on the adjudication or commitment. The attorney general shall represent the State; provided that the attorney general, with the prosecuting agency's consent, may designate the prosecuting attorney for the county in which the petitioner seeks relief to represent the State.

- (b) In the civil proceeding, the court shall consider:
- (1) The circumstances regarding the adjudication or commitment from which relief is sought, including the court files of the adjudication or commitment;
  - (2) The petitioner's mental health and criminal history records, if any;
  - (3) The petitioner's reputation in the community, developed at a minimum through character witness statements, testimony, or other character evidence; and

(4) Changes in the petitioner's condition or circumstances since the disqualifying events relevant to the relief sought, including medical documentation that the petitioner is no longer adversely affected by the condition that resulted in the petitioner's adjudication or commitment and is not likely to act in a manner dangerous to public safety.

(c) The court shall grant the petition for relief if the petitioner proves, by clear and convincing evidence, that the petitioner will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The court shall make written findings of facts and conclusions of law on the issues before it and issue a final order.

(d) When a court issues an order granting or denying a petition for relief, the court shall forward this information to the Hawaii criminal justice data center, which in turn shall forward this information to the Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant Criminal Background Check System database. The information shall also be maintained by the Hawaii criminal justice data center for disclosure to and use by law enforcement officials for the purpose of firearms permitting or registration pursuant to chapter 134.

(e) A person may file a petition for relief under this section no less than two years after the adjudication or commitment from which the relief is sought, and no more frequently than once every three years thereafter.

(f) For purposes of this section, the terms "adjudicated as a mental defective", "committed to a mental institution", and "mental institution" shall be construed in accordance with title 18 United States Code section 922, title 27 Code of Federal Regulations section 478.11, and judicial interpretations of those provisions.

(g) Any relief granted pursuant to this section shall not constitute relief from any other federal prohibitors or from any state prohibition pursuant to chapter 134. The State, its officers, and its employees shall not be liable for any damages, attorneys' fees, or costs related to this relief process.

(h) The petitioner may appeal a denial of relief, and the standard of review on appeal shall be *de novo*."

SECTION 3. Section 334-5, Hawaii Revised Statutes, is amended to read as follows:

**"§334-5 Confidentiality of records.** All certificates, applications, records, and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except so far as:

- (1) The person identified, or the person's legal guardian, consents;
- (2) Disclosure may be deemed necessary by the director of health or by the administrator of a private psychiatric or special treatment facility to carry out this chapter;
- (3) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to the public interest;
- (4) Disclosure may be deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, to protect and advocate the rights of persons with mental illness who reside in facilities providing treatment or care;
- (5) Disclosure of a person's treatment summary from a previous five-year period from one health care provider to another may be

- deemed necessary for the purpose of continued care and treatment of the person, or for health care operations; provided that the health care provider seeking disclosure makes reasonable efforts to obtain advance consent from the person; [or]
- (6) Disclosures are made between the person's health care provider and payor to obtain reimbursement for services rendered to the person; provided that disclosure shall be made only if the provider informs the person that a reimbursement claim will be made to the person's payor, the person is afforded an opportunity to pay the reimbursement directly, and the person does not pay[-] or
- (7) Disclosures are made by a court or the Hawaii criminal justice data center of orders of involuntary civil commitment issued pursuant to section 334-60.5 for the purpose of firearms permitting or registration pursuant to chapter 134.

Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by Title 42, Part 2, Code of Federal Regulations, relating to the confidentiality of alcohol and drug abuse patient records. For the purposes of this section, "facilities" shall include but not be limited to hospitals, nursing homes, community facilities for mentally ill individuals, boarding homes, and care homes.

Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not clearly adverse to the interests of the patient, to the patient, the patient's family, legal guardian, or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purpose for which the information was furnished."

SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) If the court finds that the criteria for involuntary hospitalization under section 334-60.2(1) has been met beyond a reasonable doubt and that the criteria under sections 334-60.2(2) and 334-60.2(3) have been met by clear and convincing evidence, the court may issue an order to any law enforcement officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. The court may also authorize the involuntary administration of medication, where the subject has an existing order for assisted community treatment, issued pursuant to part VIII of this chapter, relating to assisted community treatment, and in accordance with the treatment prescribed by that prior order. An order of commitment shall specify which of those persons served with notice pursuant to section 334-60.4, together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit. The court shall forward to the Hawaii criminal justice data center all orders of involuntary civil commitment or information from all orders of involuntary civil commitment, as requested by the Hawaii criminal justice data center, which in turn shall forward the information to the Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant Criminal Background Check System database. The orders or information shall also be maintained by the Hawaii criminal justice data center for disclosure to and use by law enforcement officials for the purpose of firearms permitting or registration pursuant to chapter 134. This subsection shall apply to all involuntary civil commitments without regard to the date of the involuntary civil commitment."

**SECTION 5.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.<sup>1</sup>

**SECTION 6.** This Act shall take effect on July 1, 2014.  
(Approved June 16, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 88**

S.B. NO. 2886

A Bill for an Act Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to conform Hawaii income tax law to the Internal Revenue Code.

**SECTION 2.** Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, [2012,] 2013, as used in this chapter, except as provided in section 235-2.35, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of [January 2, 2013,] December 31, 2013, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal public laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001, which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which [sueh] these sections apply, and if [sueh] the determination was made before January 1, 1978; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which [sueh] these sections apply where [sueh] the taxable year begins before January 1, 1978.”

**SECTION 3.** Section 235-2.4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, subject to the following:

- (1) [Sections] Section 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction),

- 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(1)(E) (relating to the motor vehicle sales tax deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), 63(c)(9) (defining the motor vehicle sales tax deduction), and 63(f) (relating to additional amounts for the aged or blind) of the Internal Revenue Code shall not be operative for purposes of this chapter;
- (2) Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:
- (A) \$4,400 in the case of:
    - (i) A joint return as provided by section 235-93; or
    - (ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);
  - (B) \$3,212 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);
  - (C) \$2,200 in the case of an individual who is not married and who is not a surviving spouse or head of household; or
  - (D) \$2,200 in the case of a married individual filing a separate return;
- (3) Section 63(c)(5) (limiting the basic standard deduction in the case of certain dependents) of the Internal Revenue Code shall be operative, except that the limitation shall be the greater of \$500 or [such] the individual's earned income; and
- (4) The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5.
- (b) Section 68 (with respect to the overall limitation on itemized deductions) of the Internal Revenue Code shall be operative[, except that sections 68(f) and 68(g) shall not be operative]; provided that the thresholds shall be those that were operative for federal tax year 2009.”
2. By amending subsection (g) to read:
- “(g) Section 132 (with respect to certain fringe benefits) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the provision in section 132(f)(2) that equalizes the dollar amounts for sections 132(f)(2)(A) and (B) [after February 17, 2009, until January 1, 2011.] shall not be operative and except that section 132(n) shall not apply to United States Department of Defense Homeowners Assistance Program payments authorized by the American Recovery and Reinvestment Act of 2009.”
3. By amending subsections (i) and (j) to read:
- “(i) Section 164 (with respect to taxes) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that:
- (1) [Sections] Section 164(a)(6) and [~~164(b)(6)~~] (b)(6) shall not be operative for the purposes of this chapter; [and]
  - (2) The deductions under [sections] section 164(a)(3) and [~~164(b)(5)~~] (b)(5) shall not be operative for corporate taxpayers and shall be operative only for the following individual taxpayers:
    - (A) A taxpayer filing a single return or a married person filing separately with a federal adjusted gross income of less than \$100,000;
    - (B) A taxpayer filing as a head of household with a federal adjusted gross income of less than \$150,000; and
    - (C) A taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of less than \$200,000[-]; and

(3) Section 164(a)(3) shall not be operative for any amounts for which the credit under section 235-55 has been claimed.

(j) Section 165 (with respect to losses) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the amount prescribed by sections 165(h)(1) (relating to the limitation per casualty) of the Internal Revenue Code shall be a \$100 limitation per casualty, and [sections] section 165(h)(3)(A) and [165(h)(3)(B)] (B) (both of which relate to special rules for personal casualty gains and losses in federally declared disasters) of the Internal Revenue Code shall not be operative for the purposes of this chapter. Section 165 as operative for this chapter shall also apply to losses sustained from the sale of stocks or other interests issued through the exercise of the stock options or warrants granted by a qualified high technology business as defined in section 235-7.3."

4. By amending subsection (l) to read:

"(l) Section 172 (with respect to net operating loss deductions) of the Internal Revenue Code shall be operative for purposes of this chapter, as further provided in section 235-7(d), except that [sections] section 172(b)(1)(J) and [172(f)] (j) (both of which relate to qualified disaster losses) of the Internal Revenue Code shall not be operative for purposes of this chapter."

5. By amending subsection (q) to read:

"(q) Section 265 (with respect to expenses and interest relating to tax-exempt income) of the Internal Revenue Code shall be operative for purposes of this chapter; except that [sections] section 265(b)(3)(G) and [265(b)(7)] (7) shall not be operative and [that] section 265 shall not apply to expenses for royalties and other income derived from any patents, copyrights, and trade secrets by an individual or a qualified high technology business as defined in section 235-7.3. Such expenses shall be deductible."

6. By amending subsections (t) and (u) to read:

"(t) In administering the provisions of sections 410 to 417 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.), sections 418 to 418E (with respect to special rules for multiemployer plans), and sections 419 and 419A (with respect to treatment of welfare benefit funds) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under [such] those sections and to [such] other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 419A.

In administering sections 401 to 419A (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(u) In administering section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contributions that are distributed from the annuity and used solely to obtain retirement credits under the state employees' retirement system shall not be treated as a rollover for purposes of section 403(b)(8)(A) of the Internal Revenue Code, and [such] those funds shall be subject to income tax under this chapter."

7. By amending subsection (w) to read:

"(w) In administering section 457 (with respect to compensation plans of state and local governments and tax-exempt organizations) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contribu-

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tions that are distributed from the deferred compensation plan and used solely to obtain retirement credits under the state employees' retirement system shall not be treated as a rollover for purposes of section 457(e)(16)(A) of the Internal Revenue Code and [such] those funds shall be subject to income tax under this chapter."

8. By amending subsection (dd) to read:

"(dd) Section 530 (with respect to [education individual retirement accounts]) Coverdell education savings accounts) of the Internal Revenue Code shall be operative for the purposes of this chapter. For the purpose of determining the maximum amount that a contributor could make to an education individual retirement account for state income tax purposes, modified adjusted gross income as used in section 530 as operative for this chapter means federal modified adjusted gross income as defined in section 530."

SECTION 4. Section 235-2.45, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

"(e) Section 1202 (with respect to partial exclusion for gain from certain small business stock) of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 1202(a)(3) and (4) shall not be operative for purposes of this chapter."

2. By amending subsection (h) to read:

"(h) Subchapter S (sections 1361 to 1379) (with respect to tax treatment of S corporations and their shareholders) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in part VII; except that [sections] section 1374(d)(7)(B) [and 1374(d)(7)(C)], (C), and (D) shall not be operative for purposes of this chapter."

3. By amending subsection (m) to read:

"(m) [Subchapter C (sections 6221 to 6233)] Sections 6221, 6222, and 6231 (with respect to tax treatment of partnership items) of subchapter C of chapter 63 of the Internal Revenue Code shall be operative for the purposes of this chapter."

SECTION 5. Section 235-2.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The department of taxation shall submit to each regular session of the legislature a bill to amend sections 235-2.3, 235-2.4, and 235-2.45 and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on [January 2, 2013.] the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions [which] that are limited in their operation, or [which] that are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of [such] the bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt

none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation.”

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

SECTION 7. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2013.

(Approved June 16, 2014.)

**ACT 89**

S.B. NO. 2895

A Bill for an Act Relating to Taxpayer Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-20.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The moneys in the fund shall be used for the following purposes:
- (1) Issuing comfort letters, letter rulings, written opinions, and other guidance to taxpayers;
  - (2) Issuing certificates under sections 235-110.9 and 235-110.91; [and]
  - (3) Administering the operations of the special enforcement section[;]; and
  - (4) Developing, implementing, and providing taxpayer education programs, including tax publications.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 2014.)

**ACT 90**

H.B. NO. 2257

A Bill for an Act Relating to Department of Education Superintendent's Salary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that existing law authorizes the board of education to set the salary of the superintendent of education, but the salary cannot exceed a specific amount, referred to as a salary cap.

The legislature further finds that it is a challenge to recruit and fill this state leadership position because the statutory salary cap is not in alignment with national salary norms and therefore is not competitive with or in the range of the salaries of other similar administrative leadership positions at comparable school districts.

The legislature further finds that the statute governing the superintendent's salary has not been amended since 2000 and that the salary cap should be revised as a matter of equity, to account for cost of living increases.

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Amending the current salary cap for the superintendent of education was based on a review of the mean salary of all superintendents across the country, the average annual cost of living increases indicated by the consumer price index, and the majority of superintendents' salaries across the country with student enrollment greater than twenty-five thousand. Hawaii's public schools enroll approximately 185,000 students.

The amendment to the salary cap will also provide the board of education with the flexibility it needs to attract and retain individuals to support a strong statewide public education system and the authority and latitude to establish the salary of this leadership position commensurate with various factors, including the breadth of responsibilities and duties of the position, the experience and skills the individual brings to the position, and the job performance of the individual.

The purpose of this Act is to provide the board of education, as the appointing body of the superintendent, with more flexibility to establish the salary of the superintendent, by raising the salary cap.

SECTION 2. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

**“§26-52 Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) The salary of the superintendent of education shall be set by the board of education at a rate no greater than [\$150,000] \$250,000 a year[;]. The superintendent shall be subject to an annual performance evaluation that is in alignment with other employee evaluations within the department of education and are based on outcomes determined by the board of education; provided that nothing shall prohibit the board of education from conditioning a portion of the salary on performance;
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents;
- (3) Effective July 1, 2004, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, business, economic development, and tourism, commerce and consumer affairs, Hawaiian home lands, health, human resources development, human services, labor and industrial relations, land and natural resources, public safety, taxation, and transportation shall be as last recommended by the executive salary commission. Effective July 1, 2007, and every six years thereafter, the salaries shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature; and
- (4) The salary of the adjutant general shall be \$85,302 a year. Effective July 1, 2007, and every six years thereafter, the salary of the adjutant general shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature, except that if the state salary is in conflict with the pay and allowance fixed by the tables of the regular army or air force of the United States, the latter shall prevail.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that this Act shall be repealed on June 30, 2024, and section 26-52, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the approval date of this Act; provided further that any contracts entered into prior to June 30, 2024, shall remain in effect for the duration of the contract.

(Approved June 16, 2014.)

## ACT 91

S.B. NO. 651

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§356D- Prohibition on smoking in and around public housing; designated smoking areas.** (a) Smoking shall be prohibited in any public housing project, elder or elderly household, as defined in section 356D-1, or state low-income housing project, as defined in section 356D-51, within:

- (1) Each individual housing unit;
- (2) All common areas;
- (3) Community facilities; and
- (4) Twenty feet from each individual building of the public housing project or state low-income housing project, and from any entrance, exit, window, and ventilation intake that serves an enclosed or partially enclosed area.

(b) Notwithstanding subsection (a), the authority may designate one or more permissible smoking areas at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit.

(c) The authority shall place and maintain “No smoking” signage at all entrances and exits of the property. The authority may display additional “No smoking” signage at residential and community facilities at their entrances and exits, offices, and in or at enclosed, partially enclosed, or open common areas for the purpose of conspicuous notice.

(d) The authority may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(e) For purposes of this section:

“Common areas” means roofs, halls, sidewalks, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project or household normally in common use or other areas designated by the authority.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form.”

SECTION 2. Section 356D-92, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, the authority may terminate any lease, rental agreement, permit, or license covering the use and occupation of

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any dwelling unit or other premises located within a public housing project and evict from any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
- (3) Violation of any of the rules of the authority;
- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; [or]
- (5) Upon a third violation of section 356D- ; provided that a violation of any of these terms by a non-resident, a guest who is visiting a resident, or by any member of the resident's household shall be deemed a violation by the resident; or
- [§5] (6) The existence of any other circumstances giving rise to an immediate right to possession by the authority."

SECTION 3. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 92

S.B. NO. 2082

A Bill for an Act Relating to Land Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify that the fee schedule in section 501-218, Hawaii Revised Statutes, is not intended to be a comprehensive schedule of all fees payable under chapter 501, Hawaii Revised Statutes, but may be supplemented by fee schedules established by court rule.

This Act also allows the department of accounting and general services to establish and maintain a schedule of fees for the services performed by the state land surveyor under chapter 501, Hawaii Revised Statutes. This Act incorporates language similar to current section 501-218, Hawaii Revised Statutes, which allows the department of land and natural resources to adopt administrative rules on behalf of the bureau of conveyances.

SECTION 2. Section 501-218, Hawaii Revised Statutes, is amended to read as follows:

**"§501-218 Schedule of fees[.] authority to amend.** (a) [Except where otherwise provided by the supreme court of the State of Hawaii that shall be empowered to amend or add to the schedule from time to time, or fees for services

~~by the bureau of conveyances set by rules adopted by the department of land and natural resources, pursuant to chapter 91, the]~~ The fees payable under this chapter are as follows:

- (1) For every application filed pursuant to this chapter, including indexing and recording the application, and transmitting to registrar, when filed with assistant registrar, \$3[-];
  - (2) For every plan filed, \$1[-];
  - (3) For examining title, \$10 and two-tenths of one per cent of the assessed value of the land and improvements on the basis of the last assessment for taxation, or the value of the land as determined under section 501-211 when the land was not separately assessed[-];
  - (4) For verifying and checking map on the ground, for lots of one acre or less, \$25; an addition of \$1 an acre or fraction thereof for all area over one acre and up to one hundred acres; an addition of 50 cents an acre or fraction thereof for all area over one hundred acres and up to one thousand acres; an addition of 25 cents an acre or fraction thereof for all area over one thousand acres[-];
  - (5) For checking survey and map as to form and mathematical correctness, but not on the ground, \$3 an hour[-];
  - (6) For approving subdivision of registered land, and for checking the form and mathematical correctness, but not on the ground, \$3 an hour[-];
  - (7) For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for each service[-];
  - (8) For each instrument affecting a title not reported in applicant's filed abstract of title, \$2[-];
  - (9) For filing an amended application, \$1[-];
  - (10) For each notice by publication, 25 cents[-];
  - (11) For entering any general default, \$1[-];
  - (12) For filing any answer, \$1, to be paid by the party filing the answer[-];
  - (13) For every subpoena, \$1[-];
  - (14) For swearing each witness, 10 cents[-];
  - (15) For entering any discontinuance, \$1[-];
  - (16) For filing notice of appeal, \$30[-];
  - (17) For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, \$1[-];
  - (18) For copy of decree of registration, \$1[-];
  - (19) For filing any petition after original registration, \$1; an addition of 25 cents for each exhibit attached[-];
  - (20) For filing any order after original registration, \$5[-];
  - (21) In all cases not expressly provided for by law, the fees of all public officers for any official duty or service under this chapter shall be at a rate established by the court[-]; and
  - (22) For any application made by or in the name of the State, or any political subdivision of the State, any proceedings upon the application or any dealing with registered land by the State, or any political subdivision of the State, as owner, no fees shall be charged.
- (b) For recordation of the document of which the United States, State of Hawaii, or any county of the State of Hawaii, is the grantee, no fees shall be charged.
- (c) The supreme court, by rule of court, from time to time, may revise, amend, add to, or eliminate any fees payable under subsection (a), or prescribe additional fees as it deems reasonable, for services provided by the office of the registrar of the land court as may be required under this chapter.

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(d) The department of land and natural resources, by rule adopted pursuant to chapter 91, from time to time, may revise, amend, add to, or eliminate any fees payable under subsection (a) for services provided by assistant registrars in the bureau of conveyances under this chapter.

(e) The department of accounting and general services, by rule adopted pursuant to chapter 91, from time to time, may revise, amend, add to, or eliminate any fees payable under subsection (a) for services provided by the state land surveyor for checking and processing land court maps and other services as may be required under this chapter.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved June 16, 2014.)

## ACT 93

S.B. NO. 2048

A Bill for an Act Relating to Cable Television Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to:

- (1) Authorize the director of commerce and consumer affairs to designate access organizations in each franchise area;
- (2) Delete the requirement that the department of commerce and consumer affairs conduct annual management and financial audits of designated public, educational, or governmental access channels, as these access organizations are already required to provide annual independently audited financial statements to the department; and
- (3) Remove the sunset provision in Act 19, Session Laws of Hawaii 2011, thereby permanently allowing the director of commerce and consumer affairs to designate an access organization in each franchise area to oversee public, educational, and governmental channels and requiring the cable advisory committee to advise the director and access organizations on certain matters.

SECTION 2. Section 440G-3, Hawaii Revised Statutes, is amended by amending the definition of “service area” to read as follows:

“[“Service area”] Franchise area or service area means the geographic area for which a cable operator has been issued a cable franchise.”

SECTION 3. Section 440G-8.3, Hawaii Revised Statutes, is amended to read as follows:

**“[§440G-8.3] Designation of access organizations for public, educational, or governmental access channels.** (a) The director may designate [an] access [organization] organizations in each franchise area to oversee the development, operation, supervision, management, production, and broadcasting of programs of public, educational, or governmental access facilities obtained under section 440G-8; provided that the designation shall be exempt from chapter 103D.

(b) No access organization shall be designated except upon written application or proposal to the director, and following a public hearing on each

island within the local franchise area that provides opportunity for public input and allows interested parties to intervene.

(c) In determining whether to make a designation, the director shall consider:

- (1) The content of the application or proposal;
- (2) The public need for the proposed service;
- (3) The ability and experience of the applicant to offer public, educational, or government programming broadcast services;
- (4) The suitability of the applicant;
- (5) The financial responsibility of the applicant;
- (6) The technical and operational ability of the applicant to perform efficiently the services for which the designation is requested;
- (7) Any objections arising from the public hearing, the cable advisory committee, or elsewhere; and
- (8) Any other matters that the director deems appropriate under the circumstances.

(d) The director may require an applicant to provide information on its process for selecting members of its board of directors; provided that the director shall have no authority to require that an applicant amend its selection process as a condition of designation.

(e) An applicant shall provide information regarding its past performance and any proposed practices for ensuring that the public, educational, or governmental access facilities support the diversity of viewpoints and uphold the public's right of free speech.

(f) The director shall ensure that the terms and conditions required of the operation of an access organization designated under subsection (a) are fair to the public, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing cable access in the service area.

(g) Any decision designating, modifying, or rescinding a designation of an access organization or the requirements therefor shall first be submitted to the cable advisory committee for advice under section 440G-13.

[~~(h) The department shall conduct an annual management and financial audit of the access organization designated under this section.]~~"

SECTION 4. Act 19, Session Laws of Hawaii 2011, is amended by amending section 4 to read as follows:

~~"SECTION 4. This Act shall take effect on July 1, 2011[; provided that this Act shall be repealed on June 30, 2014, and section 440G-13, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act]."~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on June 29, 2014.

(Approved June 16, 2014.)

**A Bill for an Act Relating to Private Guards.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the purpose of Act 208, Session Laws of Hawaii 2010, was to ensure the competency and professionalism of private security guards and individuals acting in a guard capacity by requiring these individuals to register as a guard with the board of private detectives and guards ("board") and meet new registration, instruction, and training requirements prior to acting as a guard.

The legislature further finds that, as the board has just completed the initial registration of approximately nine thousand guard employees in 2013, the board, industry, and registrants need some relief from the continuing education requirement that is scheduled to go into effect on June 30, 2014. Accordingly, the effective date of the new continuing education requirements should be extended to the next renewal period of June 30, 2016.

The legislature additionally finds that although the board concurs with the legislature that requiring continuing education to renew a guard registration is valuable to the registrant, industry, and public, the board finds that the four-hour requirement should be changed from an annual requirement to a biennial requirement. The board believes that four hours every two years is sufficient to ensure that guard employees are aware of current trends in the guard industry and refresh guard employees about some of the important training concepts included in their initial eight-hour training curriculum. Therefore, amendments to the continuing education requirement are necessary.

The purpose of this Act is to amend provisions relating to private guards and individuals acting in a guard capacity by:

- (1) Reducing the continuing education requirement to four hours every two years;
- (2) Delaying the continuing education requirement by two years, thereby making the requirement effective prior to the June 30, 2016, renewal cycle; and
- (3) Making permanent the registration and licensure requirements for private guards and individuals acting in a guard capacity by repealing the sunset date of Act 208, Session Laws of Hawaii 2010.

**SECTION 2.** Section 463-10.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) Guards and individuals acting in a guard capacity shall successfully complete the classroom instruction specified by this section, pass a written test, and undergo four hours of on-the-job training supervised by an individual who has successfully completed all of the requirements of this section or who has otherwise been approved by the board for on-the-job training. Guards and individuals acting in a guard capacity shall successfully complete:

- (1) Eight hours of classroom instruction before the first day of service; and
- (2) Four hours of classroom instruction [annually] biennially thereafter[.]; provided that in addition to relevant guard industry material, the required classroom instruction shall include a refresher component on professional image and aloha training."

2. By amending subsection (g) to read:

"(g) Prior to the June 30, [2014] 2016, renewal of the guard registration and every registration renewal thereafter, the applicant shall pay all required fees, and have had at least four hours of continuing education as specified in the rules of the board.

The board may conduct a random audit, pursuant to rules adopted pursuant to chapter 91, of registrants applying for renewal of a registration to determine whether the continuing education requirements of this subsection have been met.

The failure, neglect, or refusal of any registered guard to pay the renewal fee or meet the continuing education requirements shall constitute a forfeiture of the guard's registration. A forfeited registration may be restored upon written application within one year from the date of forfeiture, payment of the required renewal fee plus penalty fees, and meeting the continuing education requirements in effect at the time of restoration."

**SECTION 3.** Act 208, Session Laws of Hawaii 2010, is amended by amending section 8 to read as follows:

"**SECTION 8.** This Act shall take effect upon its approval[; provided that this Act shall be repealed on July 1, 2016; and provided further that sections 463-1, 463-8, 463-9, and 463-13, Hawaii Revised Statutes, shall be reenacted in the form in which they existed on the day before the effective date of this Act]."

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on June 29, 2014.

(Approved June 16, 2014.)

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S.B. NO. 2809

A Bill for an Act Relating to Utilities Regulation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to align statutory language regarding utility ratemaking with widely accepted utility ratemaking principles and ratemaking practices already applied in Hawaii. The legislature intends that this Act be prospective in nature so that existing judicial and regulatory decisions are considered in accordance with this Act. The legislature further intends that specific application of the used and useful standard in rate making be left to the discretion of the public utilities commission.

**SECTION 2.** Section 269-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission as prescribed in section 269-12(b), and prior approval by the commission for any increases in rates, fares, or charges. The commission, in its discretion and for good cause shown, may allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon

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notice less than that provided for in section 269-12(b). A contested case hearing shall be held in connection with any increase in rates, and the hearing shall be preceded by a public hearing as prescribed in section 269-12(c), at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The commission, upon notice to the public utility, may:

- (1) Suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom;
- (2) After a hearing, by order:
  - (A) Regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices so that the same shall be just and reasonable;
  - (B) Prohibit rebates and unreasonable discrimination between localities or between users or consumers under substantially similar conditions;
  - (C) Regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public;
  - (D) Prescribe its form and method of keeping accounts, books, and records, and its accounting system;
  - (E) Regulate the return upon its public utility property;
  - (F) Regulate the incurring of indebtedness relating to its public utility business; and
  - (G) Regulate its financial transactions; and
- (3) Do all things that are necessary and in the exercise of the commission's power and jurisdiction, all of which as so ordered, regulated, fixed, and changed are just and reasonable, and provide a fair return on the property of the utility [actually] used [~~or~~] and useful for public utility purposes."

SECTION 3. Section 269-134, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding any requirements to the contrary, a high-voltage electric transmission cable system may be deemed "used [~~or~~] and useful for public utility purposes" upon commencing commercial operations, subject to the commission's determination and approval."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 2014.)

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S.B. NO. 2411

A Bill for an Act Relating to Subsidies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Article VII, section 4, of the state constitution provides in part: "No grant of public money or property shall be made except pursuant to standards provided by law." Chapters 6E, 42F, 103F, 304A, and 383, Hawaii Revised Statutes, implement this constitutional requirement by establishing

standards and criteria for the award of a grant, as well as a subsidy, to a private organization or individual.

No substantive difference exists between a "grant" and "subsidy" in the Hawaii Revised Statutes and the state constitution does not require the establishment of standards for the grant of a "subsidy". Therefore, the legislature finds that the term "subsidy" is not necessary.

The purpose of this Act is to repeal references to "subsidy" or "subsidies" as a type of funding award that may be made to a private organization or individual for a public purpose.

**SECTION 2.** Section 6E-2, Hawaii Revised Statutes, is amended by amending the definition of "project" to read as follows:

"Project" means any activity directly undertaken by the State or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, [subsidies], loans, or other forms of funding assistance from the State or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the State or its political subdivisions."

**SECTION 3.** Section 6E-35, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) To receive state funds, the State of Hawaii Museum of Monarchy History shall:

- (1) Be licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which funds are appropriated;
- (2) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (3) Agree not to use the funds for entertainment or lobbying activities;
- (4) Be incorporated under the laws of the State;
- (5) Have bylaws or policies that describe the manner in which the activities or services for which a grant [~~or subsidy~~] is awarded shall be conducted or provided;
- (6) Have been determined and designated to be a tax-exempt organization by the Internal Revenue Service; and
- (7) Have a governing board whose members shall have no material conflict of interest and serve without compensation."

**SECTION 4.** Chapter 42F, Hawaii Revised Statutes, is amended by amending its title to read as follows:

#### **"CHAPTER 42F GRANTS [AND SUBSIDIES]"**

**SECTION 5.** Section 42F-101, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "recipient" to read:

"Recipient" means any organization or person receiving a grant [~~or subsidy~~]."

2. By repealing the definition of "subsidy".

["Subsidy" means an award of state funds by the legislature, by an appropriation to a recipient specified in the appropriation, to reduce the costs in-

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eurred by the organization or individual in providing a service available to some or all members of the public.”]

SECTION 6. Section 42F-102, Hawaii Revised Statutes, is amended to read as follows:

**[§42F-102][ ] Applications for grants [and subsidies].** Requests for grants [and subsidies] shall be submitted to the appropriate standing committees of the legislature at the start of each regular session of the legislature. Each request shall state:

- (1) The name of the requesting organization[; or individual];
- (2) The public purpose for the grant [or subsidy];
- (3) The services to be supported by the grant [or subsidy];
- (4) The target group; and
- (5) The cost of the grant [or subsidy] and the budget.”

SECTION 7. Section 42F-103, Hawaii Revised Statutes, is amended to read as follows:

**“§42F-103 Standards for the award of grants [and subsidies].** (a) Grants [and subsidies] shall be awarded only to individuals who, and organizations that:

- (1) Are licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which a grant [or subsidy] is awarded;
  - (2) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
  - (3) Agree not to use state funds for entertainment or lobbying activities; and
  - (4) Allow the state agency to which funds for the grant [or subsidy] were appropriated for expenditure, legislative committees and their staff, and the auditor full access to their records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and ensuring the proper expenditure of the grant [or subsidy].
- (b) In addition, a grant [or subsidy] may be made to an organization only if the organization:
- (1) Is incorporated under the laws of the State; and
  - (2) Has bylaws or policies that describe the manner in which the activities or services for which a grant [or subsidy] is awarded shall be conducted or provided.
- (c) Further, a grant [or subsidy] may be awarded to a nonprofit organization only if the organization:
- (1) Has been determined and designated to be a nonprofit organization by the Internal Revenue Service; and
  - (2) Has a governing board whose members have no material conflict of interest and serve without compensation.
- (d) If a grant [or subsidy] is used by an organization for the acquisition of land, when the organization discontinues the activities or services on the land acquired for which the grant [or subsidy] was awarded and disposes of the land in fee simple or by lease, the organization shall negotiate with the expending agency for a lump sum or installment repayment to the State of the amount of the grant [or subsidy] used for the acquisition of the land. This restriction shall be registered, recorded, and indexed in the bureau of conveyances or with the as-

sistant registrar of the land court as an encumbrance on the property. Amounts received from the repayment of a grant [or subsidy] under this subsection shall be deposited into the general fund.”

SECTION 8. Section 42F-104, Hawaii Revised Statutes, is amended to read as follows:

**“[§42F-104] Contracts for grants [and subsidies].** An appropriation for a grant [or subsidy] shall be disbursed by a contract between the state agency designated the expending agency for the appropriation by the legislature, and the recipient of the grant [or subsidy]. The contract shall be effective as of the first day of the fiscal year for which the funds for the grant [or subsidy] are appropriated[;]; provided that up to one-fourth of the total amount appropriated may be disbursed prior to the execution of the contract.”

SECTION 9. Section 42F-105, Hawaii Revised Statutes, is amended to read as follows:

**“[§42F-105] Allotment.** Contracts to disburse and appropriations for grants [and subsidies] shall be subject to the allotment system generally applicable to all appropriations made by the legislature.”

SECTION 10. Section 42F-106, Hawaii Revised Statutes, is amended to read as follows:

**“[§42F-106] Monitoring and evaluation.** Every grant [or subsidy] shall be monitored by the expending agency to ensure compliance with this chapter and the public purpose and legislative intent of the grant [or subsidy].”

SECTION 11. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) Any law to the contrary notwithstanding, any county may:
  - (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section or section 46-15.2, including the satisfaction of any guarantees made by the county pursuant to this section;
  - (2) Appropriate moneys of the county to carry out the purposes of this section;
  - (3) Obtain insurance and guarantees from the State or the United States, or [subsidies] grants from either;
  - (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
  - (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and
  - (6) Adopt rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.”

SECTION 12. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

- “(e) This section shall not apply to:

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- (1) Any procurement of less than \$25,000 or that is considered a small purchase under section 103D-305 and any state or county department contract of less than \$25,000;
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307, disaster relief under chapter 127, or a civil defense emergency under chapter 128;
- (3) Grants [and subsidies] disbursed by a state agency pursuant to chapter 42F or in accordance with standards provided by law as required by article VII, section 4, of the state constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
  - (A) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, and reimbursements;
  - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;
  - (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
  - (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
  - (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
  - (F) For loans under government-administered loan programs; or
  - (G) To make periodic, recurring payments for utility services;
- (6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility; and
- (7) Contracts or agreements of the Hawaii health systems corporation and its regional system boards."

SECTION 13. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
  - (A) For grants [or subsidies] as [those terms are] defined in section 42F-101, made by the State in accordance with standards provided by law as required by article VII, section 4, of the state constitution; or by the counties pursuant to their respective charters or ordinances;
  - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
  - (C) To satisfy obligations that the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;

- (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
  - (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
  - (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
  - (G) To governmental bodies of the State;
  - (H) As loans, under loan programs administered by a governmental body; and
  - (I) For contracts awarded in accordance with chapter 103F;
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) To procure the following goods or services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:
- (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
  - (B) Works of art for museum or public display;
  - (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
  - (D) Meats and foodstuffs for the Kalaupapa settlement;
  - (E) Opponents for athletic contests;
  - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
  - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
  - (H) Goods and services for commercial resale by the State;
  - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;
  - (J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under laws of another state or foreign country, or in an action brought in another state, federal, or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State;
  - (K) Financing agreements under chapter 37D; and
  - (L) Any other goods or services which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- (5) Which are specific procurements expressly exempt from any or all of the requirements of this chapter by:
- (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter; and

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- (B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms.”

SECTION 14. Section 103F-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall apply to all contracts made by state agencies and may be used by county agencies to provide health or human services to Hawaii’s residents; provided that this chapter shall not apply to:

- (1) Contracts to award grants [or subsidies] of state funds appropriated by the legislature to a specific organization or individual;
- (2) Transactions between or among government agencies, including but not limited to agreements, contracts, and grants;
- (3) Transactions expressly exempt from the requirements of this chapter; and
- (4) Transactions that the chief procurement officer determines are exempt under rules adopted by the policy board.”

SECTION 15. Section 103F-409, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A standard contract form for health and human services, including purchases[,] and grants, [and subsidies,] shall be provided to governmental bodies by the attorney general that may be utilized, at the option of the head of the purchasing agency, without requiring prior approval as to form by the attorney general so long as no substantive changes are made to the form and the contents are appropriate.”

SECTION 16. Section 261-6, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The Hawaii wing, civil air patrol shall comply with chapter 42F in its application for grants [and subsidies]; execute an annual contract with the department of transportation by the third day of July; and submit to the department of transportation an annual expenditure plan to ensure the disbursement of funds by the tenth day of July, October, January, and April of each fiscal year.”

SECTION 17. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide all authorizers with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply or are entitled to receive. Federal funds received by the department for charter schools shall be transferred to authorizers for distribution to the charter schools they authorize in accordance with the federal requirements. If administrative services related to federal grants [and subsidies] are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six per cent of the charter school’s federal grants [and subsidies].

Any charter school shall be eligible to receive any supplemental federal grant or award for which any other public school may submit a proposal, or

any supplemental federal grants limited to charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplemental grants, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six per cent of the supplemental grant for which the services are used.

All additional funds generated by the governing boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the governing boards."

**SECTION 18.** Section 304A-2351, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Neither the trust established by the university pursuant to subsection (a), nor any trustee thereof, shall be a department, office, agency, board, commission, bureau, instrumentality, committee, authority, or office of the State or any of its political subdivisions, or otherwise deemed a public or quasi-public entity, nor shall the initial funding of, or a transfer to, the trust constitute a state grant [~~or subsidy~~]. The trust shall not be subject to laws or rules governing state and other public or quasi-public entities, including but not limited to chapters 23, 36, 37, 38, 40, 42F, 76, 78, 84, 89, 91, 92, 92F, 103, and 103D."

**SECTION 19.** Section 321-442, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other power or duty prescribed by law or in this part, the director, through the department, may maintain an emergency response stockpile to prepare for or respond to a CBRNE event. The director may undertake all lawful activities necessary to carry out this part, including but not limited to adopting rules pursuant to chapter 91, disbursing funds for grants [~~or subsidies~~] pursuant to chapter 42F, and procuring goods or services pursuant to chapter 103D or 103F."

**SECTION 20.** Section 352D-6, Hawaii Revised Statutes, is amended to read as follows:

**"§352D-6 Organizational structure.** The office of youth services shall be composed of such divisions and sections as are deemed necessary by the director to:

- (1) Provide diagnostic evaluation, treatment, and rehabilitation services for all youths referred to services provided by the office or placed in the office's custody by the family court;
- (2) Provide supervision and counseling services for youth in shelter or correctional facilities under the office's jurisdiction, including community-based facilities;
- (3) Provide educational, vocational-educational, and other programs to effectively occupy the time of the youth placed in a facility under the office's jurisdiction which promote the development of self-esteem and useful skills to prepare youths in becoming productive members of the community;
- (4) Provide continuous program planning, development, and coordination of youth services, including the coordination with other government and private social service agencies that work with youths to ensure that a full-range of programs is available and that such programs are consistent with the policy of this chapter and are not unnecessarily duplicative or conflicting;

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- (5) Provide prevention services to include a comprehensive intake/assessment and information/referral system throughout the State which shall access services to youth and their families;
- (6) Provide a case management system based on the individual needs of youth which shall provide for in-depth client assessment, appropriate service planning, and client advocacy;
- (7) Provide for the implementation of chapter 352, youth correctional facilities and other needed correctional services, including ensuring that these facilities and services meet the present and future needs of youth under the jurisdiction of the youth correctional facilities;
- (8) Facilitate the development of and, when appropriate, provide for training programs for persons offering services to youth at risk;
- (9) Provide for technical assistance and consultation to providers and potential providers;
- (10) Seek, apply for, and encourage the use of all federal funds for youth services and facilitate the coordination of federal, state, and local policies concerning services for youth;
- (11) Prepare and submit an annual report to the governor and the legislature. This report shall include, but not be limited to, a review of the status of youth services within the State, recommendations for priorities for the development and coordination of youth services; and
- (12) Monitor, evaluate, and audit all grants[~~, subsidies,~~] under chapter 42F and purchase of services under chapter [42D] 103F which relate to the office of youth services.”

SECTION 21. Section 383-128, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) For purposes of grants [~~and subsidies~~] awarded under subsection (d), any organization requesting a grant [~~or subsidy~~] shall:

- (1) Be licensed and accredited, as applicable, under the laws of the State;
- (2) Have at least one year's experience with the project or in the program area for which the request or proposal is being made; except that the director may grant an exception where the project or program area deals with new industry training; and
- (3) Be, employ, or have under contract persons who are qualified to engage in the program or activity to be funded by the State.

(g) Recipients of grants [~~or subsidies~~] shall be subject to the following conditions:

- (1) Any organization requesting a grant [~~or subsidy~~] shall submit its request together with all the information required by the director on an application form provided by the department;
- (2) The recipient of a grant [~~or subsidy~~] shall not use public funds for purposes of entertainment or perquisites;
- (3) The recipient of a grant [~~or subsidy~~] shall comply with applicable federal, state, and county laws;
- (4) The recipient of a grant [~~or subsidy~~] shall comply with any other requirements the director may prescribe;
- (5) The recipient of a grant [~~or subsidy~~] shall allow the director, the legislative bodies, and the legislative auditor full access to records, reports, files, and other related documents so that the program, management, and fiscal practices of the grant recipient may be

- monitored and evaluated to assure the proper and effective expenditure of public funds;
- (6) Every grant [~~or subsidy~~] shall be monitored according to rules established by the director to ensure compliance with this section; and
- (7) Any recipient of a grant [~~or subsidy~~] under this section who withholds or omits any material fact or deliberately misrepresents facts to the director or who violates the terms of the recipient's contract shall be in violation of this section and, in addition to any other penalties provided by law, shall be prohibited from applying for a grant [~~or subsidy~~] under this section for a period of five years from the date of termination."

**SECTION 22.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 23.** This Act shall take effect upon its approval; provided that the amendment made to section 46-15.1(c), Hawaii Revised Statutes, by section 11 of this Act shall not be repealed when section 46-15.1 is reenacted on June 30, 2015, pursuant to section 3 of Act 141, Session Laws of Hawaii 2009.

(Approved June 16, 2014.)

## ACT 97

H.B. NO. 2611

A Bill for an Act Relating to the State Capitol.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the facilities and grounds of the Hawaii state capitol hold a unique and special place in the hearts of the citizens of this State. Known as one of the most publicly accessible state capitols in the nation, its unique, welcoming architecture symbolizes Hawaii's spirit of aloha and island community and is the place where the State's constitutionally-established democratic process is exercised.

In recognition of the historic significance of the Hawaii state capitol and the democratic processes that often necessitate extended hours of access to and operation of the capitol building, the legislature finds that a separate financing and governance structure should be established to ensure that the facilities and grounds of the Hawaii state capitol are secure, properly maintained, and operated in a manner that meets the needs and expectations of the general public.

The purpose of this Act is to establish a state capitol management committee to oversee the financing and governance of the state capitol and its grounds and facilities.

**SECTION 2.** Chapter 6E, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**"§6E- State capitol; state capitol management committee; established; oversight and management; powers and duties.** (a) The oversight and management of the state capitol and its grounds and facilities shall be vested in the state capitol management committee established pursuant to this section.

(b) There is established the state capitol management committee, which shall be composed of the following members or their respective designees:

- (1) The governor's chief of staff;
- (2) The comptroller;

- (3) The director of public safety;
- (4) Two members of the senate as appointed by the president of the senate;
- (5) Two members of the house of representatives as appointed by the speaker of the house of representatives;
- (6) A legislative officer of the senate appointed by the president of the senate; and
- (7) A legislative officer of the house of representatives appointed by the speaker of the house of representatives;

provided that for members appointed pursuant to paragraphs (6) and (7), "legislative officer" shall have the same meaning as that term is defined in section 88-21.

The chairperson of the state capitol management committee shall be elected by the committee members. The department of accounting and general services shall provide administrative support to the state capitol management committee; provided that the committee shall also receive fiscal analysis support from the department of budget and finance as the committee deems appropriate.

(c) The state capitol management committee shall meet at times and places as specified by a call of the chairperson or a majority of the committee; provided that the committee shall meet not less than four times per calendar year. The state capitol management committee shall prescribe rules, which shall not be subject to chapter 91, for its own management and governance. Five members of the committee shall constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

(d) When a vacancy occurs in the membership of the state capitol management committee, the respective appointing authority shall fill the vacancy within fourteen days.

(e) Members of the state capitol management committee shall serve without pay, but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in carrying out their duties.

- (f) The state capitol management committee shall:
  - (1) Approve all policies and procedures relating to the general operation and management of the state capitol and its grounds and facilities, including parking, building access, building operation hours, and general security policies;
  - (2) Develop and recommend to the legislature capital improvement, programmatic, and operational priorities that require fiscal resources to maintain and enhance the appearance and operation of the state capitol and its grounds and facilities;
  - (3) Review and authorize the repair and maintenance schedule for the state capitol, its grounds and facilities, and any other capital improvement projects relating to the upkeep, renovation, restoration, use, and maintenance of the state capitol and its grounds and facilities; and
  - (4) Review and authorize, but not execute, the expenditure of any monies appropriated to and allocated by the department of budget and finance, accounting and general services, or public safety for the state capitol and its grounds and facilities."

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 16, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 98

H.B. NO. 1024

A Bill for an Act Relating to Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 170, Session Laws of Hawaii 2002, as amended by section 4 of Act 152, Session Laws of Hawaii 2007, as amended by section 2 of Act 81, Session Laws of Hawaii 2009, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that section 1 of this Act shall be repealed on June 30, [2014.] 2017.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 29, 2014.

(Approved June 16, 2014.)

## ACT 99

H.B. NO. 1745

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 302D, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§302D-A Fees.** (a) In administering its responsibilities, the commission may assess fees on non-state entities and individuals to help offset its operating costs.

(b) Fees collected by the commission shall be deposited into insured checking or savings accounts and shall be expended by the commission.

(c) The commission shall adopt rules pursuant to chapter 91 to implement this section; provided that, notwithstanding this section or any other law to the contrary, the commission may set the initial amount of fees authorized pursuant to this section at any time without regard to chapter 91, if the commission:

- (1) Holds at least one public hearing to take and discuss public testimony on the proposed fee amount; and
- (2) Provides public notice at least thirty days prior to the date of the public hearing.

**§302D-B Approved charter applications; start-up period; pre-opening charter schools.** (a) The authorizer may require a charter applicant whose charter application is approved by the authorizer pursuant to section 302D-13 or 302D-14 to satisfactorily meet pre-contracting criteria set by the authorizer before being allowed to enter into a charter contract.

(b) An approved charter applicant that fails to satisfactorily meet the pre-contracting criteria and enter into a charter contract with its authorizer within the period initially established or subsequently extended by the authorizer shall be considered to have withdrawn its application.

(c) A charter applicant shall not be considered an entity of the State until the pre-opening charter school is established by execution of the charter contract. A pre-opening charter school that is a conversion charter school shall be a separate entity of the State from the department school from which it is converting during the start-up period.

(d) The authorizer shall establish pre-opening criteria in order to ensure that a pre-opening charter school is prepared to successfully open and operate as a charter school. Until such time as the pre-opening school satisfactorily meets such pre-opening criteria and commences operations in its first full academic year, the pre-opening charter school:

- (1) Shall not be entitled to receive funding under section 302D-26, 302D-28, 302D-29, or 302D-29.5;
- (2) Shall employ no employees but may engage independent contractors;
- (3) Shall not be subject to the performance framework under section 302D-16; and
- (4) May be granted temporary exemptions from provisions of the charter contract by the authorizer.

(e) The charter contract of a pre-opening charter school that fails to satisfactorily meet its pre-opening criteria within the start-up period initially established or subsequently extended by the authorizer shall be void. The pre-opening charter school shall thereupon be considered an approved charter applicant that has withdrawn its application.

(f) An approved charter applicant that withdraws its application shall not be allowed to execute a charter contract unless it reapplys and has its charter application approved by an authorizer in accordance with this chapter."

SECTION 2. Section 89C-1.5, Hawaii Revised Statutes, is amended by amending the definition of "appropriate authority" to read as follows:

"Appropriate authority" means the governor, the respective mayors, the chief justice of the supreme court, the board of education, the board of regents, the state public charter school commission, the Hawaii health [systems] corporation board, the auditor, the ombudsman, and the director of the legislative reference bureau. These individuals or boards may make adjustments for their respective excluded employees."

SECTION 3. Section 302D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

"Department school" means any school that falls within the definition of "public schools" as defined in section 302A-101 and that is not a charter school.

"Executive director" means the executive director of the state public charter school commission.

"Pre-opening charter school" means a charter school that has not yet satisfactorily fulfilled the authorizer's pre-opening assurance as required under section 302D-B or has not yet commenced full operations as a charter school during its first full academic year."

2. By amending the definition of "charter contract" to read:

"Charter contract" or "charter" means a fixed-term, bilateral, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract."

3. By amending the definition of "charter school" or "public charter school" to read:

"Charter school" or "public charter school" refers to those public schools and their respective governing boards, as defined in this section, that are holding current charter contracts to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management."

4. By amending the definition of "conversion charter school" to read:

"Conversion charter school" means:

- (1) Any existing department school that converts to a charter school and is managed and operated in accordance with section 302D-14; or
- (2) Any existing department school that converts to a charter school and is managed and operated by a nonprofit organization in accordance with section 302D-14[; or]
- (3) A newly created school consisting of programs or sections of existing public school populations that are funded and governed independently and may include part of a separate Hawaiian language immersion program using existing public school facilities]."

5. By amending the definition of "nonprofit organization" to read:

"Nonprofit organization" means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax-exempt organization under [section 501(e)(3) of] the Internal Revenue Code; and
- (2) Is [domiciled] registered to do business in this State[-] in accordance with chapter 414D."

6. By deleting the definition of "charter".

[“Charter” means a charter application as approved by an authorizer.”]

SECTION 4. Section 302D-3, Hawaii Revised Statutes, is amended to read as follows:

**“§302D-3 State public charter school commission; establishment; appointment.** (a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department for administrative purposes only. Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders. The commission shall be exempt from sections 26-34 and 26-36.

(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.

(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and

(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.

(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:

(1) Three members, including the chairperson, to serve three-year terms;

(2) Three members to serve two-year terms; and

(3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation. When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's departmental duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.

[j) Commission members shall disclose to the commission a list of all charter schools in which the member is an employee, governing board member, vendor, contractor, agent, or representative. Any member having such a relationship to a charter school that comes before the commission shall be disqualified from voting on or participating in the discussion on that charter school.

[e] (j) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter. Beginning with the 2015-2016 fiscal year, the legislature shall make an appropriation to the commission separate from, and in addition to, any appropriation made to charter schools pursuant to sections 302D-28 and 302D-29.5.

[f] (k) The commission shall have the power to hire staff without regard to chapters 76 and 89. The commission shall determine staff wages, hours, benefits, and other terms and conditions for employment in accordance with chapter 89C."

SECTION 5. Section 302D-5, Hawaii Revised Statutes, is amended to read as follows:

**"§302D-5 Authorizer powers, duties, and liabilities.** (a) Authorizers are responsible for executing the following essential powers and duties:

- (1) Soliciting and evaluating charter applications;
  - (2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
  - (3) Declining to approve weak or inadequate charter applications;
  - (4) Negotiating and executing sound charter contracts with each approved charter applicant and with existing public charter [school;] schools;
  - (5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and
  - (6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.
- (b) An authorizer shall:
- (1) Act as the point of contact between the department and a public charter school it authorizes [and be responsible for the administration of all applicable state and federal laws];
  - (2) Be responsible for and ensure the compliance of a public charter school it authorizes with all applicable state and federal laws, including reporting requirements;
  - (3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and
  - (4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.

(c) An authorizer shall have the power to make and execute contracts and all other instruments necessary or convenient for the exercise of its duties and functions under this chapter.

[e] (d) An authorizer may delegate its duties to officers, employees, and contractors.

[d] (e) Regulation by authorizers shall be limited to the powers and duties set forth in this section, and shall be consistent with the spirit and intent of this chapter.

[e] (f) An authorizer, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school authorized by that authorizer, except for any acts or omissions constituting wilful misconduct. Members of the commission shall be afforded

the same protection afforded the members of the board pursuant to section 26-35.5.

[¶] (g) An authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will directly and substantially impact any authorizer decision related to the authorization, renewal, revocation, or nonrenewal of the charter school. This subsection shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law."

SECTION 6. Section 302D-7, Hawaii Revised Statutes, is amended to read as follows:

"[¶]§302D-7] **Authorizer reporting.** Every authorizer shall be required to submit to the board and the legislature an annual report summarizing:

- (1) The authorizer's strategic vision for chartering and progress toward achieving that vision;
- (2) The academic [and financial] performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter[, including a comparison of the performance of public charter school students with public school students statewide];
- (3) The financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter;
- [(3)] (4) The status of the authorizer's public charter school portfolio, identifying all public charter schools and applicants in each of the following categories: approved (but not yet open), approved (but withdrawn), not approved, operating, renewed, transferred, revoked, not renewed, or voluntarily closed[; or never opened];
- [(4)] (5) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles;
- [(5)] (6) The services purchased from the authorizer by the public charter schools under its purview;
- [(6)] (7) A line-item breakdown of the federal funds received by the department and distributed by the authorizer to public charter schools under its control; and
- [(7)] (8) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools."

SECTION 7. Section 302D-8, Hawaii Revised Statutes, is amended to read as follows:

"[¶]§302D-8] **Conflict of interests.** No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that authorizer. Authorizer members shall disclose to the authorizer a list of all charter schools in which the member has previously been an employee, governing board member, vendor, contractor, agent, or representative."

SECTION 8. Section 302D-12, Hawaii Revised Statutes, is amended to read as follows:

**"§302D-12 Charter school governing boards; powers and duties.** (a) [No more than one third of the voting members of a governing board shall be employees of a school or relatives of employees of a school under the jurisdiction of that governing board.] No person may serve on the governing board of a charter school if the person is an employee or former employee of any charter school under the jurisdiction of that governing board, a relative of an employee or former employee of any charter school under the jurisdiction of that governing board, or any vendor or contractor providing goods or services to any charter school under the jurisdiction of that governing board, unless:

- (1) The person is a former employee of a charter school under the jurisdiction of that governing board and at least one year has passed since the conclusion of the former employee's employment with that charter school;
- (2) The person is a relative of a former employee of a charter school under the jurisdiction of that governing board and at least one year has passed since the conclusion of the former employee's employment with that charter school;
- (3) The person is a vendor or contractor and at least one year has passed since the conclusion of the vendor or contractor's service to a charter school under the jurisdiction of that governing board; or
- (4) The person's serving on the governing board shall not cause more than one-third of the voting members of the governing board to be made up of:
  - (A) Employees or former employees of any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (1);
  - (B) Relatives of employees or of former employees of any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (2); and
  - (C) Vendors or contractors who are providing goods or services to any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (3).
- (b) In selecting governing board members, consideration shall be given to persons who:
  - (1) Provide the governing board with a diversity of perspective and a level of objectivity that accurately represent the interests of the charter school students and the surrounding community;
  - (2) Demonstrate an understanding of best practices of nonprofit governance; and
  - (3) Possess strong financial and academic management and oversight abilities, as well as human resource and fundraising experience.
- [**(b)**] (c) No employee or former employee of a charter school [or], relative of an employee or former employee of a charter school, or any vendor or contractor providing goods or services to a charter school may serve as the chair of the governing board of that charter school[:] unless at least one year has elapsed since the conclusion of the employee's employment with the school or the conclusion of a vendor's or contractor's service to the school; provided that an authorizer may grant an exemption from the provisions of this subsection

based upon a determination by the authorizer that an exemption is in the best interest of the charter school.

(d) Section 78-4 shall not apply to members of governing boards; provided that no governing board member shall be allowed to serve on more than two governing boards simultaneously. For purposes of this subsection, a governing board that governs more than one charter school shall be considered one board.

[~~(e)~~] (e) The governing board shall be the independent governing body of its charter school and shall have oversight over and be responsible for the financial, organizational, and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The governing board shall ensure its school complies with the terms of the charter contract between the authorizer and the school. The governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

[~~(f)~~] (f) Governing boards and charter schools shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Governing boards and charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

[~~(g)~~] (g) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

(1) Hold meetings open to the public;

- [~~(1)~~] (2) Make available the notices and agendas of public meetings:  
(A) At a publicly accessible area in the [~~governing board's office and the authorizer's office~~] charter school's office so as to be available for review during regular business hours; and  
(B) On the [~~governing board's or~~] charter school's internet website[~~, if applicable, and the authorizer's internet website~~] not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer's designee in the case of an emergency; and
- [~~(2)~~] (3) Make available the minutes from public meetings within thirty days and maintain a list of the current names and contact information of the governing board's members and officers:  
(A) In the [~~governing board's office and the authorizer's office~~] charter school's office so as to be available for review during regular business hours; and  
(B) On the [~~governing board's or~~] charter school's internet website[~~, if applicable, and the authorizer's internet website~~].

[~~(h)~~] (h) All charter school employees and members of governing boards shall be subject to chapter 84.

[~~(g)~~] (i) Governing boards shall be exempt from sections 26-34 and 26-36. The State shall afford the governing board of any charter school the same protections as the State affords the board[~~]~~ in accordance with section 26-35.5.

[~~(h)~~] (j) For purposes of this section:

"Employees" shall include but not be limited to [the]:

- (1) The chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school [and shall include any]; and
- (2) Any person under an employment contract to serve as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school.

"Relative" means a spouse, fiance, or fiancee of the employee; any person who is related to the employee within four degrees of consanguinity; or the spouse, fiance, or fiancee of such person.

[+] (k) Governing boards shall have the power to make and execute contracts and all other instruments necessary or convenient for the exercise of their duties and functions under this chapter. Whenever a charter school or governing board seeks to enter into a contract with a private organization, whether for-profit or nonprofit, to manage or operate the charter school, which contract requires the private organization to employ or otherwise provide the charter school with an individual to serve in the capacity of the chief executive officer, chief administrative officer, executive director, or designated head of the charter school, the charter school's governing board, in consultation with the state ethics commission, shall adopt standards of conduct that shall apply to the chief executive officer, chief administrative officer, executive director, or designated head of the charter school. The standards of conduct shall include provisions relating to gifts, fair treatment or misuse of position, and conflicts of interest, and shall be incorporated into and made part of any contract or arrangement between the charter school or governing board and the private organization for those services."

SECTION 9. Section 302D-13, Hawaii Revised Statutes, is amended to read as follows:

**“§302D-13 Start-up charter schools; establishment.** (a) New start-up charter schools may be established pursuant to this section.

(b) Any community, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to form a charter school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d).

(c) The start-up charter school charter application process and schedule shall be determined by the authorizer, and shall provide for and include, at a minimum, the following elements:

- (1) The submission of a letter of intent to operate a start-up charter school;
- (2) The availability of the charter application form and completion guidelines on the authorizer's website;
- (3) The timely submission of a completed charter application to the authorizer;
- (4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the governing board that the charter application is complete;
- (5) Upon receipt of a completed charter application, the review and evaluation of the charter application by qualified persons;
- (6) Following the review and evaluation of a charter application, approval or denial of the charter application by the authorizer;
- (7) A provision for a final date by which a decision to approve or deny a charter application must be made by the authorizer, upon receipt of a complete charter application; and

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- (8) A provision that no start-up charter school may begin operation before obtaining authorizer approval of its charter application and charter contract and fulfilling pre-opening requirements that may be imposed by the authorizer.
- (d) A charter application to become a start-up charter school shall meet the requirements of this subsection and section 302D-25. The charter application shall, at a minimum, include the following:
- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
  - (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty as defined by the department;
  - (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist, and complies with this chapter;
  - (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
  - (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
    - (A) Recognizes the interests of the general public;
    - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
    - (C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and
    - (D) Provides for program audits and annual financial audits;
  - (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;
  - (7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;
  - (8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
  - (9) A facilities plan.
- [e] Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the charter application to the authorizer during a given cycle, as defined by the authorizer; provided that an applicant shall have the right to appeal the authorizer's denial of its charter application pursuant to section 302D-15.
- [f] (e) In reviewing a charter application under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.
- [g] (f) In reviewing charter applications under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature."

SECTION 10. Section 302D-14, Hawaii Revised Statutes, is amended to read as follows:

**"§302D-14 Conversion charter schools; establishment.** (a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d).

(c) The conversion charter school charter application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to convert to a charter school;
  - (2) The availability of the charter application form and completion guidelines on the authorizer's website;
  - (3) The timely submission of a completed charter application to the authorizer; provided that the charter application shall include certification and documentation that the charter application was approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of students at the existing department school; provided that:
    - (A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;
    - (B) The balance of stakeholders represented in the vote and the extent of support received in support of the conversion shall be key factors, along with the applicant's proposed plans, to be considered by the authorizer when deciding whether to award a charter; and
    - (C) A breakdown of the number of administrative, support, and teaching personnel, and parents of students who constitute the existing department school and the number who actually participated in the vote shall be provided to the authorizer;
  - (4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the governing board that the charter application is complete;
  - (5) Upon receipt of a completed charter application, the review and evaluation of the charter application by qualified persons;
  - (6) Following the review and evaluation of a charter application, approval or denial of the charter application by the authorizer;
  - (7) A provision for a final date by which a decision of whether to approve or deny a charter application must be made by the authorizer, upon receipt of a complete charter application; and
  - (8) A provision that no conversion charter school may begin operation before obtaining authorizer approval of its charter and charter contract and fulfilling pre-opening requirements that may be imposed by the authorizer.
- (d) A charter application to become a conversion charter school shall meet the requirements of this subsection and section 302D-25. The charter application shall include, at a minimum, the following:

- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
  - (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty, as defined by the department;
  - (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist, and complies with this chapter;
  - (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
  - (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
    - (A) Recognizes the interests of the general public;
    - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
    - (C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and
    - (D) Provides for program audits and annual financial audits;
  - (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;
  - (7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;
  - (8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
  - (9) A facilities plan.
- (e) A nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a conversion charter school, operate and manage the school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d); provided:
- (1) As the governing body of the conversion charter school, the governing board shall be the board of directors of the nonprofit organization and shall not be selected pursuant to section 302D-12. The nonprofit organization may also appoint advisory groups of community representatives for each school managed by the nonprofit organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;
  - (2) The charter application for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of students of the existing department school; provided:
    - (A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and

- teaching personnel, and parents' approval to convert to a charter school;
- (B) The balance of stakeholders represented in the vote and the extent of support received in support of the conversion shall be a key factor, along with the applicant's proposed plans, in an authorizer's decision to award a charter; and
- (C) A breakdown of the number of administrative, support, and teaching personnel, and parents of students who constitute the existing department school and the number who actually participated in the vote shall be provided to the authorizer;
- (3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;
- (4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that nothing in this section shall prohibit a nonprofit organization from making a contribution toward the operation of a conversion charter school; and
- (5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit a revised charter application to the authorizer to continue as a conversion charter school without the participation of the nonprofit organization.
- (f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of charter application:
- (1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
- (2) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;
- (3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and
- (4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.
- [g] Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to an authorizer to form a conversion charter school pursuant to this section.
- [h] (g) In reviewing a charter application for a charter under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.
- [i] (h) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.
- [j] (i) In reviewing charter applications for a charter under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature."

**SECTION 11.** Section 302D-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic, financial, organizational, and operational performance indicators, measures, and metrics that will guide the authorizer’s evaluations of each public charter school. The performance framework, as established by the authorizer, shall include indicators, measures, and metrics for, at a minimum:

- (1) Student academic proficiency;
- (2) Student academic growth;
- (3) Achievement gaps in proficiency and growth between major student subgroups;
- (4) Attendance;
- (5) Enrollment variance;
- (6) Postsecondary readiness, as applicable for high schools;
- (7) Financial performance and sustainability;
- (8) Performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract; and
- (9) Organizational viability.

(b) Annual academic performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to [help] track each school [meet] in meeting applicable federal, state, and authorizer expectations.”

2. By amending subsections (d) through (f) to read:

“(d) The performance framework shall require the disaggregation of all student performance data by major student subgroups[, as determined by the board].

(e) For each public charter school it oversees, the authorizer shall be responsible for [managing] verifying and either maintaining or having access to all charter school data [from assessments in accordance with] upon which the performance [framework] framework relies.

(f) Multiple schools [operating under a single charter contract or] overseen by a single governing board shall be required to report their performance as separate, individual charter schools, and each charter school shall be held independently accountable for its performance.”

**SECTION 12.** Section 302D-17, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) Notwithstanding section 302D-18 to the contrary, every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted[, requiring]:

- (1) Requiring a school to develop and execute a corrective action plan within a specified time frame[.]; and
- (2) Reconstituting the governing board of the charter school; provided that the following conditions are met:
  - (A) Reconstitution occurs only under exigent circumstances, including the following:
    - (i) Unlawful or unethical conduct by governing board members;
    - (ii) Unlawful or unethical conduct by the charter school’s personnel that raises serious doubts about the governing

- board's ability to fulfill its statutory, contractual, or fiduciary responsibilities; and
- (iii) Other circumstances that raise serious doubts about the governing board's ability to fulfill its statutory, contractual, or fiduciary responsibilities;
- (B) The authorizer shall replace up to, but no more than, the number of governing board members necessary so that the newly appointed members constitute a voting majority in accordance with the governing board's bylaws; except that the authorizer may replace the entire governing board if the alternative is the initiation of revocation of the charter school's charter contract and the governing board opts instead for reconstitution; and
- (C) Reconstitution occurs in accordance with processes set forth by the authorizer that provide the charter school's personnel and parents with timely notification of the prospect of reconstitution.

(e) [If there is an immediate concern for student or employee health or safety at a charter school, the authorizer may adopt an interim restructuring plan that may include the appointment of an interim governing board, a governing board chairperson, or a principal to temporarily assume operations of the school; provided that if possible without further jeopardizing the health or safety of students and employees, the charter school's stakeholders and community are first given the opportunity to elect a new governing board which shall appoint a new interim principal.] The authorizer shall have the authority to direct the governing board and the charter school to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees or mitigate significant liability to the State.

The board shall have the authority to direct the authorizer to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees and mitigate significant liability to the State.”

SECTION 13. Section 302D-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The authorizer shall issue a charter school performance report and charter contract renewal application guidance to any charter school whose charter contract [will expire the following] is in its final contract year. The performance report shall summarize the charter school's performance record to date, based on the data required by this chapter and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal.”

SECTION 14. Section 302D-21, Hawaii Revised Statutes, is amended to read as follows:

**“§302D-21 Annual board report.** No later than twenty days prior to the convening of each regular session of the legislature, the board shall issue to the governor, the legislature, and the public, an annual report on the State's public charter schools, drawing from the annual reports submitted by every authorizer, as well as any additional relevant data compiled by the board, for the school year ending in the preceding calendar year. The annual report shall include:

- [4] A comparison of the performance of public charter school students with the performance of comparable subgroups of students in public schools governed by chapter 302A;
- [2] (1) The board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools;
- [3] (2) A line-item breakdown of all federal funds received by the department and distributed to authorizers;
- [4] (3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools; and
- [5] (4) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools."

SECTION 15. Section 302D-24, Hawaii Revised Statutes, is amended to read as follows:

**"[§302D-24] Occupancy and use of facilities of [public] department schools.** (a) When the department considers whether to close any particular [public] department school, the department shall submit a notice of possible availability of a [public] department school or notice of vacancy of a [public] department school to the board pursuant to section 302A-1151.5(b); provided that the department has not elected to use the [public] department school to support education programs.

(b) If a charter school exclusively or jointly occupies or uses buildings or facilities of a [public] department school immediately prior to converting to a charter school, upon conversion that charter school shall be given continued exclusive or joint use of the buildings or facilities; provided that:

- (1) The State may reclaim some or all of the buildings or facilities if it demonstrates a tangible and imperative need for such reclamation; and
- (2) The State and the conversion charter school voluntarily enter into an agreement detailing the portion of those buildings or facilities that shall be reclaimed by the State and a timetable for the reclamation. If a timetable cannot be reached, the State may petition the board for the reclamation, and the board may grant the petition only to the extent that it is not possible for the conversion charter school and the State to jointly occupy or use the buildings or facilities.

(c) Upon receipt of a notice pursuant to section 302A-1151.5(b), the board shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the [public] department school by:

- (1) Promptly notifying all charter schools that the [public] department school is being considered for closure; and
- (2) Affording each charter school an opportunity to submit an application with a written explanation and justification of why the charter school should be considered for possible occupancy and use of the facilities of the [public] department school.

(d) After fully considering each charter school's application and based on the applications received and on other considerations, the board shall:

- (1) Provide a written response to each charter school's application after each application has been fully considered;
- (2) Compile a prioritized list of charter schools; and
- (3) Make a final determination of which charter school, if any, shall be authorized to use and occupy the [public] department school facilities.
- (e) Upon the selection of a charter school to use a vacant department school facility or portion of a department school facility, the department and the charter school's authorizer shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section; provided that any agreement between the authorizer and the department shall stipulate that a charter school that uses and occupies a [public] department school facility or portion of a [public] department school facility shall be responsible for the full or pro rata share of the repair and maintenance costs for that facility or portion of the facility, as the case may be.
- (f) The board shall adopt policies and procedures necessary to carry out the purposes of this section, including but not limited to:
  - (1) Procedures for charter schools to apply in writing to use vacant department school facilities;
  - (2) Criteria for the board to use in determining which charter schools to include on the prioritized list to be submitted to the department; and
  - (3) Procedures for the board to notify charter school applicants that are granted or denied the use of vacant department school facilities.
- (g) ~~For purposes of this section, "public school" means any school that falls within the definition of public schools in section 302A-101, except for charter schools.]~~

SECTION 16. Section 302D-25, Hawaii Revised Statutes, is amended to read as follows:

**"[§302D-25] Applicability of state laws.** (a) Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

- (1) Collective bargaining under chapter 89; provided that:
  - (A) The exclusive representatives as defined in chapter 89 and the governing board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;
  - (B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be allocated by the department of budget and finance to the charter school's authorizer for distribution to the charter school; and
  - (C) These supplemental agreements may differ from the master contracts negotiated with the department;
- (2) Discriminatory practices under section 378-2; and
- (3) Health and safety requirements.

(b) Charter schools, the commission, and authorizers shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Charter schools, the commission, and authorizers are encouraged to use the provisions of chapter

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103D where possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school, commission, or authorizer to any other provision of chapter 103D. Charter schools, the commission, and authorizers shall account for funds expended for the procurement of goods and services, and this accounting shall be available to the public.

(c) Charter schools and their employees, the commission and its employees, and governing boards and their members shall be subject to chapter 84.

(d) Any charter school, prior to the beginning of the school year, may enter into an annual contract with any department for centralized services to be provided by that department.

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401.

(g) For purposes of statutory delegation of authority to department heads by other state agencies, the executive director shall be deemed the department head of the commission and charter schools unless otherwise specifically provided.”

SECTION 17. Section 302D-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Civil service employees of department schools shall retain their civil service status upon the conversion of their school to a conversion charter school. Positions in a conversion charter school that would be civil service in a department [public] school shall be civil service positions and subject to chapter 76. An employee with civil service status at a conversion charter school who transfers, is promoted, or takes a voluntary demotion to another civil service position shall be entitled to all of the rights, privileges, and benefits of continuous, uninterrupted civil service. Civil service employees of a conversion charter school shall have civil service status in the department’s civil service system and shall be entitled to all rights, privileges, and benefits as other civil service employees employed by the department. Exempt employees as provided in section 76-16(b)(11)(B) of a conversion charter school shall have support services personnel status in the department’s support services personnel system and shall be entitled to all rights, privileges, and benefits as other exempt employees employed by the department in their support services personnel system.”

SECTION 18. Section 302D-28, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Fringe benefit costs for charter school employees, regardless of the payroll system utilized by a charter school, shall be included in the department of budget and finance’s annual budget request. No fringe benefit costs shall be charged directly to or deducted from the charter school per-pupil allocations.

The legislature shall make an appropriation based upon the budget request; provided that the legislature may make additional appropriations for facility and other costs.

The governor, pursuant to chapter 37, may impose restrictions or reductions on charter school appropriations similar to those imposed on [other public department schools.]”

2. By amending subsection (d) to read:

"(d) Charter schools shall be eligible for all federal financial support to the same extent as [all other public] department schools. The department shall provide all authorizers with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply or are entitled to receive. Federal funds received by the department for charter schools shall be transferred to authorizers for distribution to the charter schools they authorize in accordance with the federal requirements. If administrative services related to federal grants and subsidies are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six per cent of the charter school's federal grants and subsidies.

Any charter school shall be eligible to receive any supplemental federal grant or award for which any [other public] department school may submit a proposal, or any supplemental federal grants limited to charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplemental grants, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six per cent of the supplemental grant for which the services are used.

All additional funds generated by the governing boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the governing boards."

3. By amending subsection (f) to read:

"(f) To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, enhance their accountability, and avoid over-allocating general funds to charter schools based on self-reported enrollment projections, authorizers shall:

- (1) Provide sixty per cent of a charter school's per-pupil allocation based on the charter school's projected student enrollment no later than July 20 of each fiscal year; provided that the charter school shall have submitted to its authorizer a projected student enrollment no later than May 15 of each year;
- (2) Provide an additional thirty per cent of a charter school's per-pupil allocation no later than December 1 of each year, based on the October 15 student enrollment, as reviewed and verified by the authorizer, only to schools in compliance with all financial reporting requirements; and
- (3) Retain no more than the balance of the remaining ten per cent of a charter school's per-pupil allocation, as a contingency balance to ensure fiscal accountability and compliance, no later than June 30 of each year;

provided that authorizers may make adjustments in allocations based on non-compliance with charter contracts and the board may make adjustments in allocations based on noncompliance with board policies made in the board's capacity as the state education agency, department directives made in the department's capacity as the state education agency, the board's administrative procedures, and board-approved accountability requirements."

SECTION 19. Section 302D-29.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§302D-29.5] Facilities funding.** (a) Beginning with fiscal year 2014-2015 and each fiscal year thereafter, the commission may request facilities fund-

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ing for charter schools as part of its annual budget request to the director of finance[.] and may receive, expend, or allocate any funds provided by the facilities funding request.

(b) The legislature may make an appropriation based upon the facilities funding request pursuant to subsection (a).

(c) The governor, pursuant to chapter 37, may impose restrictions or reductions on appropriations for charter schools similar to those imposed on [other public] department schools.

(d) This section shall not limit the ability of the director of finance to modify or amend any allotment pursuant to chapter 37.

(e) The commission shall develop criteria to determine the distribution of funds appropriated pursuant to subsection (b) to the charter schools. The criteria shall include but not be limited to distribution based on the need and performance of the charter schools.

(f) Nothing in this section shall be construed as restricting the authority of the commission to support the facilities needs of the charter schools through other means.”

SECTION 20. Section 302D-30, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall be responsible for the provision of a free appropriate public education. Any charter school that enrolls special education students or identifies one of its students as eligible for special education shall be responsible for providing the educational and related services required by a student’s individualized education program. The programs and services for the student shall be determined collaboratively by the student’s individualized education program team, which includes the student’s parents or legal guardians.

If the charter school is unable to provide all of the required services, then the department shall provide the student with services as determined by the student’s individualized educational program team. The department shall collaborate with the commission to develop guidelines related to the provision of special education services and resources to each charter school. The department shall review all of the current individualized education programs of special education students enrolled in a charter school and may offer staff, funding, or both, to the charter school based upon a per-pupil weighted formula implemented by the department and used to allocate resources for special education students in the [public] department schools.”

SECTION 21. Section 302D-31, Hawaii Revised Statutes, is amended to read as follows:

**“§302D-31 Athletics.** The department shall provide students at charter schools, including students enrolled at charter schools whose curriculum incorporates virtual education, with the same opportunity to participate in athletics as is provided to students at [other public] department schools. If a student at any charter school wishes to participate in a sport for which there is no program at the charter school, the department shall allow that student to participate in a comparable program [of any public school in the complex in which the charter school is located or] at the [public] department school in the service area in which the student resides. All charter school students participating in athletics shall abide by all rules, regulations, and policies of the athletic league, association, and program applicable to the [public] department school in whose athletic program the student is participating.”

SECTION 22. Section 302D-32, Hawaii Revised Statutes, is amended to read as follows:

**“[§302D-32] Annual audit[,] or financial review.** Each charter school shall annually complete an independent financial audit that complies with the requirements of its authorizer and the department[.]; provided that the authorizer shall have the discretion to allow a financial review in lieu of an independent financial audit.”

SECTION 23. Section 302D-34, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

- “(b) A start-up charter school:
  - (1) Shall be open to any student residing in the State[.] who is entitled to attend a department school;
  - (2) Shall enroll all students who submit an application, unless the number of students who submit an application exceeds the capacity of a program, class, grade level, or building;
  - (3) Shall select students through a public lottery if, as described in paragraph (2), capacity is insufficient to enroll all students who have submitted a timely application;
  - (4) May give an enrollment preference to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the charter school’s application and as approved by the charter school’s authorizer;
  - (5) May give an enrollment preference to students enrolled in the charter school during the previous school year and to siblings of students already enrolled at the charter school; and
  - (6) May give any other enrollment preference permitted by the charter school’s authorizer, on an individual charter school basis, if consistent with law;

provided that nothing in this subsection shall preclude the formation of a start-up charter school whose mission is focused on serving students with disabilities, who are of the same gender, who pose such severe disciplinary problems that they warrant a specific educational program, or who are at a risk of academic failure.

- “(c) A conversion charter school shall:
  - (1) Enroll any student who resides within the school’s former geographic service area pursuant to section 302A-1143, for the grades that were in place when the [public] department school converted to a charter school; provided that the department may consult with a conversion charter school every three years to determine whether realignment of the charter school’s service area is appropriate given population shifts and the department’s overall service area reviews;
  - (2) Follow the department’s procedures regarding enrollment, including but not limited to geographic exceptions and enrollment preferences; and
  - (3) Be subject to subsection (b) for grades that were not in place when the school converted to a public charter school.”

SECTION 24. Section 302D-2, Hawaii Revised Statutes, is repealed.

SECTION 25. The state public charter school commission shall submit a report to the chairs of the senate committee on ways and means, senate committee on education, house committee on finance, and house committee on educa-

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tion, on the commission's staffing and operational expenditures by the twentieth day after the commission submits its 2015-2016 budget request to the governor or December 1, 2014, whichever is earlier.

**SECTION 26.** In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 27.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 28.** This Act shall take effect on July 1, 2014.

(Approved June 18, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 100**

H.B. NO. 1931

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that macadamia nuts are among the five top-grossing agricultural commodities in Hawaii. According to the United States Department of Agriculture, National Agricultural Statistics Service, Hawaii harvested an estimated forty-four million pounds in macadamia nut crop during the 2012-2013 crop year. The estimated farm value of macadamia nuts for that same year was \$35,200,000.

In March 2005, the macadamia felted coccid, *Eriococcus ironsidei*, was discovered on macadamia nut trees in South Kona. Originally from Australia, this insect can cause severe damage to macadamia nut trees when uncontrolled. Initially, insecticidal oils researched and recommended by the University of Hawaii's college of tropical agriculture and human resources were effective at controlling the spread of these insects. After successful suppression of the original infestation in 2005, however, infestations of macadamia felted coccid were most recently found in the Pahala area. Although insecticidal oil treatment has been effective in eradicating the insect from young sapling trees in the Pahala area, this treatment has proven ineffective on older macadamia nut trees because the trees are too large to receive adequate coverage of the insecticidal oil. Because insecticidal oil is proving to be ineffective, farmers must develop new methods to control the infestation of macadamia felted coccid, which could devastate the macadamia nut industry in Hawaii.

According to the department of agriculture, to develop new methods to control the macadamia felted coccid, researchers must:

- (1) Investigate the role of tree canopy modification and understory plants to encourage the presence of natural enemies to the macadamia felted coccid;
- (2) Analyze the potential of alternative pesticides;
- (3) Determine the impact of macadamia felted coccid on plant health;
- (4) Determine action thresholds for macadamia felted coccid management;

- (5) Determine the phenology of macadamia felted coccid in the field; and
- (6) Identify and test biological control agents in Australia that could be introduced in Hawaii to control the macadamia felted coccid.

The legislature anticipates that the macadamia felted coccid will spread to other regions and counties of Hawaii if uncontrolled and could devastate the macadamia nut industry.

Accordingly, the purpose of this Act is to appropriate funds for research to develop new methods of preventing and treating macadamia felted coccid infestations.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$360,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the department of agriculture, in cooperation with the college of tropical agriculture and human resources at the University of Hawaii at Manoa, to research and develop methods for the prevention and treatment of macadamia felted coccid.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

**SECTION 3.** The appropriation made pursuant to section 2 of this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2016, shall lapse as of that date.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved June 19, 2014.)

## ACT 101

H.B. NO. 2464

A Bill for an Act Relating to Tax Credits.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 235-110.93, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be allowed to each taxpayer an important agricultural land qualified agricultural cost tax credit that may be claimed in taxable years beginning after the taxable year during which the tax credit under section 235-110.46 is repealed, exhausted, or expired. The credit shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. The tax credit amount shall be determined as follows:

- (1) In the first year in which the credit is claimed, [twenty-five per cent of] the lesser of the following:
  - (A) [~~The~~ Twenty-five per cent of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
  - (B) \$625,000;
- (2) In the second year in which the credit is claimed, [~~fifteen per cent of~~] the lesser of the following:
  - (A) [~~The~~ Fifteen per cent of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
  - (B) \$250,000; and

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- (3) In the third year in which the credit is claimed, [ten per cent of] the lesser of the following:
  - (A) [~~The~~ Ten per cent of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
  - (B) \$125,000.

The taxpayer may incur qualified agricultural costs during a taxable year in anticipation of claiming the credit in future taxable years during which the credit is available. The taxpayer may claim the credit in any taxable year after the taxable year during which the taxpayer incurred the qualified agricultural costs upon which the credit is claimed. The taxpayer also may claim the credit in consecutive or inconsecutive taxable years until exhausted.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after July 1, 2008.

(Approved June 19, 2014.)

## ACT 102

H.B. NO. 1716

A Bill for an Act Making an Appropriation for Invasive Species Prevention, Control, Outreach, Research, and Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the invasion of Hawaii by insects, disease-bearing organisms, snakes, weeds, and other pests is the single greatest threat to Hawaii's economy and natural environment and to the health and lifestyle of Hawaii's people. The legislature further finds that immediate action is needed to mitigate the threats and impacts of invasive species.

Pests already cause millions of dollars in crop losses, the extinction of native species, the destruction of native forests, and the spread of disease, but many more harmful pests now threaten to invade Hawaii and wreak further damage. Even one new pest, like the brown tree snake or the red imported fire ant, could forever change the character of our islands. For example, a 2010 study by Shwiff, et al., found that if brown tree snakes were introduced to Hawaii, the cost to the State in lost tourism, health costs, and damage to power infrastructure could total \$2,140,000,000 per year. Stopping the influx of new pests and containing their spread is essential to Hawaii's current and future well-being.

The legislature previously recognized the importance of invasive species as an issue in Hawaii through Act 85, Session Laws of Hawaii 2003, which resulted in the creation of the interagency Hawaii invasive species council. The Hawaii invasive species council, mandated by chapter 194, Hawaii Revised Statutes, is created for the special purpose of providing policy level direction, coordination, and planning among agencies in Hawaii. The Hawaii invasive species council has met this mandate, in part, by disbursing funds on an annual basis to support critical invasive species prevention, control, outreach, research, and planning projects that enhance or supplement existing departmental projects.

A 2002 study by the legislative reference bureau titled “Filling the Gaps in the Fight Against Invasive Species” estimated the annual cost to address invasive species issues in Hawaii at \$50,000,000. The original goal for an annual Hawaii invasive species council budget was \$5,000,000 from the general fund, though

the initial approved appropriation in fiscal year 2005 was \$2,000,000. From fiscal years 2010-2013, no general funds were provided. In fiscal year 2014, \$750,000 was provided from the general fund. A large increase in appropriated funds is necessary to maintain what capacity has been built over the years for invasive species mitigation in Hawaii and to effectively protect Hawaii's natural resources.

Governor Neil Abercrombie's "A New Day in Hawaii" plan calls for the stewardship of the natural resources upon which our survival, economy, and quality of life depend. Priority actions of the plan include managing invasive species and increasing Hawaii's ability to withstand impacts from climate change.

The purpose of this Act is to provide funds to the department of land and natural resources, as administrative host of the Hawaii invasive species council, for the immediate protection of Hawaii's environment and economy and the health and lifestyle of its people through the support of invasive species prevention, control, research, outreach, and planning.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to be expended on projects undertaken in accordance with the Hawaii invasive species council, including but not limited to invasive species prevention, control, outreach, research, and planning.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved June 19, 2014.)

## ACT 103

H.B. NO. 737

A Bill for an Act Relating to Special Purpose Revenue Bonds to Assist Agricultural Enterprises.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 39A, part X, Hawaii Revised Statutes, is amended by amending its title to read as follows:

### **"[PART X.] ASSISTING AGRICULTURAL ENTERPRISES [SERVING IMPORTANT AGRICULTURAL LANDS]"**

**SECTION 2.** Section 39A-311, Hawaii Revised Statutes, is amended as follows:

1. By amending the definitions of "project", "project agreement", and "project party" to read:

"Project" means any combination of land, buildings, and other improvements thereon, including without limitation irrigation systems and infrastructure, for use of, or for, or to assist an agricultural enterprise [serving important agricultural lands], including without limiting the generality of the foregoing, machinery, equipment, furnishings, and apparatus that are deemed necessary, suitable, or useful to the enterprise.

"Project agreement" means any agreement entered into under this part by the department with a project party to finance, construct, operate, or maintain a project from the proceeds of special purpose revenue bonds, or to lend the proceeds of special purpose revenue bonds to assist an agricultural enterprise

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[serving important agricultural lands], including without limitation any loan agreement.

“Project party” means a person, firm, or corporation qualified to do business in this State and conducting or proposing to conduct an agricultural enterprise [serving important agricultural lands].”

2. By deleting the definition of “important agricultural lands”:

[“Important agricultural lands” means those lands designated as such pursuant to part III of chapter 205.”]

SECTION 3. Section 39A-312, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“[§39A-312] Department powers as to agricultural enterprises [serving important agricultural lands].”**

SECTION 4. Section 39A-316, Hawaii Revised Statutes, is amended to read as follows:

**“[§39A-316] Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers that it may otherwise have, the department may issue special purpose revenue bonds to finance or refinance, in whole or in part, the costs of facilities of, or for, or to loan the proceeds of the bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

In determining the cost of any project, the department may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of the project;
- (2) Interest on the bonds and the expenses of the State in connection with the bonds and the project to be financed from the proceeds of the bonds accruing or incurred prior to and during the estimated period of construction and for the period not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, maintenance, or extension of the project, the financing or refinancing thereof, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of the bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to an agricultural enterprise

~~[serving important agricultural lands]~~ and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of the bonds to assist project parties is in the public interest."

SECTION 5. Statutory material to be repealed is bracketed and stricken.

SECTION 6. This Act shall take effect on July 1, 2014, and upon the ratification of constitutional amendments authorizing the State to issue special purpose revenue bonds and to use the proceeds from the bonds to assist agricultural enterprises.

(Approved June 19, 2014.)

## ACT 104

H.B. NO. 1618

A Bill for an Act Relating to the Composition of the Board of Land and Natural Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources, except for matters relating to the state water code where the commission on water resource management shall have exclusive jurisdiction and final authority.

The board shall consist of seven members, one from each land district and three at large. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. At least one member of the board shall have a background in conservation and natural resources, as provided in section 171-4. At least one member, other than the member with a background in conservation and natural resources, shall have demonstrated expertise in native Hawaiian traditional and customary practices, as provided in section 171-4, to ensure assistance to the board to better administer the public lands and resources with respect to native Hawaiian issues and concerns, the public land trust obligations, and the recognition of native Hawaiian cultural values that are intrinsically tied to the 'aina.

The governor shall appoint the chairperson of the board from among the members thereof.

The board may delegate to the chairperson such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairperson of the board shall serve in a full-time capacity. The chairperson, in that capacity, shall perform those duties, and exercise those powers and authority, or so much thereof, as may be delegated by the board."

SECTION 2. Section 171-4, Hawaii Revised Statutes, is amended to read as follows:

**“§171-4 Board of land and natural resources; terms and qualifications of members of the board; organization; expenses.** (a) The board of land and natural resources shall be composed of seven members, one from each land district and three at large, to be nominated and, by and with the advice and consent of the senate, appointed by the governor as provided in section 26-34. The term and

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removal of a member of the board and the filling of a vacancy on the board shall also be as provided in section 26-34. There shall be not more than three members on the board from the same political party.

(b) At least one member of the board shall have a background in conservation and natural resources, as evidenced by:

- (1) A college degree in a relevant field, including forestry, wildlife conservation, geology, environmental science, or marine biology; or
- (2) Work history sufficient to demonstrate an appropriate level of knowledge in the subject of land and natural resources, including parks and recreation, public lands management, natural area reserves, aquatic resources, boating and recreation, forestry and wildlife, water resources management, or conservation and resources.

(c) At least one member of the board, other than the member appointed pursuant to subsection (b), shall have demonstrated expertise in native Hawaiian traditional and customary practices, as evidenced by:

- (1) A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, or related subject area;
- (2) Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices; or
- (3) Substantial experience as a native Hawaiian traditional and customary practitioner.

[~~(b)~~] (d) Each member shall disclose and file with the board a list of all transactions with the department of land and natural resources in which the member has a direct interest. The member shall also disclose all transactions with the department involving any corporation, association, partnership, or joint venture in which the member is an officer, partner, or employee. Any member having any interest, direct or indirect, in any matter before the board shall disqualify oneself from voting on or participating in the discussion of the matter.

[~~(e)~~] (e) The governor shall select a chairperson of the board from among its members. The chairperson shall call and preside at meetings and may appoint a member of the board as secretary. The members of the board shall choose one of their number to act as chairperson during the absence or disability of the chairperson.

[~~(f)~~] (f) The members of the board shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014, and shall apply to the board of land and natural resources upon its next vacancy.

(Approved June 19, 2014.)

## ACT 105

H.B. NO. 1514

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that coffee is one of the largest agricultural crops in the State and is a highly valued commodity in Hawaii's econ-

omy. In recent years, the coffee berry borer, a small beetle, has infested coffee crops in the Kona and Kau regions, and this infestation threatens the viability of Hawaii's entire coffee industry. The legislature also finds that ongoing efforts to control the coffee berry borer are critical, and the State must take immediate action to support these efforts.

The legislature also finds that application of the organic biological pesticide containing the fungus *Beauveria bassiana* is known to cause high mortality in the coffee berry borer, and is a primary method of pest control for the coffee berry borer in other coffee-growing regions of the world. Research shows that subsidizing the cost of pesticides is an effective and necessary incentive to encourage farmers to adopt recommended pest management strategies.

The purpose of this Act is to appropriate moneys for the development and implementation of a pesticide subsidy program to assist coffee growers with offsetting the cost of purchasing pesticides containing *Beauveria bassiana*, a naturally occurring fungus known to cause mortality in coffee berry borers.

**SECTION 2.** Section 149A-13.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established within the treasury of the State, a pesticide use revolving fund. The fund shall be administered by the department for the purposes of this section. The fund shall consist of:

- (1) Licensing and registration fees and charges collected by the department under section 149A-13(b); [and]
- (2) All fees collected by the department through the collection of training fees in accordance with subsection (c)[.]; and
- (3) Funds appropriated for the pesticide subsidy program established under Act , Session Laws of Hawaii 2014.

(b) Moneys in the pesticide use revolving fund shall be expended by the department to support the pesticide program's registration and licensing, certification and education, and compliance monitoring activities. The department shall also expend revolving fund moneys on the establishment of pesticide training workshops, educational programs, development of integrated pest management strategies, the pesticide subsidy program created under Act , Session Laws of Hawaii 2014, and other services for pesticide users such as the agricultural pest control industry, the structural pest control industry, and consumer users of pesticides, which provide pesticide instruction in areas including the collection, disposal, and recycling of pesticide containers and all other pesticide services deemed necessary by the department. Moneys from the revolving fund may be used for personnel, services, materials, and equipment for the purposes of this section.

Moneys expended by the department from the pesticide use revolving fund for training workshops, educational programs, and other services for the agricultural pest control industry, the structural pest control industry, and consumer groups shall be expended in a manner that appropriately addresses the needs of each category of pesticide user."

**SECTION 3.** (a) There is established in the department of agriculture a pesticide subsidy program to be administered by the department for five years beginning on July 1, 2014, and ending on June 30, 2019. The department shall grant subsidies to coffee growers to assist them in offsetting the costs of purchasing any pesticide that is listed by the department pursuant to subsection (f).

(b) Applications for subsidies by coffee growers shall be submitted on a form furnished by the department and shall be filed with accompanying documentation of the costs of purchasing the pesticide; provided that:

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- (1) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the pesticide purchased; and
- (2) The department may request an applicant to provide necessary information for the purposes of verifying the size or sale weight, as applicable, and amount of the pesticide purchased.
- (c) Documentation of pesticide costs, as requested by the department, shall be filed for pesticides purchased within the immediate preceding fiscal year of filing and shall be effective for pesticide costs incurred after June 30, 2014, and before July 1, 2019.

(d) Funds shall be disbursed from the pesticide use revolving fund established under section 149A-13.5, Hawaii Revised Statutes, upon approval on an annual basis by the department to the coffee grower for up to seventy-five per cent of the costs incurred for the purchase of the pesticide before July 1, 2016, and for up to fifty per cent of the costs incurred after June 30, 2016, and before July 1, 2019.

(e) The department shall aggregate the total subsidy applications pursuant to this section and divide and distribute the available subsidy funds on a pro rata basis; provided that no single coffee grower shall receive subsidies that are more than \$600 per year per acre of land in coffee production; provided further that no single coffee grower shall receive subsidies that are more than \$9,000 per year.

(f) The department shall establish a list of pesticides that are registered with the Environmental Protection Agency and are licensed with the State that contain *Beauveria bassiana*, a fungus known to eradicate the coffee berry borer, as an active ingredient.

(g) Not later than twenty days prior to the convening of the regular session of 2019, the department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature on the results of the subsidy program and whether the program should be allowed to expire or be extended, and if extended, with or without modification.

(h) Actions taken by the department pursuant to this section shall be exempt from the rulemaking requirements of section 91-3, Hawaii Revised Statutes.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 for deposit into the pesticide use revolving fund established under section 149A-13.5, Hawaii Revised Statutes.

There is appropriated out of the pesticide use revolving fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the department of agriculture to develop, operate, and implement a pesticide subsidy program established under section 3 of this Act; provided that the department of agriculture may expend up to \$50,000 to hire one temporary program specialist for the pesticide subsidy program.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 6.** This Act shall take effect on July 1, 2014; provided that section 3 shall be repealed on June 30, 2019; provided further that the amendment made to section 149A-13.5(b), Hawaii Revised Statutes, under section 2 of this Act shall not be repealed when section 149A-13.5(b), Hawaii Revised Statutes, is

repealed and reenacted on June 30, 2015, by section 4 of Act 168, Session Laws of Hawaii 2010.

(Approved June 19, 2014.)

**ACT 106**

S.B. NO. 2657

A Bill for an Act Relating to Renewable Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to transfer responsibility for the warranty of the area of a roof on which a solar energy device has been installed from the roofing contractor to the solar contractor that installed the solar energy device.

SECTION 2. Section 196-7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) If [a material or labor roof warranty exists at the time a solar energy device is installed] there is an existing contractor's guarantee or manufacturer's labor or material warranty on the roof, roofing membrane, or roofing material on a roof that is a common element or limited common element, [the homeowner shall obtain confirmation in writing from the company that issued the warranty that the installation of the solar energy device will not void the roof warranty.] the contractor that installs a solar energy device on the roof shall notify the private entity in writing that the installation of a solar energy device may affect or void the roofing guarantees or warranties. If the private entity chooses to forgo the roofing guarantee or warranty, the contractor that installs a solar energy device shall obtain that decision in writing. Otherwise, the contractor that installs a solar energy device shall obtain the roofing manufacturer's written approval for that project and follow the roofing manufacturer's written instructions for waterproofing roof penetrations for the specific roofing material or coordinate the waterproofing with the contractor that issued the guarantee or warranty. If the penetrations for the installation of a solar energy device are waterproofed by the roofing contractor that provided the existing guarantee or warranty, the roofing contractor shall maintain the existing guarantee or warranty; provided that if either the roofing contractor's guarantee or the roofing manufacturer's warranty is no longer in effect, the contractor who installs the solar energy device and waterproofs the penetrations in accordance with this section shall apply the contractor's or lessor's standard labor and workmanship warranty. The homeowner shall provide the private entity with a copy of the [confirmation:] applicable guarantee or warranty."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2014.)

**ACT 107**

S.B. NO. 2196

A Bill for an Act Relating to Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to:

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- (1) Re-establish the energy systems development special fund, which was repealed on June 30, 2013, to be funded in part by revenues collected from the environmental response, energy, and food security tax; and
- (2) Extend the allocation of revenues collected from the environmental response, energy, and food security tax to various special funds from June 30, 2015, to June 30, 2030.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§304A-A Energy systems development special fund.** (a) There is established the energy systems development special fund for the purpose of developing an integrated approach to and portfolio management of renewable energy and energy efficiency technology projects that will reduce Hawaii's dependence on fossil fuel, imported oil, and other imported energy resources and move Hawaii toward energy self-sufficiency.

- (b) Deposits into the special fund may be from the following:
  - (1) Appropriations from the legislature;
  - (2) A portion of the environmental response, energy, and food security tax pursuant to section 243-3.5; and
  - (3) Investment earnings, gifts, donations, or other income received by the Hawaii natural energy institute.
- (c) The Hawaii natural energy institute shall administer the special fund and may expend revenues of the special fund for the following activities:
  - (1) Obtaining matching funds from federal and private sources for research, development, and demonstration of renewable energy sources;
  - (2) Awarding contracts or grants to develop and deploy technologies that will reduce Hawaii's dependence on imported energy resources and imported oil. Projects may be commissioned that:
    - (A) Balance the risk, benefits, and time horizons of the investment to ensure tangible benefits to the Hawaii consumer, with priority given to short-term technology development;
    - (B) Emphasize innovative and renewable energy supply and energy efficient end use technologies focusing on environmental attributes, reliability, and affordability;
    - (C) Enhance transmission and distribution capabilities of renewable energy supply for electricity;
    - (D) Enhance reliability and storage capabilities of renewable energy for electricity;
    - (E) Ensure that research, deployment, and demonstration efforts build on existing programs and resources and are not duplicated;
    - (F) Address critical technical and scientific barriers to achieving energy self-sufficiency by reducing dependence on imported oil and imported energy resources;
    - (G) Ensure that technology used and developed for renewable energy production and distribution will be commercially viable; and
    - (H) Give priority to resources that are indigenous and unique to Hawaii; and
  - (3) Managing the portfolio of projects commissioned under this subsection.

**§304A-B Periodic evaluation.** (a) Evaluations shall be conducted of the projects and activities funded by the energy systems development special fund. Using objective criteria, the evaluation shall assess the degree to which the projects and activities comport with and achieve the stated objectives of the energy systems development special fund pursuant to section 304A-A.

(b) The initial evaluation shall be conducted beginning July 1, 2017, and every three years thereafter by a two-person panel of independent energy and environmental technical experts who shall be appointed by the director of business, economic development, and tourism and who shall not be affiliated with the Hawaii natural energy institute. The panel shall submit a report of the findings and recommendations of each evaluation to the legislature no later than twenty days prior to the convening of the following regular session. The Hawaii natural energy institute shall cooperate with and provide support to the evaluation panel.

**§304A-C Plan of action.** Prior to the initiation of any projects or activities authorized by section 304A-A, the Hawaii natural energy institute shall develop a plan of action in coordination with the state energy resources coordinator with the intent of promoting effective prioritization and focusing of efforts consistent with the State's energy programs.”

SECTION 3. Act 73, Session Laws of Hawaii 2010, is amended as follows:

1. By amending section 10 to read:

“SECTION 10. Any unexpended or unencumbered funds remaining in the agricultural development and food security special fund established by this Act, as of the close of business on June 30, [2015,] 2030, shall lapse to the credit of the general fund.”

2. By amending section 14 to read:

“SECTION 14. This Act shall take effect on July 1, 2010; provided that sections 2, 3, 4, and 7 of this Act shall be repealed on June 30, [2015,] 2030, and sections 128D-2, 201-12.8, and 243-3.5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2010.”

SECTION 4. In codifying the new sections added to chapter 304A, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating and referring to the new sections in this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2014.

(Approved June 20, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

**A Bill for an Act Relating to the Public Utilities Commission.***Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the public utilities commission is undergoing a major transition due to increased work complexity and program responsibilities, particularly in the area of energy regulation. To ensure that the mission of the public utilities commission is adequately supported, the commission should transition from its current administrative status within the department of budget and finance to being administratively attached to the department of commerce and consumer affairs; subject to certain limitations on the oversight role of the department of commerce and consumer affairs.

The legislature further finds that the commission's internal management capacity needs to be updated. The chairperson of the commission is in need of an executive officer to assist with managing the operations of the commission. The creation of an executive officer position to oversee the management and recruitment of personnel, budget planning and implementation, strategic planning and implementation, procurement and contract administration, and implementation of administrative programs and projects will enable the chairperson of the commission to focus on the growing number and increasingly technical complexity of issues brought before the commission. Enabling the commission to establish two civil service positions, a personnel officer and a fiscal officer, will further support the commission and provide for a seamless transition.

The legislature additionally finds that the division of consumer advocacy of the department of commerce and consumer affairs protects and advances the interests of Hawaii's consumers of regulated public utilities. The executive director and staff members of the division of consumer advocacy attend public hearings held by the public utilities commission to get input from the public, which helps them to better understand the consumer's perspective on utility services and rates. Because this understanding is an integral part of the division's work, the legislature concludes that the executive director of the division of consumer advocacy, rather than the director of commerce and consumer affairs, should be the consumer advocate in hearings before the public utilities commission.

The purpose of this Act is to adequately support the mission of the public utilities commission, ensure the efficient operation of the public utilities commission, address the role of the consumer advocate, and ensure that important decisions relating to public utilities continue to be made in the public interest by:

- (1) Transferring the administrative placement of the public utilities commission from the department of budget and finance to the department of commerce and consumer affairs; subject to certain limitations on the oversight and administrative support role of the department of commerce and consumer affairs;
- (2) Clarifying that notwithstanding section 26-35, Hawaii Revised Statutes, the public utilities commission has authority concerning standard administrative practices, including operational expenditures and the hiring of personnel;
- (3) Enabling the chairperson of the public utilities commission to appoint, employ, and dismiss an executive officer to manage the operations of the commission;
- (4) Enabling the chairperson of the public utilities commission to appoint, employ, and dismiss a fiscal officer and a personnel officer to further support the administrative activities of the commission and

- fulfill the administrative support functions formerly provided by the department of budget and finance;
- (5) Establishing that the executive director of the division of consumer advocacy shall be the consumer advocate; and
  - (6) Appropriating funds to effectuate the transfer of the public utilities commission and for the hiring of an executive officer, a fiscal officer, and a personnel officer within the public utilities commission.

**SECTION 2.** Section 26-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The [employees] employees' retirement system as constituted by chapter 88 is placed within the department of budget and finance for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of finance, and the composition of the board of trustees of the employees retirement system shall be as heretofore provided by law.

[The public utilities commission is placed within the department of budget and finance for administrative purposes only.]"

**SECTION 3.** Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The board of acupuncture, board of public accountancy, board of barbering and cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of professional engineers, architects, surveyors, and landscape architects, board of massage therapy, Hawaii medical board, motor vehicle industry licensing board, motor vehicle repair industry board, board of naturopathic medicine, board of nursing, board of examiners in optometry, pest control board, board of pharmacy, board of physical therapy, board of psychology, board of private detectives and guards, real estate commission, board of veterinary examiners, board of speech pathology and audiology, and any board, commission, program, or entity created pursuant to or specified by statute in furtherance of the purpose of this section including but not limited to section 26H-4, or chapters 484, 514A, 514B, and 514E shall be placed within the department of commerce and consumer affairs for administrative purposes.

The public utilities commission shall be placed, for administrative purposes only, within the department of commerce and consumer affairs. Notwithstanding section 26-9(e), (f), (g), (h), (i), (k), (l), (m), (n), (p), (q), (r), and (s), and except as permitted by sections 269-2 and 269-3, the department of commerce and consumer affairs shall not direct or exert authority over the day to day operations or functions of the commission."

**SECTION 4.** Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

**"§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities[.]; authority.** (a) There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be chairperson of the commission. Each member shall hold office until the mem-

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ber's successor is appointed and qualified. Section 26-34 shall not apply insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other similar fields. The commissioners shall devote full time to their duties as members of the commission and no commissioner shall hold any other public office or other employment during the commissioner's term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

(b) Effective July 1, 2005, the chairperson of the commission shall be paid a salary set at eighty-seven per cent of the salary of the director of human resources development, and each of the other commissioners shall be paid a salary equal to ninety-five per cent of the chairperson's salary. The commissioners shall be exempt from chapters 76 and 89 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87A.

(c) The commission is placed [within the department of budget and finance for administrative purposes,] for administrative purposes only, within the department of commerce and consumer affairs. The department of commerce and consumer affairs shall not direct or exert authority over the day to day operations or functions of the commission, except as provided in subsection (g) and section 269-3.

(d) Notwithstanding section 26-35(a)(1) to the contrary, the commission may communicate directly with the governor or the legislature as determined by the chairperson; provided that the department of commerce and consumer affairs may represent the commission in communications with the governor or the legislature upon request by the chairperson of the commission and agreement by the department of commerce and consumer affairs.

(e) Notwithstanding section 26-35(a)(5) to the contrary, the commission's operational expenditures, such as the purchase of supplies, equipment, furniture, dues and subscriptions, travel, consultant services, and staff training, shall be determined by the chairperson and may be delegated to the executive officer appointed and employed pursuant to section 269-3; provided that such expenditures shall be subject to all applicable procurement laws and procedures.

(f) Notwithstanding section 26-35(a)(6) to the contrary, the utilization, allocation, renovation, or other use of space or spaces to be occupied by the commission shall be determined by the chairperson and may be delegated to the executive officer appointed and employed pursuant to section 269-3.

(g) Determinations made under subsection (d), (e), or (f) by the chairperson or the executive officer as delegated by the chairperson, may be reviewed by the director of commerce and consumer affairs for completeness and for compliance and conformance with applicable administrative processes and procedures of the department of commerce and consumer affairs."

SECTION 5. Section 269-3, Hawaii Revised Statutes, is amended to read as follows:

**"§269-3 Employment of assistants.** (a) The chairperson of the public utilities commission may appoint and employ professional staff and other assistants for the public utilities commission as the chairperson finds necessary for the

performance of the commission's functions and define their powers and duties. Notwithstanding section 26-35(a)(4) to the contrary and subject to applicable personnel laws, the employment, appointment, applicable salary schedules, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the commission shall be determined by the chairperson and may be delegated to the executive officer appointed and employed pursuant to subsection (b); provided that determinations concerning personnel matters made by the chairperson or the executive officer, as delegated by the chairperson, may be reviewed by the director of commerce and consumer affairs for completeness and for compliance and conformance with applicable administrative processes and procedures of the department of commerce and consumer affairs. The chairperson may appoint and, at pleasure, dismiss a chief administrator and attorneys as may be necessary, and who shall be exempt from chapter 76. The chairperson may also appoint other staff, including a fiscal officer and a personnel officer, with or without regard to chapter 76.

(b) The chairperson of the commission shall appoint, employ, and dismiss, at pleasure, an executive officer who shall be responsible for managing the operations of the commission. The responsibilities of the executive officer shall include management and recruitment of personnel, budget planning and implementation, strategic planning and implementation, procurement and contract administration, and implementation of administrative programs and projects. The executive officer shall be exempt from chapter 76.

[~~(b)~~] (c) Notwithstanding section 91-13, the commission may consult with its assistants appointed under authority of this section in any contested case or agency hearing concerning any issue of facts. Neither the commission nor any of its assistants shall in such proceeding consult with any other person or party except upon notice and an opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law."

SECTION 6. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

**"§269-5 Annual report and register of orders.** The public utilities commission shall prepare and present to the governor[, through the director of finance,] in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; financing orders issued, adjustments made to the public benefits fee, and repayments or credits provided to electric utility customers pursuant to part X or chapter 196, part IV; a summary of power purchase agreements, including pricing, in effect during the fiscal year; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register."

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SECTION 7. Section 269-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury a public utilities commission special fund to be administered by the public utilities commission. The proceeds of the fund shall be used by the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs for all expenses incurred in the administration of chapters 269, 271, 271G, 269E, and 486J[;], and for costs incurred by the department of commerce and consumer affairs to fulfill the department's limited oversight and administrative support functions; provided that the expenditures of the public utilities commission shall be in accordance with legislative appropriations. On a quarterly basis, an amount not exceeding thirty per cent of the proceeds remaining in the fund after the deduction for central service expenses, pursuant to section 36-27, shall be allocated by the public utilities commission to the division of consumer advocacy and deposited in the compliance resolution fund established pursuant to section 26-9(o); provided that all moneys allocated by the public utilities commission from the fund to the division of consumer advocacy shall be in accordance with legislative appropriations.”

SECTION 8. Section 269-51, Hawaii Revised Statutes, is amended to read as follows:

**“§269-51 Consumer advocate; [director of commerce and consumer affairs.] executive director of the division of consumer advocacy.** The [director of the department] of commerce and consumer affairs] executive director of the division of consumer advocacy shall be the consumer advocate in hearings before the public utilities commission. The consumer advocate shall represent, protect, and advance the interests of all consumers, including small businesses, of utility services. [The consumer advocate shall not receive any salary in addition to the salary received as director of commerce and consumer affairs.]

The responsibility of the consumer advocate for advocating the interests of the consumer of utility services shall be separate and distinct from the responsibilities of the public utilities commission and those assistants employed by the commission. [As] The consumer advocate[, the director of commerce and consumer affairs] shall have full rights to participate as a party in interest in all proceedings before the public utilities commission.”

SECTION 9. Section 269-52, Hawaii Revised Statutes, is amended to read as follows:

**“§269-52 Division of consumer advocacy; personnel.** There shall be a division of consumer advocacy within the department of commerce and consumer affairs [to provide administrative support to the director of commerce and consumer affairs acting in the capacity of consumer advocate]. The director of commerce and consumer affairs may [employ and at pleasure dismiss an executive administrator,] appoint an executive director, who shall be exempt from chapter 76, [may define the executive administrator's powers and duties,] and fix the executive [administrator's] director's compensation. The executive director shall supervise and control the operations and personnel of the division. The executive director shall be responsible for the performance of the duties imposed upon the division and shall be the consumer advocate as specified in section 269-51. The executive director may employ engineers, accountants, investigators, clerks, and stenographers as may be necessary for the performance of the consumer advocate's functions, in accordance with chapter 76; provided that:

- (1) The executive director may employ up to ten utility analysts exempt from chapter 76; and
- (2) Each analyst shall possess at least the minimum qualifications required of comparable experts in the relevant industry.”

SECTION 10. Section 269-53, Hawaii Revised Statutes, is amended to read as follows:

**“§269-53 Legal counsel.** The executive director of the division of consumer advocacy may appoint or retain, without regard to chapter 76, attorneys to provide legal services for the division of consumer advocacy. Nothing in this section precludes the director of commerce and consumer affairs or the executive director of the division of consumer advocacy from requesting and securing legal services from the attorney general and the department of the attorney general.”

SECTION 11. There is appropriated out of the public utilities commission special fund established pursuant to section 269-33, Hawaii Revised Statutes, the sum of \$450,000 or so much thereof as may be necessary for fiscal year 2014-2015 to effectuate the transfer of the public utilities commission from the department of budget and finance to the department of commerce and consumer affairs; enable the chairperson of the public utilities commission to appoint and employ an executive officer who shall be responsible for managing the operations of the public utilities commission; and enable the chairperson of the public utilities commission to appoint and employ a fiscal officer and a personnel officer to support the administrative activities of the commission.

The sum appropriated shall be expended by the public utilities commission for the purposes of this Act.

SECTION 12. (a) No later than July 1, 2015, all rights, powers, functions, and duties of the department of budget and finance as they relate to the public utilities commission are transferred to the public utilities commission or the department of commerce and consumer affairs in accordance with sections 26-9(c), 269-2, and 269-3, Hawaii Revised Statutes, as amended by this Act.

(b) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

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If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

**SECTION 13.** The department of budget and finance, with the approval of the governor and prior concurrence of the department of commerce and consumer affairs, may transfer positions and funds for the public utilities commission to the department of commerce and consumer affairs; provided that the governor shall submit a report to the legislature within five days of the use of this authority; provided further that the report shall include the date of the transfer, the positions and funding transferred, the program from which the positions were transferred, the program to which the positions and funding were transferred, and the manner in which the transfer maximizes the utilization of personnel and funding.

**SECTION 14.** The chairperson and commissioners serving on the public utilities commission on the date prior to the effective date of this Act shall continue as members of the public utilities commission and their terms shall be unaffected by this Act.

**SECTION 15.** All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of budget and finance relating to the functions transferred to the department of commerce and consumer affairs shall be transferred with the functions to which they relate.

**SECTION 16.** All rules, policies, procedures, guidelines, general orders, and other material adopted or developed by the public utilities commission prior to the effective date of this Act as an agency administratively attached to the department of budget and finance shall be applicable to the public utilities commission as an agency administratively attached to the department of commerce and consumer affairs pursuant to this Act, and shall remain in full force and effect and unaffected by this Act until amended, repealed, or overruled by the public utilities commission. Every reference to the department of budget and finance or director of finance in those rules, policies, procedures, guidelines, and other material shall be deemed to refer to the department of commerce and consumer affairs or director of commerce and consumer affairs, as appropriate.

**SECTION 17.** All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the public utilities commission prior to the effective date of this Act shall remain in full force and effect notwithstanding the commission's administrative transfer to the department of commerce and consumer affairs.

**SECTION 18.** All costs and expenses associated with transferring the public utilities commission to the department of commerce and consumer affairs shall be borne by the public utilities commission. No liabilities or liens arising from such transfer shall accrue to the department of budget and finance.

**SECTION 19.** There shall be a transition period to facilitate the transfer of the public utilities commission from the department of budget and finance

to the department of commerce and consumer affairs. The fiscal year beginning July 1, 2014, shall serve as a transition period, in which the state agencies affected by this Act shall assist the chairperson of the public utilities commission in implementing the transfer under this Act. Once the transfer is completed, the public utilities commission shall provide public notice that the transfer is completed in a printed publication or electronic format that is accessible statewide.

**SECTION 20.** The provisions of this Act are to be liberally construed to effectuate its purpose.

**SECTION 21.** All acts passed by the legislature during the regular session of 2014, whether enacted before, on, or after July 1, 2014, shall be amended to conform to this Act unless such acts specifically provide that this Act is being amended.

**SECTION 22.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 23.** This Act shall take effect on July 1, 2014.

(Approved June 20, 2014.)

**Note**

1. So in original.

**ACT 109**

H.B. NO. 1943

A Bill for an Act Relating to the Modernization of the Hawaii Electric System.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that a modern electrical grid is essential to meeting Hawaii's clean energy goals. In recent years, Hawaii's electric utilities have integrated significant levels of new renewable energy projects on each island grid, and distributed generation in the form of rooftop photovoltaic systems has been the fastest growing share of new renewable energy generation each year. To date, Hawaii's electric utilities are on track to exceed the next renewable portfolio standard goal in 2015. However, moving beyond the current levels of renewable energy on each grid will likely require further investment in advanced grid modernization technology to meet the State's aggressive clean energy goals and maintain a reliable electricity grid.

The legislature further finds investments in advanced grid modernization technology may be needed because Hawaii's island grids are reaching significant levels of variable renewable energy that can affect the overall operation of the grid at the system level and the ability of utilities to provide safe and reliable service at the point of delivery to customers. Continued growth in renewable energy, particularly distributed generation, will require investment to modernize the grid to interconnect higher levels of distributed generation and to support other new customer energy options such as electric vehicles and demand response technologies.

The legislature also finds that the rapid growth of the State's solar industry has reduced Hawaii's dependence on imported oil, created thousands of jobs during a statewide economic downturn, and provided thousands of households

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and businesses new options to manage their energy bills. The legislature believes a long-term, sustainable solar industry is in the State's interest.

The legislature further finds that the solar industry is significantly impaired by the current interconnection process. As Hawaii transitions from the early stages of its clean energy transformation, the State needs a more transparent and timely process for electricity customers to exercise their options to manage their energy use.

The legislature additionally finds that, as distributed generation plays an increasingly significant role in the State's clean energy transition, the utility's processes for interconnection and distribution system planning must evolve along with new rules and tariffs for distributed generation. The current rules and tariffs for distributed generation were developed to support a nascent and emerging solar industry. Now that this energy source and industry have achieved a significant portion of the electricity system's energy mix, tariffs for distributed generation need to be developed and adopted that compensate the utility for grid services provided to customers and that compensate customers for the grid services provided to the utility by distributed generation. These modified tariffs will also set the stage for further innovations in this sector, such as advanced information, photovoltaic inverters, and energy storage systems that expand the nature of services offered by customer-sited resources to the electric grid operator.

The legislature finds that the resolution of the matters noted in this Act requires detailed discussion of technical, economic, environmental, and cultural issues, and a process that will expedite decision-making on near-term, high priority issues. In recognition of the importance of these issues, the purpose of this Act is to establish guiding principles and outline a timely regulatory process to address modernization of the Hawaii electric system.

SECTION 2. Section 269-145.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§269-145.5] Advanced grid modernization technology; principles. (a)**

The commission, in carrying out its responsibilities under this chapter, shall consider the value of improving electrical generation, transmission, and distribution systems and infrastructure within the State through the use of advanced grid modernization technology in order to improve the overall reliability and operational efficiency of the Hawaii electric system.

**(b) In advancing the public interest, the commission shall balance technical, economic, environmental, and cultural considerations associated with modernization of the electric grid, based on principles that include but are not limited to:**

- (1) Enabling a diverse portfolio of renewable energy resources;**
- (2) Expanding options for customers to manage their energy use;**
- (3) Maximizing interconnection of distributed generation to the State's electric grids on a cost-effective basis at non-discriminatory terms and at just and reasonable rates, while maintaining the reliability of the State's electric grids, and allowing such access and rates through applicable rules, orders, and tariffs as reviewed and approved by the commission;**
- (4) Determining fair compensation for electric grid services and other benefits provided to customers and for electric grid services and other benefits provided by distributed generation customers and other non-utility service providers; and**
- (5) Maintaining or enhancing grid reliability and safety through modernization of the State's electric grids."**

SECTION 3. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 110

S.B. NO. 2731

A Bill for an Act Relating to a Car-Sharing Vehicle Surcharge Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to create a car-sharing vehicle surcharge tax.

SECTION 2. Chapter 251, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§251- Car-sharing vehicle surcharge tax.** (a) There is levied and shall be assessed and collected a car-sharing vehicle surcharge tax of 25 cents per half-hour, or any portion of a half-hour, that a rental motor vehicle is rented or leased by a car-sharing organization; provided that for each rental of six hours or more, the tax shall be assessed in a manner provided in section 251-2. The car-sharing vehicle surcharge tax shall be levied upon the car-sharing organization.

(b) An organization that qualifies as a car-sharing organization as defined in section 251-1, that is registered with the department pursuant to section 251-3, and that is subject to the surcharges imposed by this section shall not be subject to the surcharges imposed by section 251-2; provided that any organization registered with the department pursuant to section 251-3 shall be subject to at least one surcharge imposed by this chapter.”

SECTION 3. Section 251-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

**““Car-sharing organization” means a rental motor vehicle lessor that operates a membership program in which:**

- (1) Self-service access to a fleet of vehicles is provided, with or without requiring a reservation, exclusively to members of the organization who have paid a membership fee;
- (2) Members are charged a usage rate, either hourly or by the minute, for each use of a vehicle;
- (3) Members are not required to enter into a separate written agreement with the organization each time the member reserves and uses a vehicle; and
- (4) The average paid use period for all vehicles provided by the organization during any taxable period is six hours or less.”

SECTION 4. Chapter 251, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"[CHAPTER 251]  
RENTAL MOTOR VEHICLE [AND], TOUR VEHICLE, AND  
CAR-SHARING VEHICLE SURCHARGE TAX"**

SECTION 5. Section 251-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each person as a condition precedent to engaging or continuing in the business of providing rental motor vehicles to the public [~~or~~], engaging or continuing in the tour vehicle operator business, or engaging or continuing in a car-sharing organization business shall register with the director. A person required to so register shall make a one-time payment of \$20, upon receipt of which the director shall issue a certificate of registration in such form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The registration, or in lieu thereof a notice stating where the registration may be inspected and examined, shall at all times be conspicuously displayed at the place for which it is issued."

SECTION 6. Section 437D-8.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any law to the contrary, a lessor may visibly pass on to a lessee:

- (1) The general excise tax attributable to the transaction;
- (2) The vehicle license and registration fee and weight taxes, prorated at 1/365th of the annual vehicle license and registration fee and weight taxes actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license and registration fees charged to all lessees shall not exceed the annual vehicle license and registration fee actually paid for the particular vehicle rented;
- (3) The [rental motor vehicle] surcharge [tax as provided in section 251-2] taxes imposed in chapter 251 attributable to the transaction;
- (4) The county surcharge on state tax under section 46-16.8; provided that the lessor itemizes the tax for the lessee; and
- (5) The rents or fees paid to the department of transportation under concession contracts negotiated pursuant to chapter 102, service permits granted pursuant to title 19, Hawaii Administrative Rules, or rental motor vehicle customer facility charges established pursuant to section 261-7; provided that:
  - (A) The rents or fees are limited to amounts that can be attributed to the proceeds of the particular transaction;
  - (B) The rents or fees shall not exceed the lessor's net payments to the department of transportation made under concession contract or service permit;
  - (C) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts of the rents or fees paid to the department of transportation pursuant to the applicable concession contract or service permit:
    - (i) For all airport locations; and
    - (ii) For each airport location;

- (D) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts charged to lessees:
  - (i) For all airport locations;
  - (ii) For each airport location; and
  - (iii) For each lessee;
- (E) The lessor includes in these reports the methodology used to determine the amount of fees charged to each lessee; and
- (F) The lessor submits the above information to the department of transportation and the department of commerce and consumer affairs within three months of the end of the preceding annual accounting period or contract year as determined by the applicable concession agreement or service permit.

The respective departments, in their sole discretion, may extend the time to submit the statement required in this subsection. If the director determines that an examination of the lessor's information is inappropriate under this subsection and the lessor fails to correct the matter within ninety days, the director may conduct an examination and charge a lessor an examination fee based upon the cost per hour per examiner for evaluating, investigating, and verifying compliance with this subsection, as well as additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination, which shall relate solely to the requirements of this subsection, and which shall be billed by the departments as soon as feasible after the close of the examination. The cost per hour shall be \$40 or as may be established by rules adopted by the director. The lessor shall pay the amounts billed within thirty days following the billing. All moneys collected by the director shall be credited to the compliance resolution fund."

**SECTION 7.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 8.** This Act shall take effect on January 1, 2015; provided that the amendments made by section 6 of this Act to section 437D-8.4(a), Hawaii Revised Statutes, shall not be repealed when section 437D-8.4, Hawaii Revised Statutes, is reenacted on December 31, 2022, pursuant to section 9(3) of Act 247, Session Laws of Hawaii 2005.

(Approved June 20, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 111

H.B. NO. 849

A Bill for an Act Relating to Emergency Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the State is vulnerable to a wide range of natural and man-made hazards which may result in emergencies or di-

sasters that threaten the life, health, and safety of its people; damage and destroy property; disrupt everyday services, business, and recreational activities; and impede economic development. Growth in the State's population — especially in the number of businesses and persons residing in coastal areas, in the size of the elderly population, in the number of seasonal vacationers, and in the number of persons with functional and access needs — has greatly complicated the State's ability to coordinate its emergency management resources and activities.

The legislature also finds that the statutes pertaining to the civil defense system of the State were enacted at a very different time in the history of Hawaii and our nation. Chapter 127, Hawaii Revised Statutes, relating to disaster relief, was enacted in 1949, at a time when Hawaii's population was less than half of what it is today. Chapter 128, Hawaii Revised Statutes, Hawaii's Civil Defense and Emergency Act, is based on the Federal Civil Defense Act of 1950, which was enacted for the purpose of preparing the nation for attack during the cold war era. At the federal level, the civil defense system has since become obsolete and has been replaced by the federal emergency management system.

The purpose of this Act is to bring Hawaii's emergency management laws into conformity with nationwide practices in emergency management by establishing a Hawaii emergency management agency within the state department of defense and updating and recodifying the authorizing statutes. In addition, this Act codifies the existing role of the counties in preparing for and responding to emergencies or disasters.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
EMERGENCY MANAGEMENT"**

**§ -1 Policy and purpose.** (a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from natural or man-made hazards, and in order to ensure that the preparations of this State will be adequate to deal with such disasters or emergencies; to ensure the administration of state and federal programs providing disaster relief to individuals; and generally to protect the public health, safety, and welfare and to preserve the lives and property of the people of the State, it is hereby found and declared to be necessary:

- (1) To provide for emergency management by the State, and to authorize the creation of local organizations for emergency management in the counties of the State;
- (2) To confer upon the governor and upon the mayors of the counties of the State the emergency powers necessary to prepare for and respond to emergencies or disasters;
- (3) To provide for the rendering of mutual aid among the counties of the State and with other states and in cooperation with the federal government with respect to the carrying out of emergency management functions; and
- (4) To provide programs, in cooperation with other governmental agencies, the private sector, and nonprofit organizations, to educate and train the public to be prepared for emergencies and disasters.

(b) It is further declared to be the purpose of this chapter and the policy of the State that all emergency management functions of this State and its counties be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments, and agencies of other

states and localities, and with private-sector and nonprofit organizations, to the end that the most effective preparation and use may be made of the nation's personnel, resources, and facilities for dealing with any emergency or disaster that may occur.

(c) It is the intent of the legislature to provide for and confer comprehensive powers for the purposes stated herein. This chapter shall be liberally construed to effectuate its purposes; provided that this chapter shall not be construed as conferring any power or permitting any action which is inconsistent with the Constitution and laws of the United States, but, in so construing this chapter, due consideration shall be given to the circumstances as they exist from time to time. This chapter shall not be deemed to have been amended by any act hereafter enacted at the same or any other session of the legislature, unless this chapter is amended by express reference.

**§ -2 Definitions.** When used in this chapter, unless the context otherwise requires:

“Administrator” means the administrator of the Hawaii emergency management agency established by section -3.

“Agency” means the Hawaii emergency management agency established by section -3.

“Council” means the Hawaii advisory council on emergency management as established by section -4.

“County” means the city and county of Honolulu, and the counties of Hawaii, Kauai, and Maui; provided that the county of Maui shall include the county of Kalawao for the purposes of this chapter.

“County emergency management agency” means a county-level entity responsible for emergency management within the respective counties as established in section -5.

“Critical infrastructure” means those systems, facilities, and assets, whether physical or virtual, so vital to a county, the State, or the nation that the incapacity or destruction of such systems, facilities, or assets would have a debilitating impact on national, state, or county security; economic security; public health or safety; or any combination of those matters.

“Director” means the director of the Hawaii emergency management agency established by section -3, and who is the same as the adjutant general as provided in section 26-21.

“Disaster” means any emergency, or imminent threat thereof, which results or may likely result in loss of life or property and requires, or may require, assistance from other counties or states or from the federal government.

“Disaster relief” means any physical or financial assistance provided to individuals or areas in the aftermath of an emergency or disaster.

“Emergency” means any occurrence, or imminent threat thereof, which results or may likely result in substantial injury or harm to the population or substantial damage to or loss of property.

“Emergency management” means a comprehensive integrated system at all levels of government, and also in the private sector, which develops and maintains an effective capability to prevent, prepare for, respond to, mitigate, and recover from emergencies or disasters.

“Emergency management functions” mean those tasks required to prepare for and carry out actions to prevent, prepare for, respond to, mitigate, and recover from emergencies and disasters, and includes management of resources, personnel, and facilities and administration of economic controls as needed to provide relief in anticipation of, during, or after emergencies or disasters.

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“Emergency period” means the dates covered by a proclamation issued by the governor declaring a state of emergency or by a mayor declaring a local state of emergency.

“Evacuation” means the immediate and rapid movement of individuals and animals away from the threat or actual occurrence of any hazard, emergency, or disaster, and includes vertical evacuation, which is moving to a higher floor or higher ground in order to gain safety above the height of expected inundation by water as recommended by the county emergency management agency.

“Facilities”, except as otherwise provided in this chapter, includes any infrastructure, buildings and other structures, shelters, land, roads, highways, thoroughfares, walks, roadways, bridges, public rights of way, and any appurtenant facilities, structures, and materials.

“Hazard” means an event or condition of the physical environment that results or may likely result in damage to property or injuries or death to individuals and which may result in an emergency or disaster.

“Laws” includes ordinances, rules, regulations, and orders prescribed under federal, state, or county laws or ordinances and having the force and effect of law.

“Local state of emergency” means the occurrence in any part of a county that requires efforts by the county government to save lives, and to protect property, public health, welfare, or safety in the event of an emergency or disaster, or to reduce the threat of an emergency or disaster.

“Materials” includes medicines, supplies, products, commodities, articles, equipment, machinery, and component parts.

“Necessary” means and refers to such means, measures, or other actions or determinations as are required to be taken in the opinion of the governor or governor’s authorized representative or a mayor or the mayor’s authorized representative.

“State of emergency” means an occurrence in any part of the State that requires efforts by state government to protect property, public health, welfare, or safety in the event of an emergency or disaster, or to reduce the threat of an emergency or disaster, or to supplement the local efforts of the county.

“States” include the several states, the District of Columbia, and the possessions of the United States, and also includes the State of Hawaii, and to the extent authorized by or under federal law, foreign countries and their provinces and states.

“Traffic control” includes plans, regulations, devices, and actions for the control of traffic to provide for the rapid and safe movement or evacuation of individuals, vehicles, and materials for emergency management, and for the movement and cessation of movement of any pedestrians and vehicular traffic during, before, and after emergencies and disasters, emergency management exercises and training, or other emergency management actions or activities.

**§ -3 Hawaii emergency management agency.** (a) There is established within the department of defense the Hawaii emergency management agency. The adjutant general shall serve as the director of Hawaii emergency management and, subject to the direction and control of the governor, shall oversee the agency.

(b) There shall be an administrator of emergency management who shall be appointed, and may be removed, by the director, and who shall have at least three years of experience leading emergency management efforts at the local, state, or federal level. The administrator of emergency management shall be the civilian head of and responsible for the day-to-day operations of the agency. The administrator of emergency management shall report to the director. The

administrator of emergency management shall, in the absence of the director, have all the duties and responsibilities of the director, and shall report directly to the governor. The administrator of emergency management shall not be subject to chapter 76.

(c) The director may, from funds allotted therefor, employ technical, clerical, administrative, and other personnel and make such expenditures as may be necessary.

(d) The director shall coordinate the activities of the agency with all county emergency management agencies, other state agencies, other states, or federal agencies involved in emergency management activities, and all organizations for emergency management within the State, whether public or private, and shall maintain liaison and cooperate with all county emergency management agencies, other state agencies, other states, or federal agencies involved in emergency management activities as provided in this chapter.

(e) The agency shall perform emergency management functions within the territorial limits of the State; support county emergency management agencies as requested; coordinate all resource support to the counties; ensure that emergency management plans across the State are coordinated with each other and other state, federal, and local organizations; oversee and coordinate the state-wide outdoor siren warning system; monitor and issue alerts and warnings; and coordinate emergency and disaster response and recovery activities.

**§ -4 Hawaii advisory council on emergency management.** There shall be a Hawaii advisory council on emergency management, which shall be attached to the agency for administrative purposes, and which shall consist of seven members nominated and, by and with the advice and consent of the senate, appointed by the governor. The governor shall designate the chairperson of the council. The council, at the request of the governor, shall confer with and advise the governor in regard to matters pertaining to emergency management. Members of the council shall receive no compensation but shall be reimbursed for travel and other reasonable and necessary expenses incurred in carrying out their duties relating to the council. Persons holding public office or employment in the state government, or any political subdivision thereof, are eligible for appointment to the council.

**§ -5 County emergency management agency.** (a) The mayor of each county shall have direct responsibility for emergency management within the county, including the organization, administration, and operation of a county emergency management agency.

(b) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized, coordinate all emergency management plans within the county, and cooperate as closely as possible with the agency and emergency management agencies in the other counties in all aspects of emergency management.

(c) Each county shall be responsible for the establishment, naming, and operation of a county emergency management agency under the mayor's direction, and shall enact ordinances to establish the county emergency management agency and ensure that the mayor and the county's emergency management agency have the powers necessary to receive state and federal funds and carry out the functions of this chapter at the county level. The ordinances shall comply with powers established under sections -12 and -13.

(d) Each county, under the mayor's direction, shall make appropriations and authorize expenditures for the purposes of this chapter, including for use as matching funds for federal aid, out of the normal revenues or fund bal-

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ances or surpluses of the counties, notwithstanding any legal restrictions upon the purposes for which the funds may be expended, except that pension and retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, trust funds, loan funds, and funds received from the federal government or from any person for specific purposes shall not be affected.

(e) Each county, under the mayor's direction, shall provide a county-level administrator or director of the county emergency management agency, and technical, administrative, and other personnel; office space; furniture; equipment; supplies; and funds necessary to carry out the purposes of this chapter.

(f) The administrator or director of the county emergency management agency shall be subject to chapter 76.

(g) Each county, under the mayor's direction, shall, in order to ensure continuity of government during an emergency period, establish a procedure for the appointment and designation of stand-by officers for the mayor and the county legislative body during an emergency period, who shall serve in the event of the unavailability of the officers for whom they are standing-by.

(h) Each county, under the mayor's direction, shall establish and maintain an emergency operations center, as the place from where emergencies and disasters shall be managed, and staff it appropriately.

(i) Each county, under the mayor's direction, shall coordinate, develop, and implement an emergency operations plan for the county.

**§ -6 Emergency reserve corps.** (a) The director may establish an emergency reserve corps comprising trained specialists to support state and county emergency or disaster requirements. The emergency reserve corps may include:

- (1) Any employee of the State or county;
- (2) Any employee hired specifically for staffing during emergency periods and exercises who shall be hired and compensated without regard to chapters 76, 78, and 88; and
- (3) Any volunteer,

who shall be detailed in accordance with this chapter. Emergency reserve corps positions shall be authorized and managed by the agency and do not need the approval of the governor.

(b) The emergency reserve corps shall support state emergency or disaster requirements and, if requested by a county emergency management agency, supplement the county emergency management agency staff. The emergency reserve corps may be mobilized during, or in advance of, emergencies or disasters, or for emergency management exercises and training events. Emergency reserve corps members shall attend a minimum of four days of paid training per year.

**§ -7 State warning point.** (a) The agency shall establish and operate a communications and warning center that shall be known as the state warning point. The state warning point shall be continually staffed by the agency to monitor warning systems and devices and shall have the ability to provide timely warning and notification to government officials, county warning points and emergency operations centers and, when directed, the general public.

(b) Each county shall establish and operate a communications and warning center that shall be known as a county warning point. The county warning points shall be continually staffed by the respective counties and shall be capable of communicating with the state warning point at all times. The county warning points shall provide timely warning and notification to government officials and the public, when directed.

**§ -8 Status and rights of personnel.** (a) All state and county officials, officers, and employees are considered "emergency workers" and shall perform functions as determined by their respective state or county department director during emergencies or disasters.

(b) If any state or county official, officer, or employee is engaged in carrying out this chapter in lieu of the official, officer, or employee's regular office or employment, the amount of the official, officer, or employee's compensation shall not be adversely affected, and the official, officer, or employee's rights in or under the laws relating to vacation and leave, the retirement system, civil service or the like, shall not be adversely affected.

(c) All persons, including volunteers whose services have been accepted by authorized persons, while engaged in the performance of duty pursuant to this chapter, including duty performed during exercises and training, shall be deemed state employees if the performance of duty is for the State, or county employees if the performance of duty is for the county, and shall have the powers, duties, rights, and privileges of such in the performance of their duties, except as may be prescribed by or under the authority of the governor or the mayor, pursuant to this chapter.

(d) In case of injury or death arising out of and in the performance of duty pursuant to this chapter, including duty performed during periods of training, all persons having the status of official, officer, or employee of the State or county, pursuant to this section, and their dependents, shall be entitled to all of the benefits provided in chapter 386, including medical services and supplies, and in case of injury or death, no public official shall be excluded from the coverage of chapter 386 by reason of being an elected official. For the purposes of the benefits, average weekly wages shall be computed upon the basis set forth in section 386-51, or upon the basis of earnings from the usual employment of the person, or upon the basis of earnings at the rate of \$20 per week, whichever is most favorable to the claimant or claimants. The costs thereof, in cases of state employees, shall be a charge upon the state insurance fund and, in cases of county employees, shall be a charge upon the county insurance fund; provided that the governor or mayor may effect such insurance in respect of the obligations assumed pursuant to this section and as may be available under any mutual aid agreement or act of Congress. Nothing herein shall adversely affect the right of any person to receive any benefits or compensation under any act of Congress.

**§ -9 Immunities; rights.** (a) None of the following:

- (1) The State;
- (2) Any county;
- (3) Any owner or operator of a public utility or critical infrastructure facility;
- (4) Private-sector or nonprofit organizations; or
- (5) Except in cases of willful misconduct, gross negligence, or recklessness, persons engaged in emergency management functions pursuant to this chapter, including volunteers whose services are accepted by any authorized person,

shall be civilly liable for the death of or injury to persons, or property damage, as a result of any act or omission in the course of the employment or duties under this chapter.

(b) No act or omission shall be imputed to the owner of any vehicle by reason of the owner's ownership thereof; provided that nothing herein shall preclude recovery by any person for injury or damage sustained from the operation of any vehicle which may be insured under section 41D-8 to the extent of the insurance, and, unless specifically provided, insurance effected under section

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41D-8 shall not include coverage of such risk during an emergency period. The governor may insure vehicles owned by the State or in the custody and use of the Hawaii emergency management agency; provided that insurance effected under section 41D-8 on vehicles used for purposes other than emergency management shall not be required to include coverage of the insured vehicle against the risk incurred or which would be incurred under this chapter as a result of the use of the insured vehicle for emergency management.

(c) Members of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on any duty or service performed under or in pursuance of an order or call of the President of the United States or any proper authority, and the national guard from any other state ordered into service by any proper authority, to assist civil authorities engaged in emergency functions pursuant to this chapter shall not be liable, civilly or criminally, for any act done or caused by them in pursuance of duty in such service.

**§ -10 Political activity prohibited.** No organization for emergency management established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

**§ -11 Powers on whom conferred; delegation of powers.** (a) Except as otherwise expressly provided, all of the powers conferred by this chapter are conferred on the governor or mayor, as applicable. The governor or mayor may delegate any of these powers to governmental, private-sector, and nonprofit agencies and organizations, officials, officers, employees, and other individuals created, appointed, or employed under, or engaged in carrying out this chapter; provided that the following powers shall be retained by the governor or mayor, as applicable:

- (1) Proclaiming a state of emergency or local state of emergency, proclaiming a state of emergency or local state of emergency terminated, or making any other proclamation provided for by this chapter;
- (2) Prescribing rules having the force and effect of law; and
- (3) Making allotments of funds appropriated or available for the purposes of this chapter.

Unless otherwise directed by the governor or mayor, all of the powers pertaining to emergency management authorized to be delegated by the governor or mayor shall be deemed to have been delegated by the governor to the director of Hawaii emergency management and by the mayor to the administrator or director of the county emergency management agency, as applicable, and the administrator or director of the county emergency management agency, respectively, shall have the authority to further delegate any of these powers to any agency or person to whom the governor or mayor could have directly delegated such powers.

(b) The powers conferred upon the governor or mayor by this chapter are in addition to any other powers or authority conferred upon the governor or mayor by the laws of the United States and of the State or county for the same or a like purpose, and shall not be construed as abrogating, limiting, or modifying any such powers or authority.

**§ -12 Emergency management powers, in general.** (a) The governor or mayor, as applicable, may exercise the following powers pertaining to emergency management:

- (1) Prepare comprehensive plans and programs for the protection of the State or county against all hazards, which shall be integrated into and coordinated with the emergency management plans of the

- State, counties, the federal government, other states, and private-sector and nonprofit organizations;
- (2) Identify emergency workers required to report for duty as directed by the department head regardless of the availability of any type of leave;
  - (3) Institute training, preparedness, and public-information programs in coordination with the State, counties, the federal government, other states, and private-sector and nonprofit organizations;
  - (4) Provide or authorize suitable insignia of authority for all authorized emergency management personnel; and
  - (5) Direct or control as may be necessary for emergency management:
    - (A) Alerts, warnings, notifications, activations, exercises, drills, and tests;
    - (B) Warnings and signals for alerts or exercises, and any type of warning device, system, or method to be used in connection therewith;
    - (C) Partial or full mobilization of personnel for exercises or training, in advance of, or in response to, an actual emergency or disaster; and
    - (D) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, exercises, training, emergencies, or disasters.
- (b) The governor may exercise the following powers pertaining to emergency management:
- (1) Support requests from a mayor for assistance in preparing for, responding to, and recovering from any emergency or disaster or threat thereof;
  - (2) Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government, to the President of the United States, the armed forces, or to the emergency management agency of the United States;
  - (3) Enter into, participate in, or carry out mutual aid agreements or compacts for emergency management or emergency management functions with the federal government and with other states;
  - (4) Sponsor and develop mutual aid plans and agreements for emergency management between the State, one or more counties, and other governmental, private-sector, and nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;
  - (5) Take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken, the governor may make such provision for the temporary

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- accommodation of the government service affected thereby as the governor may deem advisable;
- (6) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other private-sector and nonprofit organizations that may be made available;
  - (7) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the state treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available; and apply the provisions of chapter 29 in cases of federal aid, even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;
  - (8) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of the governor to the extent that the governor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of those functions, or that compliance therewith is impracticable due to existing conditions;
  - (9) Provide for the appointment, employment, training, equipping, and maintaining with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the governor deems necessary to carry out the purposes of this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State;
  - (10) Make charges in such cases and in such amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the State under this chapter;
  - (11) Make or authorize such contracts as may be necessary to carry out this chapter;
  - (12) Establish special accounting forms and practices whenever necessary;
  - (13) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public entry thereon, or the permis-

- sion of the entry upon such terms and conditions as the governor may prescribe;
- (14) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;
- (15) Direct and control the non-compulsory evacuation of the civilian population;
- (16) Order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request;
- (17) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;
- (18) Fix or revise the hours of government business; and
- (19) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section -13(a) may only be exercised during an emergency period.
- (c) The mayor may exercise the following powers pertaining to emergency management:
- (1) Lease, lend, or otherwise furnish, on such terms and conditions as the mayor may consider necessary to promote the public welfare and protect the interest of the county, any real or personal property of the county government, to the governor of the State, to the mayors of the other counties of the State, or to the agency;
- (2) Sponsor and develop mutual aid plans and agreements for emergency management between one or more counties, and other governmental, private-sector, or nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;
- (3) Take possession of, use, manage, control, and reallocate any public property of the county, real or personal, required by the mayor for the purposes of this chapter, including parks, playgrounds, and other public buildings. Whenever the property is so taken, the mayor may make such provision for the temporary accommodation of the government service affected as the mayor may deem advisable;
- (4) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and oth-

- er private-sector and nonprofit organizations that may be made available;
- (5) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; and procure federal aid as the same may be available. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;
  - (6) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions;
  - (7) Provide for the appointment, employment, training, equipping, and maintaining, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the mayor deems necessary to carry out this chapter; to determine to what extent any law prohibiting the holding of more than one office or position of employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the county;
  - (8) Make charges in such cases and in such amounts as the mayor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the county under this chapter;
  - (9) Make or authorize such contracts as may be necessary to carry out this chapter;
  - (10) Establish special accounting forms and practices whenever necessary;
  - (11) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the mayor, to protect and safeguard its or the person's property, or to provide for such protection and safeguarding; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protection and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the mayor may prescribe;
  - (12) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;
  - (13) Direct and control the non-compulsory evacuation of the civilian population of the county;
  - (14) Order and direct government agencies, officials, officers, and employees of the county, to take such action and employ such measures

- for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the mayor as the mayor may request;
- (15) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;
- (16) Fix or revise the hours of county government business; and
- (17) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section -13(b) may only be exercised during an emergency period.

**§ -13 Additional powers in an emergency period.** (a) In the event of a state of emergency declared by the governor pursuant to -14, the governor may exercise the following additional powers pertaining to emergency management during the emergency period:

- (1) Provide for and require the quarantine or segregation of persons who are affected with or believed to have been exposed to any infectious, communicable, or other disease that is, in the governor's opinion, dangerous to the public health and safety, or persons who are the source of other contamination, in any case where, in the governor's opinion, the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections 325-32 to 325-38 concerning compulsory immunization programs; provide for the isolation or closing of property which is a source of contamination or is in a dangerous condition in any case where, in the governor's opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct, or conditions that are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated and, if need be, that the property be destroyed, by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which shall be applicable; and further, authorize without the permission of the owners or occupants, entry on private premises for any such purposes;
- (2) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the governor to exist in the laws and to result from the operation of federal programs or measures taken under this chapter, by suspending the laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the governor may impose, including licensing laws, quarantine laws, and laws relating to labels, grades, and standards;

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- (3) Suspend any law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel;
  - (4) In the event of disaster or emergency beyond local control, or an event which, in the opinion of the governor, is such as to make state operational control necessary, or upon request of the local entity, assume direct operational control over all or any part of the emergency management functions within the affected area;
  - (5) Shut off water mains, gas mains, electric power connections, or suspend other services, and, to the extent permitted by or under federal law, suspend electronic media transmission;
  - (6) Direct and control the mandatory evacuation of the civilian population;
  - (7) Exercise additional emergency functions to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and notwithstanding any other law to the contrary, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto;
  - (8) Suspend section 8-1, relating to state holidays, except the last paragraph relating to holidays declared by the president, which shall remain unaffected, and in the event of the suspension, the governor may establish state holidays by proclamation;
  - (9) Adjust the hours for voting to take into consideration the working hours of the voters during the emergency period, and suspend those provisions of section 11-131 that fix the hours for voting, and fix other hours by stating the same in the election proclamation or notice, as the case may be;
  - (10) Assure the continuity of service by critical infrastructure facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same; and
  - (11) Except as provided in section 134-7.2, whenever in the governor's opinion, the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition, inflammable materials and other objects, implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse, or obstructive of or tending to obstruct law enforcement, emergency management, or military operations, including intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in this chapter.
- (b) In the event of a local state of emergency declared by the mayor pursuant to § 11-14, the mayor may exercise the following additional powers pertaining to emergency management during the emergency period:
- (1) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the mayor to exist in the laws of

the county and to result from the operation of federal programs or measures taken under this chapter, by suspending the county laws, in whole or in part, or by alleviating the provisions of county laws on such terms and conditions as the mayor may impose, including county licensing laws, and county laws relating to labels, grades, and standards;

- (2) Suspend any county law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel;
- (3) Shut off water mains, gas mains, electric power connections, or suspend other services; and, to the extent permitted by or under federal law, suspend electronic media transmission;
- (4) Direct and control the mandatory evacuation of the civilian population; and
- (5) Exercise additional emergency functions, to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and any other county law to the contrary notwithstanding, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto.

**§ -14 State of emergency.** (a) The governor may declare the existence of a state of emergency in the State by proclamation if the governor finds that an emergency or disaster has occurred or that there is imminent danger or threat of an emergency or disaster in any portion of the State.

(b) A mayor may declare the existence of a local state of emergency in the county by proclamation if the mayor finds that an emergency or disaster has occurred or that there is imminent danger or threat of an emergency or disaster in any portion of the county.

(c) The governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable. This section shall not limit the power and authority of the governor under section -13(a)(4).

(d) A state of emergency and a local state of emergency shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency or local state of emergency, respectively, or by a separate proclamation of the governor or mayor, whichever occurs first.

**§ -15 Proclamations, how made; service of papers.** (a) Every proclamation of the governor or mayor for which provision is made by this chapter, shall be promulgated by posting on the applicable state or county emergency management agency website and by means calculated to bring its contents to the attention of the general public, including by official announcement by means of television or radio broadcast, or both, or by internet, or such other means as may be available. The proclamation shall remain posted on the agency website until the state of emergency terminates automatically or by subsequent proclamation.

(b) Any process, notice, or order, service of which is provided for by this chapter, may be served by any law enforcement officer or person autho-

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rized by the governor or mayor, any other provision of law to the contrary notwithstanding.

**§ -16 Major disaster fund.** (a) The director shall submit requests to the legislature to appropriate from the general revenues of the State sufficient moneys as may be necessary for expenditure by or under the direction of the governor for immediate relief in response to an emergency or disaster in any part of the State; provided that:

- (1) The governor has issued a proclamation of a state of emergency;
- (2) The governor may not expend in excess of \$2,000,000 for immediate relief as a result of any single emergency or disaster; and
- (3) In addition to the funds in paragraph (2), an additional \$2,000,000 may be made available solely for the purpose of matching federal disaster relief funds when these funds become available to the State following a presidential disaster declaration.

In expending the moneys, the governor may allot any portion thereof to any agency, office, or employee of the State or a county for the most efficient relief for the population. Notwithstanding this subsection, the only exception to sections -16(1), (2), and (3) is that the director may use up to \$100,000 per year to support emergency reserve corps training.

(b) Federal reimbursement moneys for disaster relief shall be deemed to be trust moneys and may be deposited into a trust account with and under the control of the department of defense. These moneys and any interest earned thereon shall be used for the purpose identified in subsection (a) and shall not lapse to the general fund.

**§ -17 Allotments.** (a) There shall be available for allotment by the governor under this chapter:

- (1) Any moneys appropriated for the purposes of this chapter, or reappropriated pursuant to subsection (b) and any unexpended moneys appropriated for emergency management or disaster relief or administration thereof by any act, but only within the scope and purposes of the appropriations so made by the legislature;
- (2) Contributions, as provided by section -12; and
- (3) The governor's contingent fund.

(b) Any sums realized under this chapter from the sale of property by the State, or from work performed, services rendered, or accommodations or facilities furnished by the State, or from insurance against damage or loss of property the premiums for which have been paid by the State under this chapter, shall be deemed to be trust funds for the purposes of this chapter and may be expended or allotted in the same manner as other appropriations made by or available for the purposes of this chapter.

(c) The governor may allot any moneys appropriated or available for the purposes of this chapter, to any agency, officer, or employee, created, appointed, or employed under this chapter, or to any government agency, officer, or employee of the State or a county, to whom powers or duties have been delegated pursuant to this chapter, to be expended in carrying out the provisions of this chapter, and in the case of county agencies, officers, or employees, to order the allotment paid over to be held, disbursed, and accounted for as other county funds or as the governor shall provide.

(d) In the event of a deficit in the general fund of the State, any appropriation made or available for the purposes of this chapter and needed for allotment under this chapter shall take priority over other appropriations from the general fund.

(e) Any appropriation made or available for the purposes of this chapter may be expended notwithstanding the existence of a specific or other appropriation for the same or a like purpose, and without prejudice to the expenditure of the other appropriation. The powers granted by this section are in addition to, and not restrictive of, the powers granted by any other section.

(f) Any order by the governor made pursuant to this section may be amended or revoked by the governor.

**§ -18 Mitigation of hazardous situations.** (a) Even in the absence of an emergency or disaster, the governor may authorize designated state employees, agents, contractors, or representatives to enter private property at reasonable times to mitigate situations deemed by the governor to be hazardous to the health and safety of the public; provided that this section shall be applicable only to the following actions:

- (1) Cutting, trimming, or removing dangerous trees or branches that pose a hazard to other properties;
- (2) Stabilizing or removing unstable rock and soil hazards; or
- (3) Cleaning streams and waterways to mitigate or prevent flooding or other hazards;

provided further that at least ten days' written notice shall be provided to the landowner and to the occupier of the private property of the governor's intention to authorize designated state employees, agents, contractors, or representatives to enter the property to mitigate the hazardous situation; provided further that the landowner or occupier shall be given a reasonable opportunity to mitigate the hazardous situation without assistance of the State before designated state employees, agents, contractors, or representatives may enter the property.

(b) Written notice sent to the landowner's last known address by certified mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. If land ownership cannot be determined, notice shall be given once in a daily or weekly publication of general circulation in the county in which any action or proposed action will be taken.

(c) If entry is refused, the governor may apply to the district court in the circuit in which the property is located for a warrant to enter the premises. The district court may issue a warrant directing the chief of the appropriate county police to assist the governor in gaining entry onto the premises during regular working hours or at other reasonable times.

(d) The governor may seek recovery and reimbursement, by appropriate proceedings, of all costs and expenses incurred in the mitigation of a hazardous situation under this section, and any costs and expenses imposed against any landowner shall be a lien upon the landowner's property.

(e) This section shall take effect only upon authorization and funding for personnel to administer the program.

**§ -19 Shelters.** (a) The governor may establish guidelines for providing suitable arrangements and accommodations for the sheltering of the public and the sheltering of pet animals in public shelters under this chapter.

(b) County emergency management agencies shall identify, in coordination with private and nonprofit organizations engaged in emergency management functions relating to providing shelter or the management or operation of a public shelter under this chapter, locations and facilities suitable for the sheltering of the public and locations and facilities suitable for the sheltering of pet animals.

(c) The administrator or director of the county emergency management agency may identify, in coordination with private owners, operators, or

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controllers of real property, private locations and facilities that are suitable for use as shelters of the public or of pet animals.

(d) A public shelter identified for the sheltering of pet animals pursuant to subsection (b) need not be subject to guidelines developed for public shelters, unless the particular shelter has been specifically identified as a shelter for both pet animals and the public.

(e) For purposes of this section, "pet animal" shall have the same meaning as defined in section 711-1100.

(f) For purposes of this section, "shelter" includes any structure, excavation, or other facility or item used or useful for the protection of persons.

**§ -20 Immunity from liability of private shelter.** (a) Any individual, partnership, firm, society, unincorporated association, joint venture group, hui, joint stock company, corporation, trustee, personal representative, trust estate, decedent's estate, trust, or other legal entity whether doing business for itself or in a fiduciary capacity, owning or controlling real property, that voluntarily and without compensation grants a license or privilege for, or otherwise permits, the designation by the emergency management agency of the county in which the building is located for the use of the property, in whole or in part, for the purpose of sheltering persons during emergencies and disasters, shall, together with its successors in interest, if any, not be civilly liable for negligently causing the death of or injury to any person or damage to any personal property on the property of the licensor in connection with the use of the licensed premises for the purposes designated.

(b) For the purposes of this section, the following shall not be considered compensation:

- (1) Any compensation or consideration paid by or on behalf of any guest or person for transient accommodation lodging;
- (2) Any compensation or consideration paid for any patient, resident, or ward present or residing in any hospital, community-based care home, home-based care home, or healthcare agency of any type licensed by the department of health or the department of human services and used as a private shelter under this section; provided that the protections afforded by this section shall not extend beyond the use of the private shelter under this section for any other duty or standard of care owed to any patient, resident, or ward; and
- (3) Any compensation or consideration paid by or on behalf of any minor or student of any age in any day care, preschool, elementary school, middle school, or any other educational facility used as a private shelter under this section.

**§ -21 Notice of requisition.** (a) The governor or mayor may requisition and take over any materials, facilities, or real property or improvements, required for the purposes of this chapter, or requisition and take over the temporary use thereof. The requisition shall be made by serving notice upon any person found in occupation of the premises or having the property in the person's custody, possession, or control; provided that a like notice shall also be served upon any person who has filed with the governor or mayor, or with such person as the governor or mayor may designate for the purpose, a request for notice with respect to the property; provided further that whenever all persons entitled to compensation for the property have not been served in the manner aforesaid, the governor or mayor shall publish a notice of the requisition at the earliest practicable date.

(b) A requisition shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency in the State or local state of emergency, respectively, or by a separate proclamation of the governor or mayor, whichever occurs first.

**§ -22 Determination of compensation.** (a) Whenever the governor or mayor requisitions and takes over any property or the temporary use thereof, the owner, or other person entitled thereto, shall be paid as compensation for the property or use, such sum as the governor or mayor determines to be fair and just, within twenty days after it has been requisitioned and taken; provided that the compensation for temporary use may be paid in monthly or lesser installments.

(b) If any person is unwilling to accept, as full and complete compensation for the property or use thereof, the sum determined by the governor or mayor, the person shall be paid seventy-five per cent of the sum determined by the governor or mayor. The person shall also be entitled to sue the State or county for such additional sum as, when added to the sum already received by the person, the person may consider fair and just compensation for such property or use, in the manner provided by chapter 661 for actions against the State and any other applicable chapter for actions against the county. Any suit under this section shall be instituted within two years after the requisition in the case of the taking of real property in fee simple, or within one year after the requisition in all other cases, subject to sections 657-13 to 657-15, which are hereby made applicable to such a suit; except that no more than six months shall be allowed for the bringing of a suit after the appointment of a conservator of a person under disability, or the removal of the disability, or after the appointment of personal representatives. Recovery shall be confined to the fair market value of the property or its fair rental value, as the case may be, without any allowance for prospective profits, or punitive or other damages. Whenever the owner of property, or other person entitled to compensation on account of the requisitioning of property or the use thereof, is under a disability, or has died, and no conservator or personal representative has been appointed, the State, acting through the attorney general, may apply for the appointment of a conservator or for the appointment of a personal representative.

**§ -23 Determination of damages.** The governor or mayor, as applicable, shall appoint a board of three disinterested certified appraisers with whom may be filed any claim for damages arising out of any failure to return private property, the temporary use of which was requisitioned, or which was leased, or any claim for damages arising out of the condition in which the private property is returned; provided that no such claim shall be filed for deterioration of property resulting from ordinary wear and tear, and not for any deterioration or damage, except such as is shown to have resulted from the taking or use of the property. Any claim shall be filed within thirty days after the return of the property or after the governor or mayor proclaims that all private property has been returned to the owners, whichever is earlier. The decision of the appraisers shall be final and binding upon the governor or mayor, as applicable, and the claimant; provided that either party may file a petition in the circuit court within sixty days after the rendering of a decision of the board, praying for the decision of the court upon the claim. The petition, if filed by the State, shall be entitled in the name of the State, by the attorney general, and if filed by the county, shall be entitled in the name of the county, by its corporation counsel, and shall be heard and decided by the circuit court without the intervention of a jury. If filed by any other party, the petition shall be filed, heard, and decided in the manner provided for suits

against the State. Appellate review may be had, subject to chapter 602, in the manner provided for civil appeals from the circuit courts. The court may order the joinder of other parties or may allow other parties to intervene. Any award that has become final shall be paid out of any funds available under this chapter and, if not sufficient, out of the general revenues of the State as appropriated or out of the general revenues of the county as appropriated.

**§ -24 Investigations and surveys.** (a) The governor or mayor, as applicable, may make investigations and surveys for the purpose of ascertaining facts to be used in administering this chapter, and in making the investigations and surveys, may require the making or filing of schedules or statements, under oath or otherwise; administer oaths; take evidence under oath; subpoena witnesses; make inspections; and require the production of books, papers, and records. The circuit court of any circuit or judge thereof, may enforce by proper proceedings the making or filing of the schedules or statements; the attendance and testimony of any witness subpoenaed to appear within the circuit; or the production of books, papers, and records. The proceedings shall be in addition to, and not exclusive of, any other means or methods of enforcement.

(b) No person shall be excused from attending and testifying, or from producing books, papers, or records, before the governor or mayor or in obedience to the subpoena of the governor or mayor, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter or any rule or order thereunder, on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(c) Witnesses shall be allowed their per diem fees and mileage as in cases in the circuit courts.

**§ -25 Rules and orders.** (a) For the purpose of carrying out any provision of this chapter, the governor may adopt rules for the State and the mayor may adopt rules for the county which may, if so stated in the rules, have the force and effect of law. Even though the rules are prescribed pursuant to a power conferred, or having mandatory or prohibitive effect, only in the event of a state of emergency or local state of emergency, the rules nevertheless may be prescribed prior thereto if stated therein to have the force and effect of law only in the event of a state of emergency or local state of emergency. All the rules, and likewise all other action taken under this chapter, shall be made and taken with due consideration of the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto. In these rules, reasonable classifications, exceptions, and exemptions may be made and granted. Such rules shall not be subject to chapter 91.

(b) The power to adopt rules having the force and effect of law shall not be deemed in derogation of the power of the governor, or the governor's duly authorized representatives, or the mayor, or the mayor's duly authorized representatives, to make orders for the enforcement of this chapter or the rules issued thereunder. The rules may provide for the making of administrative findings by duly authorized representatives, or for the application of the rules by such representatives as the circumstances may require, and the issuance of orders therefor.

(c) Rules adopted pursuant to this chapter during a state of emergency shall be promulgated as herein provided, and may be made effective upon the promulgation. The rules shall be promulgated by posting them on the applicable state or county government website and by publishing them in a newspaper of general circulation in the State, by means calculated to bring its contents to the attention of the general public, including by official announcement by means of television or radio broadcast, or both, or by internet, or, where only known persons are concerned, by service upon these persons by registered or certified mail or by personal service. The rules shall remain posted on the government website while in effect. When immediate promulgation of the rules is necessary in the opinion of the governor or mayor, as applicable, who shall be the sole judge thereof, in lieu of publication, the rules may be promulgated by television or radio broadcast, or both, or by internet, or such other means as may be available; provided that the rules shall be posted and published thereafter at the earliest practicable date.

**§ -26 Forfeitures.** The forfeiture of any property unlawfully possessed, pursuant to section -12(b), may be adjudged upon conviction of the offender found to be unlawfully in possession of the same, where no person other than the offender is entitled to notice and hearing with respect to the forfeiture, or the forfeiture may be enforced by an appropriate civil proceeding brought in the name of the State. The district courts and circuit courts shall have concurrent jurisdiction of the civil proceedings. Any property forfeited as provided in this section may be ordered destroyed, or may be ordered delivered for public use to such agency as shall be designated by the governor or the governor's representative, or may be ordered sold, in whole or in part, for the account of the State.

**§ -27 Preliminary or interlocutory injunctions and temporary restraining orders.** (a) Notwithstanding any other law to the contrary, no preliminary or interlocutory injunction, or temporary restraining order, suspending, enjoining, or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, on the ground of unconstitutionality or for any other reason or reasons, any provision of this chapter or any proclamation, order, or rule prescribed, made, or issued under the authority of this chapter, shall be issued or granted by any court of the State, or by any judge thereof, unless the application for the same is presented to a circuit judge, is heard and determined by the circuit judge sitting with two other circuit judges, and a majority of the judges concur in granting the application. When the application is presented to a judge, the judge shall immediately notify the chief justice of the supreme court of the State, or the senior associate justice in the event of the chief justice's absence or incapacity or a vacancy in the office, who shall forthwith assign two other circuit judges to sit with the circuit judge in hearing and determining the application.

The application shall not be heard or determined before at least five days' notice of the hearing has been given to the governor and the attorney general, or to the mayor and the county corporation counsel, as applicable, and to such other persons as may be defendants or respondents in the suits. In cases in which immediate irreparable damage would otherwise ensue to the petitioner, the circuit judge to whom the application is made may, after giving notice to the governor and the attorney general, or the mayor and the county corporation counsel, as applicable, and allowing them an opportunity to appear, grant a temporary stay or suspension, in whole or in part, of the operation of the statutory provision, proclamation, order, or rule. The temporary stay or suspension shall remain in force only until the hearing and determination of the application for a preliminary or interlocutory injunction, and in any event for not more than ten

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days from the date of the order of the judge. If the two additional circuit judges have been assigned to the case, no temporary stay or suspension shall be ordered unless a majority of the three circuit judges shall concur.

In a case of the stay or suspension, the order of the judge or judges shall contain a finding or findings, based upon evidence submitted to the judge or judges and incorporated in the order by reference thereto, that irreparable damage would result to the petitioner, and specifying the nature of the damage and why it is immediate and irreparable. The three circuit judges assigned to sit in the case may, upon a like finding and for good cause shown, appearing from reasons entered of record, continue the temporary stay or suspension for an additional ten-day period, but for only one such period unless the party against whom the order is directed consents that it may be extended for a longer period. The hearing upon an application for a preliminary or interlocutory injunction shall be given precedence and shall be in every way expedited and be assigned for hearing at the earliest practicable day.

If a temporary stay or suspension has been allowed, the application for a preliminary or interlocutory injunction shall be set for hearing within five days after the granting of the stay or suspension. When the matter comes on for hearing, the party who obtained the temporary stay or suspension shall proceed with the application for a preliminary or interlocutory injunction. Otherwise the temporary order shall be dissolved forthwith. No extension of time shall be granted without the approval of at least two of the three judges. Upon the final hearing of any such suit, the same requirement as to judges and the same procedure as to expedition shall apply.

**§ -28 Enforcement of injunction proceedings; interventions.** (a) Whenever in the opinion of the governor or mayor, as applicable, any person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this chapter, or any rule of the governor or mayor issued under this chapter, having the force and effect of law, the governor or mayor may make application to the appropriate court in the name of the State or county for an order enjoining the acts or practices, or for such other order as will enforce compliance with the provisions, and upon a showing by the governor or mayor in such manner and form as is usual in injunction cases, that the person has engaged or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other appropriate order shall be granted without bond.

(b) The governor may intervene in the name of the State or the mayor may intervene in the name of the county, as applicable, in any action or proceeding wherein a party asserts a right or relies for ground of relief or defense upon this chapter or upon any rule or order of the governor or mayor issued under this chapter, or, in the judgment of the governor or mayor, there is an issue to be presented that involves enforcement of this chapter or the rules.

**§ -29 Misdemeanors.** Any person violating any rule of the governor or mayor prescribed and promulgated pursuant to this chapter and having the force and effect of law, shall, if it shall be so stated in the rule, be guilty of a misdemeanor. Upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

Any person who intentionally, knowingly, or recklessly destroys, damages, or loses any shelter, protective device, or warning or signal device, shall if the same was installed or constructed by the United States, the State, or a county, or is the property of the United States, the State, or a county, be fined the cost of replacement, or imprisoned not more than one year, or both. The governor or

mayor, may, by rule, make further provisions for the protection from misuse of shelters, protective devices, or warning and signal devices.

**§ -30 Rental or sale of essential commodities during a state of emergency; prohibition against price increases.** (a) Whenever the governor declares a state of emergency for the entire State or any portion thereof, or a mayor declares a local state of emergency for the county or any portion thereof, or when the State, or any portion thereof, is the subject of a severe weather warning:

- (1) There shall be prohibited any increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of the proclamation or the severe weather warning; and
- (2) No landlord shall terminate any tenancy for a residential dwelling unit in the area that is the subject of the proclamation or the severe weather warning, except for a breach of a material term of a rental agreement or lease, or if the unit is unfit for occupancy as defined in this chapter; provided that:
  - (A) Nothing in this chapter shall be construed to extend a fixed-term lease beyond its termination date, except that a periodic tenancy for a residential dwelling unit may be terminated by the landlord upon forty-five days' written notice:
    - (i) When the residential dwelling unit is sold to a bona fide purchaser for value; or
    - (ii) When the landlord or an immediate family member of the landlord will occupy the residential dwelling unit; or
  - (B) Under a fixed-term lease or a periodic tenancy, upon forty-five days' written notice, a landlord may require a tenant or tenants to relocate during the actual and continuous period of any repair to render a residential dwelling unit fit for occupancy; provided that:
    - (i) Reoccupancy shall first be offered to the same tenant or tenants upon completion of the repair;
    - (ii) The term of the fixed-term lease or periodic tenancy shall be extended by a period of time equal to the duration of the repair; and
    - (iii) It shall be the responsibility of the tenant or tenants to find other accommodations during the period of repair.
- (b) Notwithstanding this section, any additional operating expenses incurred by the seller or landlord because of the emergency or disaster or the severe weather, and which can be documented, may be passed on to the consumer. In the case of a residential dwelling unit, if rent increases are contained in a written instrument that was signed by the tenant prior to the declaration or severe weather warning, the increases may take place pursuant to the written instrument.
- (c) The prohibitions under subsection (a) shall remain in effect until twenty-four hours after the severe weather warning is canceled by the National Weather Service; or in the event of a declaration, the later of a date specified by the governor or mayor in the declaration or ninety-six hours after the effective date and time of the declaration, unless such prohibition is continued by a supplementary declaration issued by the governor or mayor. Any proclamation issued under this chapter that fails to state the time at which it will take effect, shall take effect at twelve noon of the day on which it takes effect.

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(d) In any action against a merchant, landlord, or other business for violation of the price limitations in this section, the defendant shall be deemed not to have violated this section if the defendant proves all of the following:

- (1) The violation of the price limitation was unintentional;
- (2) The defendant voluntarily rolled back prices to the appropriate level upon discovering that this section was or may have been violated; and
- (3) The defendant has instituted a restitution program for all consumers who may have paid excessive prices.

(e) Any violation of this section shall constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of any trade or commerce under section 480-2 and shall be subject to a civil penalty as provided in section 480-3.1. Each item sold at a price that is prohibited by this section shall constitute a separate violation.

(f) As used in this section:

“Breach of a material term” means the failure of a party to perform an obligation under the rental agreement or lease, which constitutes the consideration for entering into the contract and includes the failure to make a timely payment of rent.

“Commodity” means any good or service necessary for the health, safety, and welfare of the people of Hawaii; provided that this term shall include, but not be limited to: materials; merchandise; supplies; equipment; resources; and other articles of commerce that shall include food; water; ice; chemicals; petroleum products; construction materials; or residential dwellings.

“Fixed-term lease” means a lease for real property that specifies its beginning date and its termination date as calendar dates, or contains a formula for determining the beginning and termination dates; and the application of the formula as of the date of the agreement will produce a calendar date for the beginning and termination of the lease.

“Periodic tenancy” means a tenancy wherein real property is leased for an indefinite time with monthly or other periodic rent reserved. A periodic tenancy may be created by express agreement of the parties, or by implication upon the expiration of a fixed-term lease when neither landlord nor tenant provides the other with written notice of termination and the tenant retains possession of the premises for any period of time after the expiration of the original term.

“Unfit for occupancy” means that a residential dwelling unit has been damaged to the extent that the appropriate county agency determines that the unit creates a dangerous or unsanitary situation and is dangerous to the occupants or to the neighborhood.

**§ -31 Penalties prescribed by this chapter additional to other penalties.** If conduct prohibited by or under the authority of this chapter is also made unlawful by another or other laws, the offender may be convicted as provided in this chapter and for the violation of the other law or laws.

**§ -32 Effect of this chapter on other laws.** All laws inconsistent with the provisions of this chapter, or of any rule issued under the authority of this chapter, shall be suspended during the period of time and to the extent that the emergency or disaster exists, and may be, by the governor for all laws, or mayor for county laws, designated as so suspended.”

SECTION 3. Section 1-28.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) This section shall not apply to notices required by chapters 103D, 103F,       , and 523A."

SECTION 4. Section 26-21, Hawaii Revised Statutes, is amended to read as follows:

**“§26-21 Department of defense.** (a) The department of defense shall be headed by a single executive to be known as the adjutant general. The adjutant general shall also be the director of [civil defense] the Hawaii emergency management agency as established in section -3 and the director of homeland security.

[There shall be a full-time vice director of civil defense who shall be appointed and may be removed by the director.]

The department shall be responsible for the defense of the State and its people from mass violence, originating from either human or natural causes.

The devolution of command of the military forces in the absence of the adjutant general shall be within the military establishment. The devolution of command of the [civil defense agency] Hawaii emergency management agency in the absence of the [director of civil defense] adjutant general, as director of the agency, shall be within the [civil defense] agency.

[b) There shall be within the department of defense a commission to be known as the civil defense advisory council which shall sit in an advisory capacity to the director of civil defense on matters pertaining to civil defense. The composition of the commission shall be as heretofore provided by law for the civil defense advisory council existing immediately prior to November 25, 1959.

(c) The functions and authority heretofore exercised by the military department and the civil defense agency as heretofore constituted are transferred to the department of defense established by this chapter.]

(b) The office of veterans' services and the advisory board on veterans' services as constituted by chapter 363 are placed within the department of defense for administrative purposes."

SECTION 5. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) This section shall not apply to:

- (1) Any procurement of less than \$25,000 or that is considered a small purchase under section 103D-305 and any state or county department contract of less than \$25,000;
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307[, disaster relief under chapter 127,] or [a civil defense] an emergency or disaster under chapter [128;]       :
- (3) Grants and subsidies disbursed by a state agency pursuant to chapter 42F or in accordance with standards provided by law as required by article VII, section 4, of the state constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
  - (A) To make payments to or on behalf of public officials, officers, and employees for salaries, fringe benefits, professional fees, and reimbursements;
  - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;

- (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
- (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
- (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
- (F) For loans under government-administered loan programs; or
- (G) To make periodic, recurring payments for utility services;
- (6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility; and
- (7) Contracts or agreements of the Hawaii health systems corporation and its regional system boards.”

SECTION 6. Section 121-30, Hawaii Revised Statutes, is amended to read as follows:

**“§121-30 Order to active service.** In case of war, insurrection, invasion, riot, or imminent danger thereof[,~~or~~; an emergency or disaster; or danger from flood, fire, storm, earthquake, civil disturbances, or terrorist events;] any forcible obstruction to the execution of the laws, or reasonable apprehension thereof[,]; or for assistance to civil authorities in disaster relief or [civil defense,] emergency management, the governor may order the national guard or other component of the militia or any part thereof into active service. The governor or the governor's designated representative [also] may also order the national guard into active service [~~in~~].

- (1) In nonemergency situations for duty and training in addition to the drill and instruction required by section 121-28[-];
- (2) To provide support to other states in response to a request for assistance under the Emergency Management Assistance Compact under chapter 128F; and
- (3) To detect, prevent, prepare for, investigate, respond to, or recover from any of the events for which an order to active service may be made.”

SECTION 7. Section 134-7.2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

(a) Notwithstanding any provision of chapter [128] \_\_\_\_ or any other law to the contrary, no person or government entity shall seize or confiscate, under any [civil defense,] emergency[,] or disaster relief powers or functions conferred, or during any [civil defense] emergency period, as defined in section [128-2,] 2, or during any time of national emergency or crisis, as defined in section 134-34, any firearm or ammunition from any individual who is lawfully permitted to carry or possess the firearm or ammunition under part I of this chapter and who carries, possesses, or uses the firearm or ammunition in a lawful manner and in accordance with the criminal laws of this State.

(b) Notwithstanding any provision of chapter [128] \_\_\_\_ or any other law to the contrary, no person or government entity shall suspend, revoke, or limit, under any [civil defense,] emergency[,] or disaster relief powers or functions conferred, any lawfully acquired and maintained permit or license obtained under and in accordance with part I of this chapter.”

SECTION 8. Section 209-6, Hawaii Revised Statutes, is amended to read as follows:

**“§209-6 Relation to other agencies.** This chapter is not intended, nor shall it be construed in any manner, to conflict with or assume the responsibility of the American National Red Cross, any agency of the federal government, the Salvation Army, or the [civil defense] emergency management activities of the state department of defense.”

SECTION 9. Section 269-16.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any utility that sustains damage to its facilities as a result of a [state-declared] state of emergency [~~(or local state of emergency)~~, including [but not limited to disaster relief and civil defense] emergencies as defined in [chapters 127 and 128] chapter \_\_\_\_, and incurs costs related to the restoration and repair of its facilities which, if assessed only on the utility ratepayers of the affected utility service territory, may result in a rate increase of more than fifteen per cent for the average ratepayer in that utility service territory, may apply to the public utilities commission in accordance with this section to recover the costs provided herein through a monthly surcharge which shall be assessed on a statewide basis and shall be based on the utility's net restoration and repair costs; provided that the surcharge shall not result in an assessment of more than fifteen per cent for the average ratepayer in each of the other utility service territories and provided further that the public utilities commission shall exclude ratepayers in utility service territories with rates that may be substantially higher than other utility service territories in the State.]

The public utilities commission shall have the authority to initially set, or subsequently revise, the surcharge to reflect the actual net restoration and repair costs incurred after deduction of amounts received from outside sources of recovery. Such outside sources of recovery shall include, but not be limited to, insurance proceeds, government grants, and shareholder contributions.”

SECTION 10. Section 271G-10, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The commission shall not issue any certificate that is designated as interim or temporary or that otherwise does not conform to the requirements of this chapter except in response to an emergency situation; provided that an emergency situation shall mean a [state-declared] state of emergency [~~including disaster relief pursuant to chapter 127 or a civil defense emergency~~] or local state of emergency pursuant to chapter [128.] \_\_\_\_\_. Any certificate issued pursuant to this subsection shall expire upon the expiration of the [state-declared] state of emergency or local state of emergency or an earlier date determined by the commission in response to prevailing conditions. An extension of a certificate granted under this subsection beyond the expiration of the [state-declared] state of emergency or local state of emergency or date determined by the commission shall be granted only subject to the notice, hearing, and findings requirements of this chapter.”

SECTION 11. Section 286-226, Hawaii Revised Statutes, is amended to read as follows:

**“[§286-226] Routes.** The intrastate shipment of explosives of any quantity that would require placarding of the transporting motor vehicle by the rules adopted pursuant to this part, shall not take place without first giving the

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police department and the fire department of the county in which the explosives are to be transported a forty-eight hour minimum advance notice. This advance notice shall be in writing and indicate the quantity and type of explosive material being shipped, the date and time of the shipment, and the route over which the explosive shipment will travel. This provision does not apply to the military during the period of [a civil defense emergency] an emergency or disaster proclaimed by the President [~~or~~], the governor[~~or~~], or a county mayor.”

SECTION 12. Section 309H-2, Hawaii Revised Statutes, is amended to read as follows:

**[H]§309H-2[H] Hawaii health corps program established.** The Hawaii health corps program is established to encourage physicians, physicians assistants, and nurse practitioners to serve in counties having a shortage of physicians, physician assistants, and nurse practitioners, with priority given to a rural area county. The Hawaii health corps program shall be administered by the University of Hawaii John A. Burns school of medicine and the University of Hawaii at Manoa school of nursing and dental hygiene. In administering the program, the University of Hawaii John A. Burns school of medicine and the University of Hawaii at Manoa school of nursing and dental hygiene shall:

- (1) Adopt rules and develop guidelines to administer the program;
- (2) Identify and designate areas of the counties where there is a shortage of physicians, physician assistants, and nurse practitioners;
- (3) Establish criteria for the selection by the University of Hawaii John A. Burns school of medicine of physicians, physician assistants, and nurse practitioners to participate in the Hawaii rural health care provider loan repayment program;
- (4) Define and determine compliance with the service commitments of the Hawaii rural health care provider loan repayment program;
- (5) Collect and manage reimbursements from participants who do not meet their service commitments under the Hawaii rural health care provider loan repayment program;
- (6) Publicize the program, particularly to maximize participation by individuals who live in areas of a county where there is a shortage of physicians, physician assistants, and nurse practitioners;
- (7) Solicit and accept grants and donations from public and private sources for the Hawaii rural health care provider loan repayment program, including maximizing the use of federal matching funds; and
- (8) Establish criteria and procedures for calling Hawaii health corps program participants into service during [a civil defense or other] an emergency[.] or disaster.”

SECTION 13. Section 309H-4, Hawaii Revised Statutes, is amended to read as follows:

**[H]§309H-4[H] Hawaii health corps first responder service obligation.** If [a civil defense or other] an emergency[.] or disaster proclaimed under chapter [127 or 128] occurs, physicians, physician assistants, and nurse practitioners participating in the Hawaii health corps program may be ordered into service by the governor as first responders to serve in areas of the State and in a capacity determined by the director of health.”

SECTION 14. Section 601-1.5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

**[§601-1.5]—Civil defense emergency| Emergency period; suspension of deadlines.** (a) During [a period of civil defense] an emergency period proclaimed by the governor under [section 128-7,] chapter, the chief justice shall be authorized to order the suspension, tolling, extension, or granting of relief from deadlines, time schedules, or filing requirements imposed by otherwise applicable statutes, rules, or court orders, in civil or criminal cases or administrative matters, in any judicial circuit affected by the governor's proclamation. The chief justice shall determine the judicial circuits so affected.

(b) The order shall be limited to an initial duration of not more than thirty days; provided that the order may be modified or extended for such period of time as the chief justice deems necessary due to an ongoing [civil defense] state of emergency."

SECTION 15. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "emergency worker" to read as follows:

"Emergency worker" means any:

- (1) Law enforcement officer, including [but not limited to] any police officer, public safety officer, parole or probation officer, or any other officer of any county, state, federal, or military agency authorized to exercise law enforcement or police powers;
- (2) Firefighter, emergency medical services personnel, emergency medical technician, ambulance crewmember, or any other emergency response personnel;
- (3) Member of the Hawaii national guard on any duty or service done under or in pursuance of an order or call of the governor or the President of the United States or any proper authority;
- (4) Member of the United States Army, Air Force, Navy, [Marines,] Marine Corps, or Coast Guard on any duty or service [~~done~~] performed under or in pursuance of an order or call of the President of the United States or any proper authority;
- (5) Member of the national guard from any other state ordered into service by any proper authority; or
- (6) Person engaged in [civil defense] emergency management functions as authorized by the director of [civil defense] Hawaii emergency management or the administrator or director of the county emergency management agency or as otherwise authorized under chapter [128, or]
- (7) Person engaged in disaster relief by authorization of the director of disaster relief or as otherwise authorized under chapter 127.] \_\_\_\_."

SECTION 16. Section 707-712.7, Hawaii Revised Statutes, is amended to read as follows:

**[§707-712.7]—Assault against an emergency worker.** (1) A person commits the offense of assault against an emergency worker if the person, during [the time of a civil defense emergency] an emergency period proclaimed by the governor or mayor pursuant to chapter [128,] within the area covered by the [civil defense] emergency or [during the period of disaster relief under chapter 127:] disaster.

- (a) Intentionally, knowingly, or recklessly causes serious or substantial bodily injury to an emergency worker; or

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- (b) Intentionally, knowingly, or recklessly causes bodily injury to an emergency worker with a dangerous instrument.
- (2) Assault against an emergency worker is a class B felony."

SECTION 17. Section 708-817, Hawaii Revised Statutes, is amended to read as follows:

**"[§708-817] Burglary of a dwelling during [a civil defense] an emergency [or disaster relief] period.** (1) A person commits the offense of burglary of a dwelling if, during [a civil defense] an emergency [or disaster relief period if] period proclaimed by the governor or mayor pursuant to chapter \_\_\_\_\_ and within the area covered by the emergency period, the person:

- (a) Intentionally enters or remains unlawfully in a dwelling with intent to commit therein a crime against a person or against property rights; and
  - (b) Recklessly disregards a risk that the building is the dwelling of another, and the building is such a dwelling;  
~~during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.] at the time.~~
- (2) Burglary of a dwelling during [a civil defense] an emergency [or disaster relief] period is a class A felony."

SECTION 18. Section 708-818, Hawaii Revised Statutes, is amended to read as follows:

**"[§708-818] Burglary of a building during [a civil defense emergency or disaster relief] an emergency period.** (1) A person commits the offense of burglary of a building if, during [a civil defense] an emergency [or disaster relief period if] period proclaimed by the governor or mayor pursuant to chapter \_\_\_\_\_ and within the area covered by the emergency period, the person intentionally enters or remains unlawfully in a building other than a dwelling with intent to commit therein a crime against a person or against property rights [during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127].

- (2) Burglary of a building during [a civil defense] an emergency [or disaster relief] period is a class B felony."

SECTION 19. Section 708-820, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of criminal property damage in the first degree if by means other than fire:

- (a) The person intentionally or knowingly damages property and thereby recklessly places another person in danger of death or bodily injury;
- (b) The person intentionally or knowingly damages the property of another, without the other's consent, in an amount exceeding \$20,000;
- (c) The person intentionally or knowingly damages the property of another during [the time of a civil defense] an emergency period proclaimed by the governor or mayor pursuant to chapter [128,] \_\_\_\_\_ within the area covered by the [civil defense] emergency [or during the period of disaster relief under chapter 127,] or disaster; or

- (d) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$1,500. In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production."

SECTION 20. Section 708-830.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of theft in the first degree if the person commits theft:

- (a) Of property or services, the value of which exceeds \$20,000;
- (b) Of a firearm;
- (c) Of dynamite or other explosive; or
- (d) Of property or services during [the time of a civil defense] an emergency period proclaimed by the governor or mayor pursuant to chapter [128,] \_\_\_, within the area covered by the [civil defense] emergency [or during the period of disaster relief] or disaster under chapter [127,] \_\_\_, the value of which exceeds \$300."

SECTION 21. Section 708-840, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of robbery in the first degree if, in the course of committing theft or non-consensual taking of a motor vehicle:

- (a) The person attempts to kill another or intentionally or knowingly inflicts or attempts to inflict serious bodily injury upon another;
- (b) The person is armed with a dangerous instrument or a simulated firearm and:
  - (i) The person uses force against the person of anyone present with intent to overcome that person's physical resistance or physical power of resistance; or
  - (ii) The person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking of or escaping with the property;
- (c) The person uses force against the person of anyone present with the intent to overcome that person's physical resistance or physical power of resistance during [the time of a civil defense] an emergency period proclaimed by the governor or mayor pursuant to chapter [128,] \_\_\_, within the area covered by the [civil defense emergency or during the period of disaster relief under chapter 127.] emergency or disaster; or
- (d) The person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking of or escaping with the property during [the time of a civil defense] an emergency period proclaimed by the governor or mayor pursuant to chapter [128,] \_\_\_, within the area covered by the [civil defense emergency or during the period of disaster relief under chapter 127.] emergency or disaster."

SECTION 22. Section 710-1014.5, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

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"(3) For purposes of this section, "public safety agency" means any federal, state, or county police, fire, emergency medical service, or [civil defense relief] emergency management agency."

**SECTION 23.** Chapter 127, Hawaii Revised Statutes, is repealed.

**SECTION 24.** Chapter 128, Hawaii Revised Statutes, is repealed.

**SECTION 25.** Section 209-9, Hawaii Revised Statutes, is repealed.

**SECTION 26.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date. Rules, policies, procedures, guidelines, and other material adopted or developed under the authority of chapter 128, Hawaii Revised Statutes, or proclamations issued under the authority of chapter 128, Hawaii Revised Statutes, shall remain in effect until they are repealed or replaced under the authority of the chapter being enacted in this Act. References in the new chapter to rules shall include rules adopted pursuant to chapter 128, Hawaii Revised Statutes, until the rules adopted pursuant to chapter 128, Hawaii Revised Statutes, are repealed or replaced under the authority of the new chapter. Every reference to the civil defense agency of the department of defense in any rules, policies, procedures, guidelines, and other materials shall be amended to refer to the Hawaii emergency management agency.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the civil defense agency of the department of defense, or the department of defense on behalf of the civil defense agency, pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the Hawaii emergency management agency, by this Act, shall remain in full force and effect. Effective upon approval of this Act, every reference to the civil defense agency of the department of defense or the department of defense for its civil defense agency, shall be construed as a reference to the Hawaii emergency management agency.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the civil defense agency of the department of defense relating to emergency management pursuant to chapter 128, Hawaii Revised Statutes, shall be transferred to the Hawaii emergency management agency.

**SECTION 27.** If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this funding shall not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

**SECTION 28.** Sections 26-14.6, 26-24, 121-9, 121-34.5, 128E-5, 134-16(b), 179D-30(2), 196-1(4), 205A-22, 271G-10, 286-64, 286-65, 286-66, 286-67, 291-17(e), 321-23, 508D-15(a)(4), and 803-42(b)(7), Hawaii Revised Statutes, shall be amended by substituting the phrase "emergency management" whenever the phrase "civil defense" appears, as the context requires.

**SECTION 29.** Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

**SECTION 30.** This Act shall take effect on July 1, 2014; provided that section -5(f), Hawaii Revised Statutes, in section 2 of this Act shall take effect on July 1, 2016.

(Approved June 20, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 112**

S.B. NO. 2687

A Bill for an Act Relating to Limitation of Actions.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 657-1.8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Notwithstanding any law to the contrary, except as provided under subsection (b), no action for recovery of damages based on physical, psychological, or other injury or condition suffered by a minor arising from the sexual abuse of the minor by any person shall be commenced against the person who committed the act of sexual abuse more than:

- (1) Eight years after the eighteenth birthday of the minor or the person who committed the act of sexual abuse attains the age of majority, whichever occurs later; or
- (2) Three years after the date the minor discovers or reasonably should have discovered that psychological injury or illness occurring after the age of minor's eighteenth birthday was caused by the sexual abuse,

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whichever comes later.

A civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707.

(b) For a period of [two] four years after [April 24, 2012], a victim of child sexual abuse that occurred in this State [who had been barred from filing a claim against the victim's abuser due to the expiration of the applicable civil statute of limitations that was in effect prior to [April 24, 2012],] may file a claim in a circuit court of this State against the person who committed the act of sexual abuse[-] if the victim is barred from filing a claim against the victim's abuser due to the expiration of the applicable civil statute of limitations that was in effect prior to April 24, 2012.

A claim may also be brought under this subsection against a legal entity[; except the State or its political subdivisions,] if:

- (1) The person who committed the act of sexual abuse against the victim was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owed a duty of care to the victim; or
- (2) The person who committed the act of sexual abuse and the victim were engaged in an activity over which the legal entity had a degree of responsibility or control.

Damages against the legal entity shall be awarded under this subsection only if there is a finding of gross negligence on the part of the legal entity."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## **ACT 113**

H.B. NO. 2034

A Bill for an Act Relating to Sexual Assault.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, [and] criminal solicitation to commit murder in any degree, sexual assault in the first and second degrees, and continuous sexual assault of a minor under the age of fourteen years may be commenced at any time."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 114

H.B. NO. 1926

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition; section 134-8 relating to ownership, etc., of certain prohibited weapons; section 134-17 only as it relates to providing false information or evidence to obtain a permit under section 134-9; section 188-23 relating to possession or use of explosives, electrofishing devices, and poisonous substances in state waters; section 386-98(d)(1) relating to fraud violations and penalties; section 431:2-403(b)(2) relating to insurance fraud; section 707-703 relating to negligent homicide in the second degree; section 707-711 relating to assault in the second degree; section 707-713 relating to reckless endangering in the first degree; section 707-716 relating to terroristic threatening in the first degree; section 707-721 relating to unlawful imprisonment in the first degree; section 707-732 relating to sexual assault [or rape] in the third degree; section 707-752 relating to promoting child abuse in the third degree; section 707-757 relating to electronic enticement of a child in the second degree; section 707-766 relating to extortion in the second degree; section 708-811 relating to burglary in the second degree; section 708-821 relating to criminal property damage in the second degree; [section 708-831 relating to theft in the first degree as amended by Act 68, Session Laws of Hawaii 1981;] section 708-831 relating to theft in the second degree; section 708-835.5 relating to theft of livestock; section 708-836 relating to unauthorized control of propelled vehicle; section 708-839.55 relating to unauthorized possession of confidential personal information; section 708-839.8 relating to identity theft in the third degree; [section 708-839.55 relating to unauthorized possession of confidential personal information;] section 708-852 relating to forgery in the second degree; section 708-854 relating to criminal possession of a forgery device; section 708-875 relating to trademark counterfeiting; section 710-1071 relating to intimidating a witness; section 711-1103 relating to riot; [section 712-1203 relating to promoting prostitution in the second degree;] section 712-1221 relating to promoting gambling in the first degree; section 712-1224 relating to possession of gambling records in the first degree; section 712-1243 relating to promoting a dangerous drug in the third degree; section 712-1247 relating to promoting a detrimental drug in the first degree; section 846E-9 relating to failure to comply with covered offender registration requirements; section 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; section 134-8 relating to ownership, etc., of prohibited weapons; section 134-9 relating to permits to carry], or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

(a) One prior felony conviction:

- (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—ten years;
- (ii) Where the instant conviction is for a class A felony—six years, eight months;
- (iii) Where the instant conviction is for a class B felony—three years, four months; and
- (iv) Where the instant conviction is for a class C felony offense enumerated above—one year, eight months;
- (b) Two prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—twenty years;
  - (ii) Where the instant conviction is for a class A felony—thirteen years, four months;
  - (iii) Where the instant conviction is for a class B felony—six years, eight months; and
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—three years, four months;
- (c) Three or more prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—thirty years;
  - (ii) Where the instant conviction is for a class A felony—twenty years;
  - (iii) Where the instant conviction is for a class B felony—ten years; and
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—five years.”

SECTION 2. Section 706-606.6, Hawaii Revised Statutes, is amended to read as follows:

**“§706-606.6 Repeat violent and sexual offender; enhanced sentence.** (1) Notwithstanding any other provision of law to the contrary, any person who is convicted of an offense under section 707-701.5, 707-702, 707-730, 707-731, 707-732, 707-733.6, 707-750, [or] 708-840, 712-1202, 712-1203, or 712-1209.1, after having been convicted on at least three prior and separate occasions of an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, [or] 708-840, 712-1202, 712-1203, or 712-1209.1, or of an offense under federal law or the laws of another state that is comparable to an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, [or] 708-840, 712-1202, 712-1203, or 712-1209.1, shall be sentenced to an extended term of imprisonment as provided in section 706-661.

(2) A conviction shall not be considered a prior offense unless the conviction occurred within the following time periods:

- (a) For an offense under section 707-701.5, 707-702, 707-730, 707-733.6, 707-750, [or] 708-840, 712-1202, 712-1203, or 712-1209.1, within the past twenty years from the date of the instant offense;
- (b) For an offense under section 707-710 or 707-731, within the past ten years from the date of the instant offense;
- (c) For an offense under section 707-711 or 707-732, within the past five years from the date of the instant offense; or
- (d) For an offense under federal law or the laws of another state that is comparable to an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, [or] 708-840, 712-1202, 712-1203, or 712-1209.1,

708-840, 712-1202, 712-1203, or 712-1209.1, within the maximum term of imprisonment possible under the appropriate jurisdiction."

SECTION 3. Section 712-1200, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (2) to read:

"(2) As used in subsection (1), "sexual conduct" means "sexual penetration," "deviate sexual intercourse," or "sexual contact," as those terms are defined in section 707-700[.], or "sadomasochistic abuse" as defined in section 707-752."

2. By amending subsection (5) to read:

"(5) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties[.], unless engaged in sexual penetration or sadomasochistic abuse."

SECTION 4. Section 712-1209.1, Hawaii Revised Statutes, is amended to read as follows:

**[§712-1209.1]** **Solicitation of a minor for prostitution.** (1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person intentionally, knowingly, or recklessly offers or agrees to pay a fee to a minor or to a member of a police department, a sheriff, or a law enforcement officer who represents that person's self as a minor to engage in sexual conduct.

(2) Solicitation of a minor for prostitution is a class C felony.

(3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than [\$2,000;] \$5,000; provided that [\$2,000] \$5,000 of the imposed fine shall be credited to the general fund.

(4) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer who offers or agrees to pay a fee to a minor while acting in the course and scope of duties.

(5) The state of mind requirement for this offense is not applicable to the fact that the person solicited was a minor. A person is strictly liable with respect to the attendant circumstance that the person solicited was a minor.

[4] (6) For purposes of this section:

"Minor" means a person who is less than eighteen years of age.

"Sexual conduct" has the same meaning as in section 712-1200(2)."

SECTION 5. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply when:

(1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;

(2) The offense charged is:

(A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or

(B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;

- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of or by a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;
  - [M] Promoting prostitution in the first degree;
  - [N] Promoting prostitution in the second degree;
  - [O] Abuse of family or household [members;] member;
  - [P] Sexual assault in the second degree;
  - [Q] Sexual assault in the third degree;
  - [R] A violation of an order issued pursuant to chapter 586;
  - [S] Promoting child abuse in the second degree;
  - [T] Promoting child abuse in the third degree;
  - [U] Electronic enticement of a child in the first degree;
  - [V] Electronic enticement of a child in the second degree;
  - [W] Prostitution pursuant to section 712-1200(1)(b);
  - [X] Street solicitation of prostitution under section 712-1207(1)(b);
  - [Y] [X] Solicitation of prostitution near schools or public parks under section 712-1209; [or]

- [~~Z~~] (Y) Habitual solicitation of prostitution under section 712-1209.5; or  
(Z) Solicitation of a minor for prostitution under section 712-1209.1;
- (14) The defendant has been charged with:  
 (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or  
 (B) Violating section 11-352 or 11-353; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle."

**SECTION 6.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 7.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 8.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 115

S.B. NO. 702

A Bill for an Act Relating to Child Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that due to a lack of dedicated resources, only about two per cent of known child internet crime offenders are being investigated. Alicia's Law is an initiative that builds state capacity to combat crimes against children by securing funding for internet crimes against children task forces. Alicia's Law was named for Alicia Kozakiewicz, who was abducted by an internet predator and sexually abused.

The purpose of this Act is to combat internet crimes against children by establishing an internet crimes against children fee and a special fund to assist law enforcement to investigate and prosecute internet crimes against children and groups working directly to fight internet crimes against children.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER INTERNET CRIMES AGAINST CHILDREN**

**§ -1 Short title.** This chapter shall be known as and may be cited as "Alicia's Law".

**§ -2 Definitions.** As used in this chapter, unless the context otherwise requires:

"Internet crimes against children" means promoting child abuse in the first degree under section 707-750, promoting child abuse in the second degree

## **ACT 115**

under section 707-751, promoting child abuse in the third degree under section 707-752, electronic enticement of a child in the first degree under section 707-756, electronic enticement of a child in the second degree under section 707-757, indecent electronic display to a child under section 707-759, or promoting pornography for minors under section 712-1215.

**§ -3 Internet crimes against children fee.** (a) The court shall order every defendant to pay an internet crimes against children fee of up to \$100 for each felony or misdemeanor conviction; provided that no fee shall be ordered when the court determines that the defendant is unable to pay the fee.

(b) When a defendant is also ordered to pay a fine, make restitution, pay a crime victim compensation fee, or pay other fees in addition to the internet crimes against children fee, payments by the defendant shall be made in the order of priority established under section 706-648.

(c) The defendant shall pay the internet crimes against children fee to the clerk of the court. The fee shall be deposited with the director of finance who shall transmit the fee to the internet crimes against children special fund pursuant to section -4.

**§ -4 Internet crimes against children special fund; established.** (a) There is established in the state treasury the internet crimes against children special fund, into which shall be deposited:

- (1) All fees collected pursuant to section -3;
- (2) Moneys appropriated by the legislature to the fund;
- (3) Other grants and gifts made to the fund; and
- (4) Any income and capital gains earned by the fund.

(b) Moneys in the internet crimes against children special fund shall be expended by the department of the attorney general for the following purposes:

- (1) To provide training and equipment for local law enforcement agencies to use in investigating and prosecuting internet crimes against children, including funding to increase the forensic capacity of digital evidence;
- (2) To enable law enforcement to investigate and prosecute internet crimes against children; and
- (3) To assist groups working directly to combat internet crimes against children.

(c) All unexpended and unencumbered moneys remaining in the internet crimes against children special fund at the close of each fiscal year that are deemed, by the director of finance, to be in excess of the moneys necessary to carry out the purpose of this section over the following fiscal year shall lapse to the credit of the state general fund."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$62,500 or so much thereof as may be necessary for fiscal year 2014-2015 to be deposited into the internet crimes against children special fund under section -4, Hawaii Revised Statutes.

**SECTION 4.** There is appropriated out of the internet crimes against children special fund the sum of \$62,500 or so much thereof as may be necessary for fiscal year 2014-2015 for purposes of providing training and equipment to local law enforcement, providing law enforcement with funds to investigate and prosecute internet crimes against children, and assisting groups working directly to combat internet crimes against children.

The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 6. This Act shall take effect on July 1, 2014.

(Approved June 20, 2014.)

## ACT 116

H.B. NO. 1750

A Bill for an Act Relating to Public Order.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 711-1110.9, Hawaii Revised Statutes, is amended to read as follows:

**“§711-1110.9 Violation of privacy in the first degree.** (1) A person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law[, the]:

- (a) The person intentionally or knowingly installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place[,; or
- (b) The person knowingly discloses an image or video of another identifiable person either in the nude, as defined in section 712-1210, or engaging in sexual conduct, as defined in section 712-1210, without the consent of the depicted person, with intent to harm substantially the depicted person with respect to that person’s health, safety, business, calling, career, financial condition, reputation, or personal relationships; provided that:
  - (i) This paragraph shall not apply to images or videos of the depicted person made:
    - (A) When the person was voluntarily nude in public or voluntarily engaging in sexual conduct in public; or
    - (B) Pursuant to a voluntary commercial transaction; and
  - (ii) Nothing in this paragraph shall be construed to impose liability on a provider of “electronic communication service” or “remote computing service” as those terms are defined in section 803-41, for an image or video disclosed through the electronic communication service or remote computing service by another person.

(2) Violation of privacy in the first degree is a class C felony. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

## ACT 117

SECTION 3. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 117

H.B. NO. 1993

A Bill for an Act Relating to Domestic Violence.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

**“§709-906 Abuse of family or household members; penalty.** (1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer, with or without a warrant, [may] shall take the following course of action [where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member], regardless of whether the physical abuse or harm occurred in the officer’s presence:

- (a) The police officer [may] shall make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;
- (b) [Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the] The police officer lawfully shall order the person who the police officer reasonably believes to have inflicted the abuse to leave the premises for a period of separation of forty-eight hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;

(c) [Where the police officer makes the finding referred to in paragraph (b) and] When the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the forty-eight hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;

(d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;

(e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and

(f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.

(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:

(a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and

(b) For a second offense that occurs within one year of the first conviction, the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

(6) Whenever a court sentences a person pursuant to subsection (5), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (5)(a) and (b), upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.

(7) For a third or any subsequent offense that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.

(8) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a class C felony.

(9) Where physical abuse occurs in the presence of any family or household member who is less than fourteen years of age, abuse of a family or household member is a class C felony.

[9] (10) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police of-

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ficer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

[{(10)}] (11) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith or may file a criminal complaint through the prosecuting attorney of the applicable county.

[{(11)}] (12) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

[{(12)}] (13) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.

[{(13)}] (14) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.

[{(14)}] (15) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

[{(15)}] (16) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court."

**SECTION 2.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 118

H.B. NO. 2205

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 708-803, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

- "(4) For a conviction under this section, the sentence shall be either:  
(a) An indeterminate term of imprisonment of five years; provided that the minimum term of imprisonment shall be not less than one year;  
or

- (b) A term of probation of five years, with conditions to include but not be limited to one year of imprisonment[.]; provided that probation shall only be available for a first conviction under this section."

**SECTION 2.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

## ACT 119

H.B. NO. 2038

A Bill for an Act Relating to Human Trafficking.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§706- Human trafficking victim services fund.** (1) In addition to any disposition authorized by chapter 706, any individual who is:

- (a) Convicted of an offense under part VIII of chapter 707; or
- (b) Convicted of an offense under part I of chapter 712;

shall be ordered to pay a fee under subsection (2).

(2) Fees for individuals subject to subsection (1) shall not exceed the following:

- (a) \$5,000 when the offense is a class A felony;
- (b) \$2,500 when the offense is a class B felony;
- (c) \$1,000 when the offense is a class C felony;
- (d) \$500 when the offense is a misdemeanor; or
- (e) \$250 when the offense is a petty misdemeanor.

(3) There is established within the state treasury a special fund to be known as the human trafficking victim services fund to be administered by the department of labor and industrial relations. The disbursement of money from the human trafficking victim services fund shall be used to supplement programs, grants, or purchase of service contracts that support or provide comprehensive services to victims of labor trafficking crimes under part VIII of chapter 707, or victims of trafficking related to crimes under part I of chapter 712. Moneys in the special fund shall be used for new or existing programs, grants, or purchase of service contracts and shall not supplant any other moneys previously allocated to these programs, grants, or purchase of service contracts.

(4) All fees paid and interest accrued on funds collected pursuant to this section shall be deposited into the human trafficking victim services fund.

(5) When a defendant is ordered to make payments in addition to the human trafficking victim services fee authorized under subsection (2), payments by the defendant shall be made in the following order of priority:

- (a) Restitution imposed under section 706-646, 707-785, or 707-786;
- (b) Crime victim compensation fee imposed under section 351-62.6;
- (c) Probation services fee imposed under section 706-648;

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- (d) Human trafficking victim services fee imposed under subsection (2);
- (e) Other fees; and
- (f) Fines.

(6) The department of labor and industrial relations shall submit to the legislature no later than twenty days prior to the convening of each regular session a written annual report that provides the following:

- (a) An accounting of the receipts of and expenditures from the human trafficking victim services fund; and
- (b) Any recommendations to improve support of and services to victims of labor trafficking crimes under part VIII of chapter 707, or victims of trafficking related to crimes under part I of chapter 712."

**SECTION 2.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 20, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 120**

**H.B. NO. 1706**

**A Bill for an Act Relating to Illegal Parking Upon Bikeways.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Pursuant to section 291C-123(a), Hawaii Revised Statutes, subject to enumerated exceptions, “[n]o person shall drive any vehicle other than a bicycle or moped upon a bicycle lane or bicycle path, except upon a permanent or authorized temporary driveway, or park any vehicle upon a bicycle lane or bicycle path.” Illegal driving or more frequently, parking upon bicycle lanes and bicycle paths, is a persistent problem in the State. Although the maximum fine for a parking violation under section 291C-123(b) is \$500, ticketing officers typically impose only a minimum fine of \$35. This \$35 minimum fine is typically paid by the offending individual via return mail and a higher fine is rarely imposed by a court of law for any repeat offenses.

As the counties move towards greater implementation of a robust network of bicycle lanes and bicycle paths, with a greater emphasis on alternative forms of travel, the current minimum fine of \$35 has proven insufficient to deter motorists from obstructing bicycle lanes and bicycle paths. Obstruction of bicycle lanes and bicycle paths by motorists is a real and present danger and poses a safety hazard to bicyclists and to neighborhoods.

Accordingly, the purpose of this Act is to deter illegal parking on bicycle lanes and bicycle paths by setting a non-discretionary fine for the offense of parking a vehicle on a bicycle lane or bicycle path.

**SECTION 2.** Section 291C-123, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person violating the parking prohibition in subsection (a) shall be fined [not more than \$500.] \$200. Fines collected pursuant to this section shall be deposited into the state highway fund."

**SECTION 3.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 20, 2014.)

## ACT 121

S.B. NO. 2591

A Bill for an Act Relating to Law Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 52D-3.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§]52D-3.5 Reports to legislature."** (a) The chief of each county police department shall submit to the legislature no later than January 31 of each year an annual report [to the legislature twenty days prior to the convening of the regular session in each year.] of misconduct incidents that resulted in suspension or discharge of a police officer. The reporting period of each report shall be from January 1 to December 31 of the year immediately prior to the year of the report submission.

- (b) The report shall [include a summary of]:
  - (1) Summarize the facts and the nature of the misconduct for each incident [which resulted in the suspension or discharge of a police officer];
  - (2) Specify the disciplinary action imposed for each incident[, and];
  - (3) Identify any other incident in the annual report committed by the same police officer; and
  - (4) State whether the highest non-judicial grievance adjustment procedure timely invoked by the police officer or the police officer's representative has concluded:
    - (A) If the highest non-judicial grievance adjustment procedure has concluded, the report shall state:
      - (i) Whether the incident concerns conduct punishable as a crime, and if so, describe the county police department's findings of fact and conclusions of law concerning the criminal conduct; and
      - (ii) Whether the county police department notified the respective county prosecuting attorney of the incident; or
    - (B) If the highest non-judicial grievance adjustment procedure has not concluded, the report shall state the current stage of the non-judicial grievance adjustment procedure as of the end of the reporting period.

(c) The report shall tabulate the number of police officers suspended and discharged [during the previous year] under the following categories of the department's Standards of Conduct:

- (1) Malicious use of physical force;
- (2) Mistreatment of prisoners;
- (3) Use of drugs and narcotics; and
- (4) Cowardice.

(d) The summary of facts provided in accordance with subsection (b)(1) shall not be of such a nature so as to disclose the identity of the individuals involved.

(e) For any misconduct incident reported pursuant to this section and subject to subsection (b)(4)(B), the chief of each county police department shall provide updated information in each successive annual report, until the highest non-judicial grievance adjustment procedure timely invoked by the police officer has concluded. In each successive annual report, the updated information shall reference where the incident appeared in the prior annual report. For any incident resolved without disciplinary action after the conclusion of the non-judicial grievance adjustment procedure, the chief of each county police department shall summarize the basis for not imposing disciplinary action.

(f) For each misconduct incident reported in an annual report, the chief of each county police department shall retain the disciplinary records in accordance with the department's record retention policy or for at least eighteen months after the final annual report concerning that incident, whichever period is longer."

SECTION 2. Section 92F-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following are examples of information in which the individual has a significant privacy interest:

- (1) Information relating to medical, psychiatric, or psychological history, diagnosis, condition, treatment, or evaluation, other than directory information while an individual is present at such facility;
- (2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;
- (4) Information in an agency's personnel file, or applications, nominations, recommendations, or proposals for public employment or appointment to a governmental position, except:
  - (A) Information disclosed under section 92F-12(a)(14); and
  - (B) The following information related to employment misconduct that results in an employee's suspension or discharge:
    - (i) The name of the employee;
    - (ii) The nature of the employment related misconduct;
    - (iii) The agency's summary of the allegations of misconduct;
    - (iv) Findings of fact and conclusions of law; and
    - (v) The disciplinary action taken by the agency;

when the following has occurred: the highest non-judicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; a written decision sustaining the suspension or discharge has been issued after this procedure; and thirty calendar days have elapsed following the issuance of the decision<sup>1</sup> or, for decisions involving county police department offi-

- ~~cers, ninety days have elapsed following the issuance of the decision;~~ provided that [this] subparagraph (B) shall not apply to a county police department officer except in a case which results in the discharge of the officer;
- (5) Information relating to an individual's nongovernmental employment history except as necessary to demonstrate compliance with requirements for a particular government position;
  - (6) Information describing an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
  - (7) Information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license, except:
    - (A) The record of any proceeding resulting in the discipline of a licensee and the grounds for discipline;
    - (B) Information on the current place of employment and required insurance coverages of licensees; and
    - (C) The record of complaints including all dispositions;
  - (8) Information comprising a personal recommendation or evaluation; and
  - (9) Social security numbers."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2014.)

Note

1. Prior to amendment a semicolon appeared here.

**ACT 122**

H.B. NO. 1700

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 2014.

SECTION 2. This Act amends Act 134, Session Laws of Hawaii 2013, and other appropriations and authorizations effective during fiscal biennium 2013-2015.

SECTION 3. Part II, Act 134, Session Laws of Hawaii 2013, is amended by amending section 3 to read as follows:

"SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2013 and ending June 30, 2015. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.

**ACT 122**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>	
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M F
<b>A. ECONOMIC DEVELOPMENT</b>					
1.	BED100 - STRATEGIC MARKETING & SUPPORT			10.00*	10.00*
	OPERATING	BED	1,247,934 A	1,487,057 A	
		BED	1,821,915 W	1,821,915 W	
		BED	703,505 P	1,000,000 P	
2.	BED105 - CREATIVE INDUSTRIES DIVISION			11.00*	11.00*
	OPERATING	BED	1,652,235 A	1,188,069 A	
	INVESTMENT CAPITAL	AGS	3,460,000 C		C
		BED	250,000 C	750,000 C	
3.	BED107 - FOREIGN TRADE ZONE			17.00*	17.00*
	OPERATING	BED	2,066,145 B	2,066,145 B	
	INVESTMENT CAPITAL	BED	2,200,000 C		C
		BED	3,000,000 D		D
4.	BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT			24.00*	24.00*
	OPERATING	BED	1,667,257 A	1,690,045 A	
5.	BED113 - TOURISM			5.00*	5.00*
	OPERATING	BED	141,162,298 B	141,162,298 B	
6.	AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE				
	OPERATING	AGR	750,000 A		A
			9.00*	9.00*	
		AGR	1,089,967 B	1,089,967 B	
		AGR	5,500,000 W	5,500,000 W	
7.	AGR122 - PLANT, PEST, AND DISEASE CONTROL			87.00*	87.00*
	OPERATING	AGR	5,306,588 A	5,455,104 A	
			42.00*	42.00*	
		AGR	8,752,936 B	8,752,936 B	
		AGR	672,380 N	2,500 N	
		AGR	512,962 T	512,962 T	
		AGR	44,270 U	44,270 U	
		AGR	50,360 W	50,360 W	
		AGR	P	669,880 P	
8.	AGR131 - RABIES QUARANTINE			36.32*	36.32*
	OPERATING	AGR	3,281,623 B	3,281,623 B	
9.	AGR132 - ANIMAL DISEASE CONTROL			13.68*	13.68*
	OPERATING	AGR	1,497,780 A	1,497,780 A	
			5.00*	5.00*	
		AGR	159,527 B	281,052 B	
		AGR	377,518 N	0 N	
		AGR	U	410,000 U	
		AGR	P	377,518 P	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.	LNR172	- FORESTRY RESOURCE MANAGEMENT AND DEVELOPMENT		15.00*	15.00*
	OPERATING		LNR	1,303,023 A	1,410,695 A
				2.50*	2.50*
			LNR	3,637,996 B	4,787,996 B
				1.50*	1.50*
			LNR	4,542,847 P	11,290,000 P
	INVESTMENT CAPITAL		LNR	280,000 C	3,935,000 C
11.	AGR151	- QUALITY AND PRICE ASSURANCE		16.00*	16.00*
	OPERATING		AGR	1,168,246 A	1,193,246 A
				3.00*	3.00*
			AGR	374,738 B	374,738 B
			AGR	77,424 N	0 N
			AGR	300,000 T	300,000 T
			AGR	502,559 W	502,559 W
			AGR	P	77,424 P
12.	AGR171	- AGRICULTURAL DEVELOPMENT AND MARKETING		14.00*	14.00*
	OPERATING		AGR	1,562,275 A	1,629,367 A
			AGR	20,000 B	20,000 B
			AGR	184,500 N	184,500 N
13.	AGR141	- AGRICULTURAL RESOURCE MANAGEMENT		6.00*	6.00*
	OPERATING		AGR	750,643 A	911,887 A
				23.50*	24.50*
			AGR	2,116,000 B	2,165,874 B
				7.50*	7.50*
			AGR	1,127,933 W	1,392,933 W
	INVESTMENT CAPITAL		AGR	18,400,000 C	20,300,000 C
			AGR	6,700,000 N	2,000,000 N
			AGR	S	
14.	AGR161	- AGROBUSINESS DEVELOPMENT AND RESEARCH			
	OPERATING		AGR	650,601 A	50,601 A
			AGR	500,000 B	500,000 B
			AGR	3,397,691 W	3,817,691 W
	INVESTMENT CAPITAL		AGR	13,500,000 C	8,070,000 C
			AGR	175,000,000 E	E
15.	AGR192	- GENERAL ADMINISTRATION FOR AGRICULTURE		22.00*	22.00*
	OPERATING		AGR	1,489,886 A	1,781,076 A
				5.00*	5.00*
			AGR	299,315 B	326,280 B
	INVESTMENT CAPITAL		AGS	1,000,000 C	2,500,000 C
16.	LNR153	- FISHERIES AND RESOURCE ENHANCEMENT		7.00*	7.00*
	OPERATING		LNR	561,741 A	561,741 A
				1.00*	2.00*
			LNR	303,474 B	641,399 B
			LNR	383,305 N	383,305 N
				3.00*	2.00*
			LNR	367,000 P	329,075 P

**ACT 122**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
17.		AGR153 - AQUACULTURE DEVELOPMENT PROGRAM		4.00*	4.00*
	OPERATING	AGR	AGR	310,405 A	310,405 A
		AGR	AGR	125,000 B	125,000 B
		AGR	AGR	46,134 N	0 N
	INVESTMENT CAPITAL	AGR		C	550,000 C
18.		BED120 - ENVIRONMENT AND ENERGY DEVELOPMENT		5.00*	5.00*
	OPERATING	BED	BED	5,661,805 B	56,639,305 B
		BED	BED	1,750,000 N	1,750,000 N
		BED	BED	151,535 V	320,000 V
		BED	BED	1,545,000 P	1,514,192 P
19.		BED143 - HIGH TECHNOLOGY DEVELOPMENT CORPORATION		1.50*	1.50*
	OPERATING	BED	BED	1,030,588 A	1,030,588 A
		BED	BED	1.50*	1.50*
		BED	BED	3,755,410 B	3,755,410 B
		BED	BED	1,500,000 W	1,500,000 W
		BED	BED	15,989,710 P	15,989,710 P
20.		BED145 - HAWAII STRATEGIC DEVELOPMENT CORPORATION			
	OPERATING	BED	BED	2,608,516 B	2,608,516 B
		BED	BED	4,289,649 W	4,289,649 W
			BED	P	13,168,350 P
21.		BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY			
	OPERATING	BED	BED	7,672,917 B	7,672,917 B
	INVESTMENT CAPITAL	BED		12,017,000 C	2,500,000 C
22.		LNR141 - WATER AND LAND DEVELOPMENT		1.50*	1.50*
	OPERATING	LNR	LNR	202,750 A	202,750 A
		LNR	LNR	4.00*	4.00*
		LNR	LNR	613,103 B	702,663 B
		LNR	LNR	U	220,000 U
		LNR	LNR	188,181 W	188,181 W
	INVESTMENT CAPITAL	LNR		3,750,000 C	12,800,000 C
23.		BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY			
	2.00 * 2.00 *				
	OPERATING	BED	BED	1,086,818 W	1,086,818 W
	INVESTMENT CAPITAL	BED		2,155,000 C	9,555,000 C
24.		BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION			
	OPERATING	BED	BED	3,000,000 N	3,000,000 N
		BED	BED	21,923,698 T	21,923,698 T
				31.00*	32.00*
		BED	BED	6,874,086 W	7,197,377 W
		BED	BED	6,677,735 P	0 P
	INVESTMENT CAPITAL	BED		8,300,000 C	30,332,000 C

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
25.		BED128 - OFFICE OF AEROSPACE OPERATING	BED	809,136A	969,136A
<b>B. EMPLOYMENT</b>					
1.	LBR111	- WORKFORCE DEVELOPMENT PROGRAM OPERATING	LBR	0.20*	0.20*
			LBR	101,259A	301,259A
			LBR	5,940,010B	5,940,010B
				115.80*	112.80*
			LBR	50,776,769N	14,315,000N
			LBR	1,505,580U	1,505,580U
			LBR	P	1,640,000P
2.	LBR135	- WORKFORCE DEVELOPMENT COUNCIL OPERATING	LBR	0.10*	0.10*
			LBR	11,577A	11,577A
				0.90*	0.90*
			LBR	593,784N	1,000,000N
			LBR	P	600,000P
3.	LBR171	- UNEMPLOYMENT INSURANCE PROGRAM OPERATING	LBR	361,191,310B	361,191,310B
				251.50*	251.50*
			LBR	18,501,347N	20,750,000N
4.	LBR903	- OFFICE OF COMMUNITY SERVICES OPERATING	LBR	2.00*	2.00*
			LBR	4,330,645A	3,381,633A
				2.00*	2.00*
			LBR	5,882,044N	4,329,703N
			LBR	1,200,000U	1,200,000U
			LBR	P	200,000P
		INVESTMENT CAPITAL	LBR	2,000,000B	B
			LBR	12,150,000C	11,330,000C
			LBR	U	2,000,000U
5.	LBR905	- HI CAREER (KOKUA) INFORMATION DELIVERY SYS OPERATING	LBR	128,553A	128,553A
			LBR	30,939N	0N
6.	HMS802	- VOCATIONAL REHABILITATION OPERATING	HMS	36.27*	36.27*
				68.23*	68.23*
			HMS	13,820,795N	13,820,795N
			HMS	1,330,200W	1,330,200W
		INVESTMENT CAPITAL	HMS	C	2,550,000C
7.	LBR143	- HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM OPERATING	LBR	15.50*	16.50*
			LBR	896,506A	918,571A
				22.00*	22.00*
			LBR	2,867,932B	2,867,932B
				17.50*	0.00*
			LBR	1,816,684N	0N
			LBR	70,000W	70,000W
			LBR	*	18.50*
			LBR	P	2,000,000P

**ACT 122**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
8.	LBR152	- WAGE STANDARDS PROGRAM		17.00*	17.00*
	OPERATING		LBR	983,731 A	983,731 A
9.	LBR153	- HAWAII CIVIL RIGHTS COMMISSION		21.50*	21.50*
	OPERATING		LBR	1,344,804 A	1,344,804 A
			LBR	0.50*	0.00*
			LBR	324,087 N	0 N
			LBR	*	0.50*
			LBR	P	250,000 P
10.	LBR183	- DISABILITY COMPENSATION PROGRAM		84.00*	85.00*
	OPERATING		LBR	4,313,375 A	4,555,131 A
			LBR	9.00*	9.00*
			LBR	23,821,406 B	23,851,406 B
11.	LBR161	- HAWAII LABOR RELATIONS BOARD		1.00*	1.00*
	OPERATING		LBR	608,550 A	648,552 A
12.	LBR812	- LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD		9.00*	9.00*
	OPERATING		LBR	782,657 A	782,657 A
13.	LBR871	- EMPLOYMENT SECURITY APPEALS REFEREES' OFFICE		12.00*	12.00*
	OPERATING		LBR	897,274 N	1,000,000 N
14.	LBR901	- DATA GATHERING, RESEARCH, AND ANALYSIS		3.88*	3.88*
	OPERATING		LBR	232,751 A	243,751 A
			LBR	27.12*	0.55*
			LBR	2,447,213 N	417,803 N
			LBR	*	26.57*
			LBR	P	950,000 P
15.	LBR902	- GENERAL ADMINISTRATION		20.52*	19.52*
	OPERATING		LBR	1,330,064 A	1,488,081 A
			LBR	200,000 B	200,000 B
			LBR	30.48*	0.00*
			LBR	3,171,930 N	0 N
			LBR	*	33.48*
			LBR	P	3,500,000 P

**C. TRANSPORTATION FACILITIES**

1.	TRN102	- HONOLULU INTERNATIONAL AIRPORT		618.50*	618.50*
	OPERATING		TRN	137,870,921 B	153,446,074 B
	INVESTMENT CAPITAL		TRN	120,277,000 E	438,900,000 E
			TRN	6,400,000 N	N
			TRN	16,080,000 X	X
2.	TRN104	- GENERAL AVIATION		30.00*	30.00*
	OPERATING		TRN	5,946,642 B	6,546,642 B
			TRN	3,000,000 N	4,200,000 N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.	TRN111	- HILO INTERNATIONAL AIRPORT		82.00*	82.00*
	OPERATING	TRN	14,884,419 B	14,534,419 B	
	INVESTMENT CAPITAL	TRN	10,000 B	B	
		TRN	0 C	C	
		TRN	11,640,000 E	E	
		TRN	27,625,000 N	N	
		TRN	4,125,000 X	X	
4.	TRN114	- KONA INTERNATIONAL AIRPORT AT KE'AHOLE		86.00*	86.00*
	OPERATING	TRN	18,308,869 B	19,664,972 B	
	INVESTMENT CAPITAL	TRN	10,000 B	B	
		TRN	3,000,000 C	C	
		TRN	71,500,000 E	1,900,000 E	
		TRN	5,899,000 X	X	
5.	TRN116	- WAIMEA-KOHALA AIRPORT		6.00*	6.00*
	OPERATING	TRN	992,167 B	1,132,167 B	
6.	TRN118	- UPOLU AIRPORT			
	OPERATING	TRN	374,500 B	319,500 B	
		TRN	300,000 N	150,000 N	
7.	TRN131	- KAHULUI AIRPORT		162.00*	162.00*
	OPERATING	TRN	24,401,111 B	26,626,111 B	
	INVESTMENT CAPITAL	TRN	7,500,000 E	E	
		TRN	22,500,000 N	N	
		TRN	30,000,000 X <sup>1</sup>	X	
8.	TRN133	- HANA AIRPORT		9.00*	8.00*
	OPERATING	TRN	946,912 B	540,135 B	
	INVESTMENT CAPITAL	TRN	E	1,040,000 E	
		TRN	N	5,310,000 N	
9.	TRN135	- KAPALUA AIRPORT		11.00*	11.00*
	OPERATING	TRN	1,671,340 B	1,971,340 B	
10.	TRN141	- MOLOKAI AIRPORT		13.00*	13.00*
	OPERATING	TRN	2,419,835 B	2,850,835 B	
		TRN	N	819,000 N	
11.	TRN143	- KALAUPAPA AIRPORT		9.00*	9.00*
	OPERATING	TRN	630,691 B	1,180,691 B	
12.	TRN151	- LANAI AIRPORT		10.00*	11.00*
	OPERATING	TRN	1,960,713 B	2,575,975 B	
		TRN	N	819,000 N	
13.	TRN161	- LIHUE AIRPORT		101.00*	101.00*
	OPERATING	TRN	17,161,779 B	17,491,779 B	

## ACT 122

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
14.	TRN163	PORT ALLEN AIRPORT OPERATING	TRN TRN	51,841 B 150,000 N	1,841 B N
15.	TRN195	AIRPORTS ADMINISTRATION OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN TRN TRN	117.00 * 190,589,291 B N 12,450,000 B 82,500,000 E 7,500,000 N 100,000 X	119.00 * 235,263,915 B 1,049,250 N 11,450,000 B 94,700,000 E 7,500,000 N 42,100,000 X
16.	TRN301	HONOLULU HARBOR OPERATING INVESTMENT CAPITAL	TRN TRN	116.00 * 24,513,583 B 250,000,000 E	116.00 * 26,864,870 B E
17.	TRN303	KALAELOA BARBERS POINT HARBOR OPERATING INVESTMENT CAPITAL	TRN TRN TRN	3.00 * 2,100,189 B 250,000 B 1,000,000 E	3.00 * 2,081,342 B 150,000 B 2,000,000 E
18.	TRN311	HILO HARBOR OPERATING INVESTMENT CAPITAL	TRN TRN	14.00 * 2,828,357 B 925,000 B	14.00 * 2,848,397 B 500,000 B
19.	TRN313	KAWAIHAE HARBOR OPERATING	TRN	2.00 * 1,338,031 B	2.00 * 1,344,391 B
20.	TRN331	KAHULUI HARBOR OPERATING INVESTMENT CAPITAL	TRN TRN	18.00 * 3,916,632 B 5,000,000 E	18.00 * 3,726,632 B 1,000,000 E
21.	TRN341	KAUNAKAKAI HARBOR OPERATING	TRN	1.00 * 591,915 B	1.00 * 591,915 B
22.	TRN361	NAWILIWILI HARBOR OPERATING	TRN	15.00 * 2,891,457 B	15.00 * 2,839,517 B
23.	TRN363	PORT ALLEN HARBOR OPERATING	TRN	1.00 * 406,588 B	1.00 * 421,588 B
24.	TRN351	KAUMALAPAU HARBOR OPERATING	TRN	265,000 B	265,000 B
25.	TRN395	HARBORS ADMINISTRATION OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN	71.00 * 53,365,161 B 10,400,000 B 6,735,000 E 2,000,000 P	77.00 * 59,303,160 B 10,400,000 B 6,735,000 E 2,000,000 P

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
26.	TRN333	- HANA HARBOR OPERATING INVESTMENT CAPITAL	TRN TRN	42,519 B 20,500,000 E	42,519 B E
27.	TRN501	- OAHU HIGHWAYS OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN TRN TRN	224.00 * 100,989,427 B 3,100,000 N C 85,916,000 E 16,864,000 N 1,419,000 R	224.00 * 101,009,053 B 3,100,000 N 1,250,000 C 76,514,000 E 157,117,000 N 10,200,000 R
28.	TRN511	- HAWAII HIGHWAYS OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN	124.00 * 27,921,711 B C 29,013,000 E 36,424,000 N	124.00 * 27,921,711 B 2,500,000 C 9,223,000 E 22,492,000 N
29.	TRN531	- MAUI HIGHWAYS OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN TRN	81.00 * 30,044,244 B C 4,857,000 E 9,105,000 N 1,250,000 S	82.00 * 32,780,400 B 500,000 C 25,785,000 E 80,019,000 N S
30.	TRN561	- KAUAI HIGHWAYS OPERATING INVESTMENT CAPITAL	TRN TRN TRN	51.00 * 17,751,786 B 6,251,000 E 2,891,000 N	51.00 * 17,846,977 B 11,175,000 E 29,667,000 N
31.	TRN595	- HIGHWAYS ADMINISTRATION OPERATING INVESTMENT CAPITAL	TRN TRN TRN TRN TRN TRN	86.00 * 85,489,148 B 5,272,500 N 30,000 P 16,000,000 B 10,684,000 E 23,861,000 N	86.00 * 93,156,476 B 4,547,000 N 30,000 P 16,000,000 B 33,258,000 E 69,031,000 N
32.	TRN597	- HIGHWAY SAFETY OPERATING	TRN TRN TRN	35.20 * 10,407,643 B 6.00 * 5,092,452 N 0.80 * 841,139 P	35.20 * 10,407,643 B 6.00 * 5,092,452 N 0.80 * 841,139 P
33.	TRN995	- GENERAL ADMINISTRATION OPERATING	TRN TRN TRN	106.00 * 17,234,930 B 33,322,784 N 423,067 R	106.00 * 16,677,402 B 6,584,774 N 423,067 R
34.	TRN695	- ALOHA TOWER DEVELOPMENT CORPORATION OPERATING	TRN	1,800,368 B	1,829,736 B

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**D. ENVIRONMENTAL PROTECTION**

**1. HTH840 - ENVIRONMENTAL MANAGEMENT**

OPERATING	HTH	36.00*	37.00*
		2,604,474 A	2,669,454 A
		64.00*	67.00*
	HTH	81,068,234 B	81,061,186 B
		37.80*	36.80*
	HTH	7,709,657 N	6,962,003 N
		2.00*	2.00*
	HTH	174,454 U	174,454 U
		50.20*	51.20*
	HTH	164,322,698 W	164,684,095 W
		8.00*	8.00*
INVESTMENT CAPITAL	HTH	1,588,478 P	1,588,478 P
	HTH	4,025,000 C	4,025,000 C
	HTH	20,071,000 N	20,071,000 N

**2. AGR846 - PESTICIDES**

OPERATING	AGR	8.00*	12.00*
		496,810 A	593,119 A
		2.00*	0.00*
	AGR	475,561 N	0 N
		8.00*	8.00*
	AGR	1,101,976 W	1,501,976 W
		*	2.00*
	AGR	P	433,429 P

**3. LNR401 - AQUATIC RESOURCES**

OPERATING	LNR	29.25*	30.50*
		2,485,808 A	2,556,344 A
		1.00*	0.00*
	LNR	1,416,709 N	1,630,125 N
		0.75*	0.50*
	LNR	2,062,000 P	3,597,463 P

**4. LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM**

OPERATING	LNR	49.50*	49.50*
		3,722,025 A	3,722,025 A
	LNR	3,405,749 B	3,405,749 B
		5.50*	5.50*
	LNR	3,628,155 N	1,350,000 N
	LNR	136,197 T	99,755 T
	LNR	1,500,000 U	1,500,000 U
		5.00*	5.00*
INVESTMENT CAPITAL	LNR	5,313,645 P	2,500,000 P
	LNR	3,014,000 C	9,037,000 C

**5. LNR404 - WATER RESOURCES**

OPERATING	LNR	19.00*	18.00*
		2,273,185 A	2,213,161 A
		3.00*	5.00*
INVESTMENT CAPITAL	LNR	691,818 B	866,878 B
	LNR	1,500,000 C	C

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
6.	LNR405 - CONSERVATION AND RESOURCES ENFORCEMENT			109.25*	109.25*
	OPERATING	LNR	6,376,656 A	8,310,431 A	
			18.00*	18.00*	
		LNR	2,176,083 B	2,176,083 B	
			1.75*	2.75*	
		LNR	458,259 N	972,781 N	
			1.00*	0.00*	
		LNR	108,114 W	32,333 W	
		LNR	1,009,855 P	930,000 P	
7.	LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT			18.00*	18.00*
	OPERATING	LNR	4,222,575 A	822,575 A	
			10.50*	10.50*	
		LNR	7,195,731 B	12,344,125 B	
		LNR	761 N	0 N	
			0.50*	0.50*	
		LNR	1,637,269 P	1,225,000 P	
	INVESTMENT CAPITAL	LNR	6,500,000 C	6,360,000 C	
		LNR	N	1,000 N	
8.	HTH850 - OFFICE OF ENVIRONMENTAL QUALITY CONTROL			5.00*	5.00*
	OPERATING	HTH	344,488 A	344,488 A	
9.	LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT			31.00*	32.00*
	OPERATING	LNR	1,965,578 A	1,925,602 A	
			13.00*	14.00*	
		LNR	1,432,431 B	1,524,291 B	
	INVESTMENT CAPITAL	LNR	2,597,000 C	21,372,000 C	
10.	HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION			10.00*	10.00*
	OPERATING	HTH	1,243,616 A	1,243,616 A	
			0.50*	0.50*	
		HTH	48,271 B	48,271 B	
			5.50*	5.50*	
		HTH	579,620 N	579,620 N	
			26.00*	26.00*	
		HTH	4,227,399 W	4,128,675 W	
			9.00*	9.00*	
		HTH	2,601,187 P	2,395,859 P	

## E. HEALTH

## 1. HTH100 - COMMUNICABLE DISEASE SERVICES

OPERATING	HTH	24,288,286 A	249.87*	249.87*
			*	1.00*
	HTH	90,720 B	435,589 B	
	HTH	3,507,482 N	3,407,505 N	
	HTH	131,746 U	131,746 U	
		16.00*	16.00*	
	HTH	4,834,498 P	5,008,971 P	
INVESTMENT CAPITAL	AGS	C		521,000 C

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				FISCAL YEAR 2013-2014 M O F	FISCAL YEAR 2014-2015 M O F
2.	HTH131	- DISEASE OUTBREAK CONTROL		20.60*	20.60*
		OPERATING	HTH	1,613,768 A	1,613,768 A
				31.40*	31.40*
			HTH	10,736,954 N	10,736,954 N
			HTH	1,143,691 P	1,361,116 P
3.	HTH730	- EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM		13.00*	13.00*
		OPERATING	HTH	57,191,251 A	55,891,251 A
			HTH	20,072,874 B	26,416,707 B
			HTH	10,563 N	0 N
				3.00*	0.00*
			HTH	1,072,116 P	232,710 P
4.	HTH560	- FAMILY HEALTH SERVICES		108.00*	108.00*
		OPERATING	HTH	25,296,742 A	25,217,539 A
				14.00*	14.00*
			HTH	20,937,704 B	20,969,607 B
				173.00*	172.00*
			HTH	45,162,123 N	45,000,228 N
			HTH	203,441 U	203,441 U
				6.50*	6.50*
			HTH	8,972,011 P	9,258,164 P
5.	HTH590	- TOBACCO SETTLEMENT			
		OPERATING	HTH	1,502,565 A	200,000 A
				39.00*	39.50*
			HTH	50,319,643 B	50,985,644 B
			HTH	1,589,845 U	610,000 U
				11.00*	10.50*
			HTH	5,335,092 P	4,307,915 P
6.	HTH595	- HEALTH RESOURCES ADMINISTRATION		2.00*	2.00*
		OPERATING	HTH	150,379 A	369,951 A
		INVESTMENT CAPITAL	HTH	5,000,000 C	6,600,000 C
7.	HTH210	- HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE		54.50*	54.50*
		OPERATING	HTH	12,509,280 B	12,509,280 B
		INVESTMENT CAPITAL	HTH	14,321,000 C	359,000 C
8.	HTH211	- KAHUKU HOSPITAL			
		OPERATING	HTH	1,500,000 A	1,500,000 A
		INVESTMENT CAPITAL	HTH	1,462,000 C	0 C
9.	HTH212	- HAWAII HEALTH SYSTEMS CORPORATION-REGIONS			
		OPERATING	HTH	82,940,000 A	89,940,000 A
				2,780.75*	2,780.75*
			HTH	508,583,900 B	508,583,900 B
		INVESTMENT CAPITAL	HTH	40,000,000 C	45,100,000 C
			HTH	E	31,500,000 E
			HTH	N	3,500,000 N

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.		HTH213 - ALII COMMUNITY CARE OPERATING	HTH	2,500,000 B	2,500,000 B
11.		HTH420 - ADULT MENTAL HEALTH - OUTPATIENT OPERATING	HTH	145.50 *	145.50 *
			HTH	72,810,662 A	58,706,662 A
			HTH	11,610,000 B	11,795,000 B
			HTH	1,632,230 N	1,632,230 N
12.		HTH430 - ADULT MENTAL HEALTH - INPATIENT OPERATING	HTH	615.00 *	615.00 *
		INVESTMENT CAPITAL	AGS	52,895,657 A	57,999,657 A
				3,750,000 C	3,285,000 C
13.		HTH440 - ALCOHOL AND DRUG ABUSE OPERATING	HTH	22.00 *	22.00 *
			HTH	19,005,362 A	18,575,362 A
			HTH	500,000 B	500,000 B
			HTH	6.00 *	6.00 *
			HTH	7,915,082 N	7,915,082 N
		INVESTMENT CAPITAL	HTH	5,947,262 P	5,947,262 P
			HTH	C	1,500,000 C
14.		HTH460 - CHILD AND ADOLESCENT MENTAL HEALTH OPERATING	HTH	161.00 *	160.00 *
			HTH	40,038,386 A	40,038,386 A
			HTH	17.00 *	17.00 *
			HTH	14,985,824 B	14,985,824 B
			HTH	2,387,825 N	1,387,825 N
			HTH	2,264,888 U	2,264,888 U
			HTH	2,000,000 P	2,928,851 P
15.		HTH501 - DEVELOPMENTAL DISABILITIES OPERATING	HTH	203.75 *	203.75 *
			HTH	71,614,634 A	72,077,522 A
			HTH	3.00 *	3.00 *
			HTH	1,038,992 B	1,038,992 B
16.		HTH495 - BEHAVIORAL HEALTH ADMINISTRATION OPERATING	HTH	57.50 *	53.50 *
			HTH	6,760,523 A	6,568,683 A
			HTH	1,236,863 P	731,827 P
17.		HTH610 - ENVIRONMENTAL HEALTH SERVICES OPERATING	HTH	100.00 *	100.00 *
			HTH	5,598,048 A	5,671,968 A
			HTH	18.00 *	21.00 *
			HTH	1,640,404 B	1,897,437 B
			HTH	2.00 *	2.00 *
			HTH	67,711 N	253,443 N
			HTH	1.00 *	1.00 *
			HTH	55,481 U	55,481 U
			HTH	4.00 *	4.00 *
			HTH	526,971 P	381,534 P
18.		HTH710 - STATE LABORATORY SERVICES OPERATING	HTH	72.00 *	72.00 *
			HTH	6,810,558 A	6,810,558 A
			HTH	11,129 N	0 N
			HTH	486,234 P	399,829 P

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19.	HTH720	- HEALTH CARE ASSURANCE		19.60*	21.60*
	OPERATING		HTH	1,479,878 A	1,991,608 A
			HTH	406,000 B	406,000 B
			HTH	73,128 N	0 N
			HTH	17.40*	14.40*
			HTH	1,564,720 P	2,477,122 P
20.	HTH906	- STATE HEALTH PLANNING AND DEVELOPMENT AGENCY		6.00*	6.00*
	OPERATING		HTH	484,429 A	484,429 A
			HTH	114,000 B	114,000 B
21.	HTH760	- HEALTH STATUS MONITORING		29.50*	29.50*
	OPERATING		HTH	1,410,190 A	1,410,190 A
			HTH	1.00*	1.00*
			HTH	660,155 B	646,822 B
			HTH	3.00*	3.00*
			HTH	234,870 P	319,870 P
22.	HTH905	- DEVELOPMENTAL DISABILITIES COUNCIL		1.50*	1.50*
	OPERATING		HTH	218,048 A	218,048 A
			HTH	6.50*	6.50*
			HTH	478,797 N	478,797 N
23.	HTH907	- GENERAL ADMINISTRATION		118.50*	119.50*
	OPERATING		HTH	9,216,927 A	9,057,929 A
			HTH	1,501,830 P	845,816 P
	INVESTMENT CAPITAL		AGS	19,693,000 C <sup>I</sup>	6,097,000 C
24.	HTH908	- OFFICE OF LANGUAGE ACCESS		3.00*	3.00*
	OPERATING		HTH	312,228 A	312,228 A
<b>F. SOCIAL SERVICES</b>					
1.	HMS301	- CHILD PROTECTIVE SERVICES		216.44*	226.18*
	OPERATING		HMS	33,103,294 A	34,275,669 A
			HMS	1,007,587 B	1,007,587 B
			HMS	192.06*	182.32*
			HMS	38,728,313 N	39,123,363 N
			HMS	106,225 P	106,225 P
2.	HMS302	- GENERAL SUPPORT FOR CHILD CARE		19.57*	19.57*
	OPERATING		HMS	1,004,142 A	1,004,142 A
			HMS	19.43*	19.43*
			HMS	10,883,987 N	10,883,987 N
3.	HMS303	- CHILD PROTECTIVE SERVICES PAYMENTS			
	OPERATING		HMS	37,066,013 A	43,131,294 A
			HMS	20,095,666 N	23,614,626 N
4.	HMS305	- CASH SUPPORT FOR CHILD CARE			
	OPERATING		HMS	15,011,811 A	15,011,811 A
			HMS	38,530,754 N	38,530,754 N

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5.	HMS501	- IN-COMMUNITY YOUTH PROGRAMS		14.00*	14.00*
		OPERATING	HMS	7,657,376 A	8,124,901 A
			HMS	3,706,297 N	3,706,297 N
		INVESTMENT CAPITAL	HMS	435,000 C	C
6.	HMS503	- HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)		124.00*	124.00*
		OPERATING	HMS	10,961,107 A	11,003,239 A
7.	DEF112	- SERVICES TO VETERANS		28.00*	28.00*
		OPERATING	DEF	2,140,167 A	2,065,963 A
		INVESTMENT CAPITAL	DEF	2,300,000 C	2,025,000 C
			DEF	N	7,254,000 N
8.	HMS601	- ADULT AND COMMUNITY CARE SERVICES		66.84*	70.00*
		OPERATING	HMS	5,774,897 A	5,426,464 A
				8.66*	5.50*
			HMS	3,607,815 N	3,607,815 N
			HMS	10,000 R	10,000 R
			HMS	382,003 U	382,003 U
			HMS	1,321,390 P	1,321,390 P
9.	HMS202	- AGED, BLIND AND DISABLED PAYMENTS			
		OPERATING	HMS	4,029,480 A	4,029,480 A
10.	HMS204	- GENERAL ASSISTANCE PAYMENTS			
		OPERATING	HMS	21,289,056 A	21,289,056 A
11.	HMS206	- FEDERAL ASSISTANCE PAYMENTS			
		OPERATING	HMS	5,108,943 N	5,478,053 N
12.	HMS211	- CASH SUPPORT FOR FAMILIES - SELF-SUFFICIENCY			
		OPERATING	HMS	22,694,156 A	22,694,156 A
			HMS	44,000,000 N	44,000,000 N
13.	HMS220	- RENTAL HOUSING SERVICES			
		OPERATING	HMS	4,301,556 A	4,301,556 A
				200.00*	200.00*
			HMS	37,488,145 N	77,863,622 N
				13.00*	21.00*
			HMS	4,062,417 W	4,946,226 W
		INVESTMENT CAPITAL	HMS	45,643,000 C	26,500,000 C
14.	HMS229	- HPHA ADMINISTRATION			
		OPERATING	HMS	72.00*	76.00*
				34,840,659 N	37,964,860 N
				20.00*	22.00*
			HMS	2,944,010 W	3,714,237 W
15.	HMS222	- RENTAL ASSISTANCE SERVICES			
		OPERATING	HMS	1.25*	1.25*
				1,055,928 A	1,055,928 A
				16.75*	16.75*
			HMS	25,880,614 N	26,042,082 N

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16.		HMS224 - HOMELESS SERVICES		7.00*	7.00*
	OPERATING		HMS	16,624,102 A	17,788,922 A
			HMS	626,906 N	626,906 N
			HMS	2,366,839 P	2,366,839 P
17.		HMS605 - COMMUNITY-BASED RESIDENTIAL SUPPORT			
	OPERATING		HMS	17,810,955 A	17,810,955 A
18.		HMS401 - HEALTH CARE PAYMENTS			
	OPERATING		HMS	844,251,840 A	904,194,650 A
			HMS	4,392,660 B	3,392,660 B
			HMS	1,014,639,320 N	1,075,819,956 N
			HMS	12,000,000 U	13,000,000 U
			HMS	12,956,822 P	13,216,034 P
19.		HMS236 - CASE MANAGEMENT FOR SELF-SUFFICIENCY		303.85*	306.70*
	OPERATING		HMS	13,967,075 A	14,011,412 A
				239.15*	241.30*
			HMS	18,815,365 N	18,953,278 N
			HMS	2,763 P	2,763 P
20.		HMS238 - DISABILITY DETERMINATION		45.00*	45.00*
	OPERATING		HMS	7,325,287 N	7,325,287 N
21.		ATG500 - CHILD SUPPORT ENFORCEMENT SERVICES		74.80*	74.80*
	OPERATING		ATG	4,175,902 A	4,125,902 A
			ATG	2,231,224 T	2,231,224 T
				145.20*	145.20*
			ATG	14,518,035 P	14,518,035 P
22.		HMS237 - EMPLOYMENT AND TRAINING			
	OPERATING		HMS	469,505 A	469,505 A
			HMS	699,734 N	699,734 N
23.		HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS			
	OPERATING		HHL	9,632,000 A	9,632,000 A
				115.00*	115.00*
			HHL	13,030,827 B	13,030,827 B
				4.00*	4.00*
			HHL	23,317,601 N	23,317,601 N
				81.00*	81.00*
			HHL	157,015,612 T	10,756,146 T
	INVESTMENT CAPITAL		HHL	2,900,000 C	11,510,000 C
			HHL	20,000,000 N	20,000,000 N
24.		HTH904 - EXECUTIVE OFFICE ON AGING		5.74*	5.74*
	OPERATING		HTH	8,083,402 A	7,651,402 A
				8.26*	8.26*
			HTH	7,010,240 N	6,905,707 N
			HTH	592,678 P	1,015,697 P
	INVESTMENT CAPITAL		HTH	280,000 C	490,000 C

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2013-2014 O F	FISCAL YEAR 2014-2015 O F
25.	HTH520	- DISABILITY AND COMMUNICATIONS ACCESS BOARD		5.00*	5.00*
	OPERATING		HTH	1,230,625 A	1,230,625 A
			HTH	10,000 B	10,000 B
				2.00*	2.00*
			HTH	253,338 U	253,338 U
26.	HMS902	- GENERAL SUPPORT FOR HEALTH CARE PAYMENTS		128.75*	130.50*
	OPERATING		HMS	9,563,391 A	9,820,104 A
				0.56*	0.56*
			HMS	1,519,680 B	1,539,357 B
				136.44*	138.69*
			HMS	33,147,901 N	33,234,892 N
			HMS	U	1,000,000 U
			HMS	717,484 P	717,484 P
27.	HMS903	- GENERAL SUPPORT FOR SELF SUFFICIENCY SERVICES		45.40*	45.40*
	OPERATING		HMS	39,628,739 A	39,740,317 A
				40.60*	40.60*
			HMS	63,638,915 N	63,911,309 N
			HMS	460 P	460 P
28.	HMS904	- GENERAL ADMINISTRATION (DHS)		133.90*	133.90*
	OPERATING		HMS	7,809,652 A	7,832,458 A
				26.10*	26.10*
			HMS	1,546,726 N	1,546,726 N
			HMS	604 P	604 P
	INVESTMENT CAPITAL		HMS	4,000,000 C	41,385,000 C
			HMS	N	59,986,000 N
29.	HMS901	- GENERAL SUPPORT FOR SOCIAL SERVICES		14.80*	14.80*
	OPERATING		HMS	2,193,528 A	2,193,528 A
				4.20*	4.20*
			HMS	1,660,539 N	1,660,539 N

## G. FORMAL EDUCATION

## 1. EDN100 - SCHOOL BASED BUDGETING

OPERATING	EDN	12,561.35*	12,561.35*
	EDN	817,507,508 A	812,888,595 A
	EDN	7,230,000 B	7,230,000 B
	EDN	128,498,907 N	128,093,714 N
	EDN	20,290,000 T	20,290,000 T
	EDN	3,995,605 U	3,995,605 U
	EDN	3,389,438 W	3,389,438 W
	EDN	17,678,689 P	17,034,000 P
INVESTMENT CAPITAL	EDN	B	110,000,000 B
	EDN	233,470,000 C	272,294,000 C
	EDN	2,000 N	48,000,000 N

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
2.		EDN150 - SPECIAL EDUCATION AND STUDENT SUPPORT SERVICES		5,173.62*		5,173.62*
		OPERATING	EDN	321,843,969 A		325,508,663 A
			EDN	100,000 B		100,000 B
				2.00*		2.00*
			EDN	49,338,081 N		49,338,081 N
				4.00*		4.00*
			EDN	3,500,000 W		3,500,000 W
			EDN	92,500 P		92,500 P
3.		EDN200 - INSTRUCTIONAL SUPPORT		377.00*		377.00*
		OPERATING	EDN	45,120,095 A		47,429,820 A
				11.00*		11.00*
			EDN	2,321,746 B		2,321,746 B
			EDN	500,000 N		500,000 N
			EDN	250,000 U		250,000 U
			EDN	187,000 P		187,000 P
4.		EDN300 - STATE ADMINISTRATION		446.50*		456.50*
		OPERATING	EDN	42,276,161 A		43,343,959 A
			EDN	30,000 P		30,000 P
5.		EDN400 - SCHOOL SUPPORT		637.00*		637.00*
		OPERATING	EDN	170,665,305 A		171,218,522 A
				726.50*		726.50*
			EDN	42,676,578 B		42,676,578 B
				3.00*		3.00*
			EDN	59,659,032 N		52,452,989 N
				4.00*		4.00*
		INVESTMENT CAPITAL	EDN	10,950,000 W		10,950,000 W
			EDN	5,200,000 C		5,200,000 C
6.		EDN500 - SCHOOL COMMUNITY SERVICES		29.00*		29.00*
		OPERATING	EDN	2,500,000 A		2,500,000 A
			EDN	3,631,000 B		3,631,000 B
			EDN	3,266,540 N		3,266,540 N
			EDN	4,000,000 T		4,000,000 T
			EDN	6,300,000 U		6,300,000 U
			EDN	10,995,000 W		10,995,000 W
7.		EDN600 - CHARTER SCHOOLS		15.00*		16.12*
		OPERATING	EDN	64,425,165 A		69,325,807 A
				*		1.88*
		INVESTMENT CAPITAL	EDN	N		2,004,550 N
			EDN	C		1,700,000 C
8.		EDN700 - EXECUTIVE OFFICE ON EARLY LEARNING				
		OPERATING	EDN		0 A	3,255,152 A
9.		BUF745 - RETIREMENT BENEFITS - DOE				
		OPERATING	BUF		272,433,909 A	285,138,488 A
10.		BUF765 - HEALTH PREMIUM PAYMENTS - DOE				
		OPERATING	BUF		209,170,168 A	228,329,456 A

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
11.	BUF725	- DEBT SERVICE - DOE OPERATING	BUF	272,936,119	A	286,707,551 A
12.	AGS807	- SCHOOL R&M, NEIGHBOR ISLAND DISTRICTS OPERATING	AGS	79.00*		80.00*
			AGS	4,425,862	A	4,512,933 A
			AGS	1,500,000	U	1,500,000 U
13.	EDN407	- PUBLIC LIBRARIES OPERATING	EDN	547.50*		547.50*
			EDN	29,260,611	A	30,044,639 A
			EDN	3,125,000	B	3,125,000 B
			EDN	1,365,244	P	1,365,244 P
		INVESTMENT CAPITAL	AGS	18,750,000	C	3,300,000 C
			EDN		C	325,000 C
14.	DEF114	- HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY OPERATING	DEF	1,571,282	A	1,675,282 A
			DEF	5,584,387	N	5,584,387 N
		INVESTMENT CAPITAL	DEF	5,900,000	C	2,340,000 C
15.	UOH100	- UNIVERSITY OF HAWAII, MANOA OPERATING	UOH	3,291.87*		3,238.24*
			UOH	174,068,561	A	178,007,100 A
			UOH	398.25*		416.25*
			UOH	304,573,721	B	360,054,695 B
			UOH	78.06*		78.06*
			UOH	6,402,790	N	6,873,565 N
			UOH	31.25*		30.25*
		INVESTMENT CAPITAL	UOH	55,598,433	W	64,875,365 W
			UOH	4,100,000	B	
			UOH	25,227,000	C	15,500,000 C
			UOH	23,500,000	E	6,000,000 E
			UOH	R		2,200,000 R
			UOH	W		1,500,000 W
16.	UOH110	- UNIVERSITY OF HAWAII, JOHN A. BURNS SCHOOL OF MEDICINE OPERATING	UOH	200.47*		242.10*
			UOH	16,548,940	A	16,548,940 A
			UOH	18,408,949	B	27,758,949 B
			UOH	5,953,547	W	6,603,547 W
17.	UOH210	- UNIVERSITY OF HAWAII, HILO OPERATING	UOH	525.25*		526.75*
			UOH	27,977,399	A	28,842,350 A
			UOH	95.00*		95.00*
			UOH	42,238,111	B	45,775,014 B
			UOH	418,990	N	443,962 N
			UOH	8.50*		8.50*
		INVESTMENT CAPITAL	UOH	5,749,122	W	7,249,122 W
			UOH	2,000,000	C	31,000,000 C
			UOH	E		5,000,000 E
18.	UOH220	- SMALL BUSINESS DEVELOPMENT OPERATING	UOH	978,941	A	978,941 A

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
19.		UOH700 - UNIVERSITY OF HAWAII, WEST OAHU		125.50*	215.00*
		OPERATING	UOH	8,514,520 A	12,674,060 A
			UOH	33,272,479 B	33,544,958 B
			UOH	26,772 N	33,544 N
			UOH	3,700,000 W	3,700,000 W
		INVESTMENT CAPITAL	UOH	15,300,000 C	19,000,000 C
20.		UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES		1,831.00*	1,882.00*
		OPERATING	UOH	111,265,299 A	112,054,957 A
			UOH	82.00*	48.00*
			UOH	93,401,545 B	98,378,379 B
			UOH	15.60*	0.50*
			UOH	4,411,562 N	4,428,296 N
			UOH	5,042,982 W	5,044,753 W
		INVESTMENT CAPITAL	UOH	53,463,000 C	23,200,000 C
21.		UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT		428.00*	439.00*
		OPERATING	UOH	46,756,329 A	59,938,641 A
			UOH	33.00*	33.00*
			UOH	39,299,318 B	53,899,318 B
			UOH	4.00*	4.00*
			UOH	909,175 N	909,175 N
			UOH	15.00*	15.00*
		INVESTMENT CAPITAL	UOH	17,131,574 W	17,131,574 W
			UOH	78,004,000 C	85,000,000 C
22.		BUF748 - RETIREMENT BENEFITS - UH			
		OPERATING	BUF	128,130,167 A	138,691,292 A
23.		BUF768 - HEALTH PREMIUM PAYMENTS - UH			
		OPERATING	BUF	78,883,566 A	85,153,921 A
24.		BUF728 - DEBT SERVICE - UH			
		OPERATING	BUF	101,013,292 A	106,110,080 A

**H. CULTURE AND RECREATION**

1.	UOH881 - UNIVERSITY OF HAWAII, AQUARIA			13.00*	13.00*
	OPERATING	UOH	611,256 A	611,256 A	
		UOH	7.00*	7.00*	
		UOH	3,117,141 B	3,117,141 B	
		UOH	996,499 W	996,499 W	
2.	AGS881 - STATE FOUNDATION ON CULTURE AND THE ARTS			*	0.50*
	OPERATING	AGS	1,400,675 A	1,691,332 A	
		AGS	16.50*	16.50*	
		AGS	4,190,291 B	4,224,960 B	
		AGS	5.00*	5.00*	
		AGS	1,306,936 N	1,306,936 N	
3.	AGS818 - KING KAMEHAMEHA CELEBRATION COMMISSION				
	OPERATING	AGS	57,874 T	57,874 T	

## PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
4.	LNR802 - HISTORIC PRESERVATION			19.00 *	22.00 *
	OPERATING	LNR	LNR	1,458,044 A 77,283 B *	1,508,044 A 59,783 B 8.00 *
	INVESTMENT CAPITAL	LNR	LNR	746,089 N C	575,000 N 2,052,000 C
5.	LNR804 - FOREST AND OUTDOOR RECREATION			29.50 *	29.50 *
	OPERATING	LNR	LNR	1,251,336 A 6.50 *	1,251,336 A 6.50 *
	INVESTMENT CAPITAL	LNR	LNR	1,012,912 B 5.00 *	1,207,912 B 5.00 *
		LNR	LNR	2,207,731 N 572,088 W	3,175,426 N 572,088 W
6.	LNR805 - RECREATIONAL FISHERIES			7.00 *	7.00 *
	OPERATING	LNR	LNR	415,524 A 76,131 B	265,524 A 76,131 B
		LNR	LNR	1,021,746 N 450,000 P	1,021,746 N 733,254 P
7.	LNR806 - PARKS ADMINISTRATION AND OPERATION			71.00 *	71.00 *
	OPERATING	LNR	LNR	4,762,155 A 44.00 *	4,752,155 A 44.00 *
	INVESTMENT CAPITAL	LNR	LNR	6,989,444 B 1,218,456 P	8,061,885 B 1,218,456 P
8.	LNR801 - OCEAN-BASED RECREATION			250,000 A 105.00 *	450,000 A 117.00 *
	OPERATING	LNR	LNR	16,829,958 B 1,001,411 N	17,152,948 B 800,000 N
	INVESTMENT CAPITAL	LNR	LNR	15,960,000 C 825,000 N	7,620,000 C 750,000 N
		LNR	LNR	563,000 P	863,000 P
9.	AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM			38.50 *	38.50 *
	OPERATING	AGS	AGS	8,944,121 B 10,000,000 C	8,944,121 B 5,000,000 C

## I. PUBLIC SAFETY

1.	PSD402 - HALAWA CORRECTIONAL FACILITY			397.00 *	410.00 *
	OPERATING	PSD	PSD	23,574,166 A 28,719 W	24,370,882 A 28,719 W
2.	PSD403 - KULANI CORRECTIONAL FACILITY			76.00 *	76.00 *
	OPERATING	PSD		2,483,229 A	5,181,327 A

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.	PSD404	- WAIAWA CORRECTIONAL FACILITY		110.00*	110.00*
		OPERATING	PSD PSD	6,051,634 A 15,000 W	6,058,636 A 15,000 W
4.	PSD405	- HAWAII COMMUNITY CORRECTIONAL CENTER		163.00*	166.00*
		OPERATING	PSD	9,494,900 A	8,765,619 A
5.	PSD406	- MAUI COMMUNITY CORRECTIONAL CENTER		184.00*	186.00*
		OPERATING	PSD PSD	9,725,912 A 209,721 S	10,013,516 A 209,721 S
6.	PSD407	- OAHU COMMUNITY CORRECTIONAL CENTER		490.00*	498.00*
		OPERATING	PSD PSD	28,319,521 A 30,000 W	29,095,555 A 30,000 W
7.	PSD408	- KAUAI COMMUNITY CORRECTIONAL CENTER		72.00*	72.00*
		OPERATING	PSD	3,849,546 A	4,036,214 A
8.	PSD409	- WOMEN'S COMMUNITY CORRECTIONAL CENTER		131.00*	132.00*
		OPERATING	PSD	6,625,604 A	6,694,207 A
9.	PSD410	- INTAKE SERVICE CENTERS		65.00*	61.00*
		OPERATING	PSD	3,477,784 A	3,349,369 A
10.	PSD420	- CORRECTIONS PROGRAM SERVICES		170.00*	170.00*
		OPERATING	PSD	19,961,255 A	19,800,555 A
11.	PSD421	- HEALTH CARE		189.10*	209.10*
		OPERATING	PSD	21,361,247 A	22,390,025 A
12.	PSD422	- HAWAII CORRECTIONAL INDUSTRIES		2.00*	2.00*
		OPERATING	PSD	9,887,705 W	9,887,705 W
13.	PSD808	- NON-STATE FACILITIES		9.00*	9.00*
		OPERATING	PSD	34,031,948 A	47,611,529 A
14.	PSD502	- NARCOTICS ENFORCEMENT		13.00*	13.00*
		OPERATING	PSD	954,449 A	954,449 A
				9.00*	8.00*
			PSD	812,737 W	771,864 W
			PSD	206,161 P	206,161 P
15.	PSD503	- SHERIFF		308.00*	312.00*
		OPERATING	PSD	14,231,665 A	14,608,911 A
				59.00*	59.00*
			PSD	5,076,280 U	5,076,280 U

## PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
16.	PSD611	- ADULT PAROLE DETERMINATIONS		6.00 *	6.00 *
		OPERATING	PSD	390,792 A	390,792 A
17.	PSD612	- ADULT PAROLE SUPERVISION AND COUNSELING		62.00 *	62.00 *
		OPERATING	PSD	3,822,532 A	3,863,431 A
18.	PSD613	- CRIME VICTIM COMPENSATION COMMISSION		5.00 *	5.00 *
		OPERATING	PSD	450,000 A	450,000 A
				8.00 *	8.00 *
		PSD		1,892,173 B	1,892,173 B
		PSD		859,315 P	859,315 P
19.	PSD900	- GENERAL ADMINISTRATION		135.00 *	135.00 *
		OPERATING	PSD	13,406,145 A	14,905,869 A
			PSD	667,984 B	867,984 B
			PSD	75,065 T	75,065 T
		INVESTMENT CAPITAL	AGS	16,000,000 C	14,000,000 C
			PSD	C	6,500,000 C
20.	ATG231	- STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION		26.50 *	25.50 *
		OPERATING	ATG	1,630,894 A	1,876,138 A
			ATG	19,471 N	0 N
			ATG	*	1.00 *
			ATG	U	39,775 U
			ATG	19.50 *	20.50 *
			ATG	2,064,528 W	2,103,955 W
			ATG	3,464,000 P	800,000 P
21.	LNR810	- PREVENTION OF NATURAL DISASTERS		8.50 *	7.50 *
		OPERATING	LNR	2,059,158 B	2,002,314 B
			LNR	0.50 *	0.50 *
		INVESTMENT CAPITAL	LNR	370,602 P	370,602 P
			LNR	570,000 C	C
22.	DEF110	- AMELIORATION OF PHYSICAL DISASTERS		114.60 *	114.60 *
		OPERATING	DEF	11,446,807 A	13,895,341 A
			DEF	100.65 *	101.65 *
			DEF	33,447,262 N	72,268,030 N
			DEF	464,458 S	0 S
			DEF	1,403,930 U	0 U
		INVESTMENT CAPITAL	DEF	59,500,000 P	21,075,849 P
			AGS	C	300,000 C
			DEF	11,986,000 C	9,976,000 C
			AGS	N	300,000 N
			DEF	36,432,000 N	10,527,000 N

## J. INDIVIDUAL RIGHTS

## 1. CCA102 - CABLE TELEVISION

OPERATING	CCA	7.00 *	8.00 *
	CCA	2,391,537 B	2,391,537 B

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
2.		CCA103 - CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND TRANSPORTATION SERVICES		23.00*	24.00*
		OPERATING	CCA	3,031,508 B	3,830,936 B
3.		CCA104 - FINANCIAL SERVICES REGULATION		34.00*	34.00*
		OPERATING	CCA	3,384,920 B	3,384,920 B
			CCA	110,000 T	220,000 T
4.		CCA105 - PROFESSIONAL AND VOCATIONAL LICENSING		54.00*	54.00*
		OPERATING	CCA	6,040,488 B	6,040,488 B
			CCA	8.00*	8.00*
			CCA	2,144,311 T	2,104,311 T
5.		BUF901 - PUBLIC UTILITIES COMMISSION		62.00*	62.00*
		OPERATING	BUF	11,412,174 B	16,172,396 B
6.		CCA106 - INSURANCE REGULATORY SERVICES		85.00*	92.00*
		OPERATING	CCA	14,350,016 B	14,831,140 B
			CCA	200,000 T	200,000 T
			CCA	1,000,000 P	250,000 P
6A.		CCA107 - POST-SECONDARY EDUCATION AUTHORIZATION		*	2.00*
		OPERATING	CCA	B	263,796 B
7.		CCA110 - OFFICE OF CONSUMER PROTECTION		17.00*	17.00*
		OPERATING	CCA	1,781,593 B	1,784,652 B
			CCA	100,681 T	100,681 T
8.		AGR812 - MEASUREMENT STANDARDS		7.00*	7.00*
		OPERATING	AGR	384,525 A	384,525 A
			AGR	4.00*	4.00*
			AGR	420,000 B	420,000 B
9.		CCA111 - BUSINESS REGISTRATION AND SECURITIES REGULATION		71.00*	71.00*
		OPERATING	CCA	6,649,240 B	6,649,240 B
10.		CCA112 - REGULATED INDUSTRIES COMPLAINTS OFFICE		66.00*	66.00*
		OPERATING	CCA	5,631,030 B	5,631,030 B
11.		CCA191 - GENERAL SUPPORT		44.00*	44.00*
		OPERATING	CCA	7,165,511 B	7,186,811 B
12.		LTG105 - ENFORCEMENT OF INFORMATION PRACTICES		5.00*	5.00*
		OPERATING	LTG	426,935 A	426,935 A
13.		BUF151 - OFFICE OF THE PUBLIC DEFENDER		80.50*	82.50*
		OPERATING	BUF	9,779,693 A	9,861,113 A

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
14.	LNR111	- CONVEYANCES AND RECORDINGS OPERATING	LNR	58.00* 4,779,966 B	58.00* 5,004,966 B
15.	HMS888	- COMMISSION ON THE STATUS OF WOMEN OPERATING	HMS	1.00* 158,547 A	1.00* 158,547 A
<b>K. GOVERNMENT-WIDE SUPPORT</b>					
1.	GOV100	- OFFICE OF THE GOVERNOR OPERATING	GOV	24.00* 3,247,921 A	24.00* 3,365,099 A
			GOV	1,086,250 N	433,850 N
		INVESTMENT CAPITAL	GOV	1,000 C	1,000 C
2.	LTG100	- OFFICE OF THE LIEUTENANT GOVERNOR OPERATING	LTG	3.00* 1,268,568 A	3.00* 1,118,568 A
3.	BED144	- STATEWIDE PLANNING AND COORDINATION OPERATING	BED	13.00* 1,146,953 A	13.00* 1,170,041 A
			BED	5.00* 2,763,559 N	5.00* 2,350,000 N
		BED	BED	2,000,000 W	2,000,000 W
4.	BED103	- STATEWIDE LAND USE MANAGEMENT OPERATING	BED	6.00* 532,483 A	6.00* 548,695 A
5.	BED130	- ECONOMIC PLANNING AND RESEARCH OPERATING	BED	14.00* 988,308 A	13.00* 1,043,973 A
6.	BUF101	- DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION OPERATING	BUF	41.25* 23,041,939 A	41.25* 17,116,881 A
			BUF	2,047,326 B	2,092,693 B
			BUF	61,539 N	61,539 N
			BUF	0.75*	0.75*
			BUF	42,337 U	42,337 U
			BUF	93,036 W	110,567 W
		INVESTMENT CAPITAL	BUF	83,000,000 C	428,383,000 € 382,383,000 C <sup>2</sup>
7.	AGS871	- CAMPAIGN SPENDING COMMISSION OPERATING	AGS	5.00* 1,108,051 T	5.00* 4,683,051 T
8.	AGS879	- OFFICE OF ELECTIONS OPERATING	AGS	15.50* 3,053,701 A	16.50* 2,602,271 A
			AGS	0.50* 7,473,714 N	0.50* 7,673,714 N
9.	TAX100	- COMPLIANCE OPERATING	TAX	189.00* 9,063,269 A	191.00* 9,843,761 A

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.		TAX105 - TAX SERVICES AND PROCESSING		118.00*	118.00*
		OPERATING	TAX	6,055,983 A	6,123,573 A
11.		TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION		75.00*	75.00*
		OPERATING	TAX	7,908,090 A	10,924,804 A
		INVESTMENT CAPITAL	TAX	1,047,875 B	1,047,875 B
				16,001,000 C	16,001,000 C
12.		AGS101 - ACCOUNTING SYSTEM DEVELOPMENT AND MAINTENANCE		6.00*	6.00*
		OPERATING	AGS	513,981 A	513,981 A
13.		AGS102 - EXPENDITURE EXAMINATION		16.00*	16.00*
		OPERATING	AGS	1,098,527 A	1,098,527 A
14.		AGS103 - RECORDING AND REPORTING		13.00*	13.00*
		OPERATING	AGS	870,848 A	823,172 A
15.		AGS104 - INTERNAL POST AUDIT		6.00*	6.00*
		OPERATING	AGS	441,975 A	441,975 A
16.		BUF115 - FINANCIAL ADMINISTRATION		13.00*	13.00*
		OPERATING	BUF	1,872,855 A	1,904,155 A
			BUF	9.00*	9.00*
			BUF	7,018,984 T	7,018,984 T
			BUF	1.00*	1.00*
			BUF	73,260 U	76,260 U
17.		BUF721 - DEBT SERVICE PAYMENTS - STATE			
		OPERATING	BUF	316,503,711 A	332,473,416 A
18.		ATG100 - LEGAL SERVICES			
		OPERATING	ATG	222.06*	248.31*
			ATG	19,575,097 A	20,170,791 A
			ATG	22.80*	24.60*
			ATG	2,655,226 B	2,988,567 B
			ATG	1.20*	5.20*
			ATG	4,832,604 N	4,473,387 N
			ATG	0.50*	0.00*
			ATG	3,990,504 T	3,918,000 T
			ATG	53.11*	100.11*
			ATG	9,035,961 U	9,265,538 U
			ATG	4.45*	4.90*
			ATG	3,144,559 W	3,144,559 W
			ATG	12.66*	12.66*
			ATG	1,802,515 P	1,822,203 P
19. <sup>3</sup>		AGS130 - INFORMATION MANAGEMENT AND TECHNOLOGY SERVICES		30.00*	30.00*
		OPERATING	AGS	19,543,949 A	15,090,969 A
			AGS	7.00*	7.00*
			AGS	821,027 B	1,200,000 B
		INVESTMENT CAPITAL	AGS	25,000,000 U	25,000,000 U
			AGS	30,000,000 C	41,500,000 C

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
20.	AGS131	- INFORMATION PROCESSING AND COMMUNICATIONS SERVICES		104.00*	104.00*
	OPERATING	AGS	AGS	13,928,645 A 90,016 B 33.00 *	13,928,645 A 150,000 B 33.00 *
	INVESTMENT CAPITAL	AGS	AGS	3,312,584 U 9,250,000 C	3,312,584 U 2,750,000 C
21.	AGS111	- ARCHIVES - RECORDS MANAGEMENT		16.00 *	16.00 *
	OPERATING	AGS	AGS	1,130,072 A * B	867,572 A 1.00 * 418,320 B
22.	AGS891	- WIRELESS ENHANCED 911 BOARD	AGS	9,000,000 B	9,000,000 B
23.	HRD102	- WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION, AND EFFECTIVENESS			
	OPERATING	HRD	HRD	85.00 *	86.00 *
		HRD	HRD	13,541,761 A 700,000 B * U	13,746,899 A 700,000 B 1.00 * 5,061,281 U
24.	HRD191	- SUPPORTING SERVICES - HUMAN RESOURCES DEVELOPMENT		11.00 *	11.00 *
	OPERATING	HRD	HRD	1,444,386 A	1,444,386 A
25.	BUF141	- EMPLOYEES RETIREMENT SYSTEM		102.00 *	102.00 *
	OPERATING	BUF	BUF	11,048,393 X	11,255,963 X
26.	BUF143	- EMPLOYER UNION TRUST FUND		52.00 *	55.00 *
	OPERATING	BUF	BUF	6,415,876 T	6,408,809 T
27.	BUF741	- RETIREMENT BENEFITS PAYMENTS - STATE			
	OPERATING	BUF	BUF	278,138,068 A 2,000,000 U	289,980,148 A 4,000,000 U
28.	BUF761	- HEALTH PREMIUM PAYMENTS - STATE			
	OPERATING	BUF	BUF	296,492,534 A	329,834,645 A
29.	LNR101	- PUBLIC LANDS MANAGEMENT			
	OPERATING	LNR	LNR	54.00 *	54.00 *
		LNR	LNR	12,430,985 B 75,238 N	14,178,807 B 0 N
	INVESTMENT CAPITAL	LNR	LNR	B	400,000 B
		LNR	LNR	150,000 C	500,000 C
		LNR	LNR	150,000 R	900,000 R
30.	AGS203	- STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION			
	OPERATING	AGS	AGS	8,687,995 A 4.00 *	9,987,995 A 4.00 *
		AGS	AGS	25,285,334 W	25,285,334 W
31.	AGS211	- LAND SURVEY			
	OPERATING	AGS	AGS	10.00 *	10.00 *
		AGS	AGS	646,586 A 285,000 U	646,586 A 285,000 U

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**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
32.	AGS223 - OFFICE LEASING			4.00*	4.00*
	OPERATING	AGS	AGS	10,313,034 A 5,500,000 U	10,313,034 A 5,500,000 U
33.	AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION			16.00*	16.00*
	OPERATING	AGS	AGS	1,199,707 A 4,000,000 W	1,199,707 A 4,000,000 W
	INVESTMENT CAPITAL	AGS	AGS	C 36,182,000 C	15,400,000 C 36,045,000 C
34.	AGS231 - CENTRAL SERVICES - CUSTODIAL SERVICES			119.00*	119.00*
	OPERATING	AGS	AGS	17,749,846 A 58,744 B 1,699,084 U	18,116,692 A 58,744 B 1,699,084 U
35.	AGS232 - CENTRAL SERVICES - GROUNDS MAINTENANCE			27.00*	27.00*
	OPERATING	AGS	AGS	1,652,934 A	1,652,934 A
36.	AGS233 - CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS			33.00*	33.00*
	OPERATING	AGS	AGS	2,899,534 A 100,000 U	2,899,534 A 100,000 U
37.	AGS240 - STATE PROCUREMENT			22.00*	22.00*
	OPERATING	AGS	AGS	1,126,903 A	1,126,903 A
38.	AGS244 - SURPLUS PROPERTY MANAGEMENT			5.00*	5.00*
	OPERATING	AGS	AGS	1,798,996 W	1,798,996 W
39.	AGS251 - AUTOMOTIVE MANAGEMENT - MOTOR POOL			13.00*	13.00*
	OPERATING	AGS	AGS	3,377,562 W	2,831,962 W
40.	AGS252 - AUTOMOTIVE MANAGEMENT - PARKING CONTROL			27.00*	27.00*
	OPERATING	AGS	AGS	3,532,901 W	3,591,830 W
41.	AGS901 - GENERAL ADMINISTRATIVE SERVICES			34.00*	34.00*
	OPERATING	AGS	AGS	2,694,264 A 2.00* 146,503 U	2,694,264 A 2.00* 146,503 U
42.	SUB201 - CITY AND COUNTY OF HONOLULU INVESTMENT CAPITAL	CCH		4,650,000 C <sup>1</sup>	127,000 C
43.	SUB301 - COUNTY OF HAWAII INVESTMENT CAPITAL	COH	COH	2,500,000 C 2,500,000 S	4,725,000 C 4,000,000 S
43A.	SUB401 - COUNTY OF MAUI INVESTMENT CAPITAL	COM		C	2,500,000 C
44.	SUB501 - COUNTY OF KAUAI INVESTMENT CAPITAL	COK		1,570,000 C	600,000 C <sup>2</sup>

SECTION 4. Part III, Act 134, Session Laws of Hawaii 2013, is amended as follows:

- (1) By adding a new section to read as follows:

"SECTION 3.1. Provided that of the general fund appropriation for strategic marketing and support (BED100), the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2014-15 shall be expended to celebrate the 30<sup>th</sup> anniversary of a sister-state relationship between the State of Hawaii and a sister-state that enters into an agreement with the department of business, economic development, and tourism to participate in the celebration in Hawaii and the sister-state."

- (2) By adding a new section to read as follows:

"SECTION 3.2. Provided that of the interdepartmental transfer funds appropriated to animal disease control (AGR132) in fiscal year 2014-2015, any funds transferred to the department for the payment of accrued vacation shall lapse to the general fund."

- (3) By adding a new section to read as follows:

"SECTION 4.1. Provided that of the general fund appropriation for general administration for agriculture (AGR192), the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of agriculture; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

- (4) By adding a new section to read as follows:

"SECTION 5.1. Provided that of the general fund appropriation for general administration (LBR902), the sum of \$450,000, or so much thereof as may be necessary for fiscal year 2014-2015, shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of labor and industrial relations; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

- (5) By amending section 6 to read:

“SECTION 6. Provided that of the special fund appropriations for the airports division (TRN102-TRN195), the following sums specified for special repair and maintenance projects in fiscal biennium 2013-2015 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
TRN102	\$ 10,000,000	\$ 10,000,000
TRN104	\$ 500,000	\$ 1,100,000
TRN111	\$ 2,100,000	\$ 1,750,000
TRN114	\$ 3,925,000	\$ 3,050,000

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TRN116	\$ 375,000	\$ 500,000
TRN118	\$ 325,000	\$ 250,000
TRN131	\$ 2,125,000	\$ 1,250,000
TRN133	\$ 350,000	\$ 0
TRN135	\$ 200,000	\$ 500,000
TRN141	\$ 425,000	\$ 750,000
TRN143	\$ 0	<u>[\$ 550,000]</u>
TRN151	\$ 250,000	\$ 600,000
TRN161	\$ 1,250,000	\$ 1,250,000
TRN163	\$ 50,000	\$ 0;

and provided further that any unexpended funds shall lapse to the airport special fund."

(6) By amending section 12 to read:

"SECTION 12. Provided that of the special fund appropriation for harbors administration (TRN395), the sum of \$35,103,302 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of [\$35,151,273] \$38,783,273 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on the general obligation bond	\$3,380,679	\$3,381,053
Interest and principal on revenue bond	\$31,722,623	<u>[\$31,770,220;]</u> <u>\$35,402,220;</u>

provided further that any unexpended funds shall lapse to the harbor special fund."

(7) By amending section 13 to read:

"SECTION 13. Provided that of the special fund appropriations for the highways division (TRN501-TRN595), the following sums specified for special repair and maintenance projects in fiscal biennium 2013-2015 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
TRN501	\$ 34,793,727	\$ 34,793,727
TRN511	\$ 15,540,061	\$ 15,540,061
TRN531	\$ 19,307,349	\$ 19,307,349
TRN561	\$ 11,301,863	\$ 11,301,863
TRN595	<u>\$ 500,000[;]</u>	<u>\$ 1,000,000;</u>

and provided further that any unexpended funds shall lapse to the highway special fund."

(8) By amending section 14 to read:

"SECTION 14. Provided that of the special fund appropriation for highways administration (TRN595), the sum of \$57,447,149 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of [\$59,016,793]

\$60,515,247 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on general obligation bond	\$4,008,477	\$3,762,537
Interest and principal on revenue bond	\$53,438,672	[\$55,254,256; \$56,752,710;]

provided further that any unexpended funds shall lapse to the highway special fund.”

- (9) By adding a new section to read:

“SECTION 14.1. Provided that of the special fund appropriation for highways administration (TRN595):

- (1) \$500,000 for fiscal year 2014-2015 shall be granted to the city and county of Honolulu department of transportation services to operate a van pool program on Oahu;
- (2) The city and county of Honolulu department of transportation services shall submit to the state department of transportation and legislature a plan for the use of the grant before any expenditure or obligation is made for the van pool program. The plan shall be submitted at least thirty days prior to the city and county of Honolulu department of transportation services expending or obligating any portion of the grant; and
- (3) The city and county of Honolulu department of transportation services shall submit two reports to the state department of transportation and legislature on the use of the grant with statistics on expenditure, usage, benefits, and costs. The first report shall cover the fiscal period from July to December 2014 and shall be submitted prior to the convening of the regular session of 2015. It may include a recommendation for another grant for fiscal year 2015-2016. The second report shall cover fiscal year 2014-2015 and shall be submitted at least twenty days prior to the convening of the regular session of 2016.”

- (10) By adding a new section to read:

“SECTION 14.2. Provided that:

- (1) Of the general fund appropriation for conservation and resources enforcement (LNR405), the sum of \$800,000 or so much thereof as may be necessary shall be expended and 12.00 temporary positions shall be authorized in fiscal year 2014-2015 for the establishment and operation of community fisheries enforcement units on Maui, Oahu, Hawaii, and Kauai;
- (2) The department of land and natural resources shall conduct an evaluation of each unit based on relevant measures of effectiveness, including number of warnings, citations, and violations, before and after the establishment of the unit;
- (3) In addition, the evaluation of the Maui unit shall include measures of effectiveness before and after the pilot project for the unit; and
- (4) The department shall submit the evaluation to the legislature prior to December 31, 2015.”

- (11) By adding a new section to read:

"SECTION 14.3. Provided that of the general fund appropriation for conservation and resources enforcement (LNR405):

- (1) \$577,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following: overtime and other cost differentials; uniforms, body armor, and utility gear; vehicle and vessel fuel, oil, repair and maintenance; and utilities; and
- (2) The department of land and natural resources shall submit a report to the legislature on the expenditure and benefits of the \$577,000 amount under paragraph (1). The report shall include an itemization of the expenditure of the \$577,000 and description of the direct benefits resulting from the expenditure, which shall be supported by relevant pre- and post-expenditure measures of effectiveness. The department shall submit the report at least twenty days prior to the convening of the regular session of 2015."

- (12) By adding a new section to read:

"SECTION 14.4. Provided that:

- (1) Of the appropriation in natural area reserves and watershed management (LNR407), \$100,000 or so much thereof as may be necessary in general funds and \$3,900,000 or so much thereof as may be necessary in special land and development funds shall be expended in fiscal year 2014-2015 for the hosting by the State of the International Union of Conservation of Nature World Conservation 2016 Congress;
- (2) If the State is not selected as the host of the Congress:
  - (A) None of the appropriation for hosting the Congress shall be expended or encumbered; and
  - (B) Notwithstanding any other law to the contrary, the unexpended and unencumbered appropriation shall lapse on September 30, 2014, into the respective fund from which the appropriation was made."

- (13) By adding a new section to read:

"SECTION 16.1. Provided that of the general fund appropriation for fiscal year 2014-2015 for homeless services (HMS224):

- (1) Not more than \$273,752 shall be expended for "utility rate increases for Kalaeloa shelters" for fiscal year 2014-2015. "Utility rate increases for Kalaeloa shelters" means the amount necessary to pay for utilities consumed by the Kalaeloa shelters during fiscal year 2014-2015 that is in excess of the amount expended for the same utilities consumed by the same shelters during fiscal year 2013-2014; and
- (2) If a portion of the amount under paragraph (1) is not expended or encumbered for fiscal year 2014-2015, the unexpended and unencumbered portion shall not be expended or encumbered for any other purpose during the fiscal year 2014-2015 and shall lapse into the general fund on June 30, 2015."

- (14) By adding a new section to read as follows:

"SECTION 17.1. Provided that of the general fund appropriation for general support for health care payments (HMS902), the sum of \$400,000 appropriated in fiscal year 2014-2015 for the purpose of remediating security issues within the Kolea system shall not be expended unless such funds are matched by a nine-to-one federal match; provided further that the office of information

management and technology, pursuant to sections 26-6 and 27-43.5, Hawaii Revised Statutes, shall develop and implement remedial action plans for the Kolea system; provided further that the department of human services shall not expend funds appropriated for this purpose prior to the establishment of a memorandum of understanding with the office of information management and technology; provided further that the office of information management and technology shall work with the department of human services to lead, develop, and implement remedial actions to resolve technical security issues with that system; provided further that the department of human services shall adopt and implement necessary security-related changes to business practices, processes, and policies in its core business operations to comply with applicable security mandates; and provided further that any funds not expended for this purpose shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(15) By adding a new section to read as follows:

“SECTION 17.2. Provided that of the general fund appropriation for general support for health care payments (HMS902), the sum of \$200,000 appropriated in fiscal year 2014-2015 for the purpose of remediating security issues within the Hawaii health information exchange shall not be expended unless such funds are matched by a nine-to-one federal match; provided further that the office of information management and technology, pursuant to sections 26-6 and 27-43.5, Hawaii Revised Statutes, shall work with Department of Human Services and Hawaii Health Information Exchange to lead, develop, and implement remedial action plans that relate to technical security issues with the Hawaii health information exchange; provided further that the department of human services and the Hawaii health information exchange shall adopt and implement the necessary security-related changes to business practices, processes, and policies in their core business operations to comply with applicable security mandates; and provided further that any funds not expended for this purpose shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(16) By amending section 18 to read:

“SECTION 18. Provided that of the general fund appropriation for school-based budgeting (EDN100), [the sum of] at least \$535,423 [or so much thereof as may be necessary] for fiscal year 2013-14 and [the sum of] at least \$535,423 [or so much thereof as may be necessary] for fiscal year 2014-15 shall be expended for the operation of the high core (storefront) alternative learning center[-]; provided that, if the department of education determines that the appropriation for at risk programs (EDN100/BJ) for fiscal year 2014-15 is not sufficient to fund the high core alternative learning center at the minimum \$535,423 for fiscal year 2014-15 without jeopardizing the operation of other alternative learning centers, the department shall transfer from instructional support (EDN200) or state administration (EDN300) to EDN100/BJ or funds from school-based budgeting (EDN100) at the discretion of the impacted principals may be used, as necessary to make up the shortfall.”

(17) By adding a new section to read:

“SECTION 18.1. (a) Any part of the appropriation for the weighted student formula in school-based budgeting (EDN100) for fiscal year 2014-15 that is allocated to a school according to the formula shall be expended at the discretion of the principal of the school in compliance with chapter 302A, part V, Hawaii Revised Statutes.

(b) The superintendent of education or other officer of the department of education may prohibit a planned expenditure or order remedial action for an actual expenditure only when the planned or actual expenditure does not comply with chapter 302A, part B, Hawaii Revised Statutes.”

(18) By adding a new section to read:

“SECTION 19.1. Provided that of the general fund appropriation for instructional support (EDN200), the sum of \$592,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the purpose of sabbatical leave for teachers; and provided further that any funds not expended for this purpose shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(19) By adding a new section to read as follows:

“SECTION 19.2. Provided that of the general fund appropriation for state administration (EDN300), the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the purpose of an alternate teacher route contract; and provided further that any funds not expended for this purpose shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(20) By adding a new section to read:

“SECTION 19.3. Provided that:

- (1) Not more than \$579,208 of general or other funds shall be expended in fiscal year 2014-15 by the department of education for the professional development management system annual subscription under the sole source supplemental contract funded in school administration (EDN300); and
- (2) The department of education shall pursue all avenues to reduce the cost of the professional development management system that is available from the vendor and plan for procuring and providing a professional development management system after the expiration of the five-year period of the supplemental contract.”

(21) By adding a new section to read:

“SECTION 19.4. Provided that of the general fund appropriation of \$9,000,000 added by this Act for fiscal year 2014-15 for school support (EDN400):

- (1) If a portion of the general fund appropriation is not expended or encumbered for fiscal year 2014-15, the unexpended and unencumbered portion shall not be expended or encumbered for any other purpose during fiscal year 2014-15 and shall lapse into the general fund on June 30, 2015;
- (2) The department of education shall submit to the legislature a report on its utility costs that includes at least the following:
  - (A) Projected costs for electricity, water, sewer, and gas for each fiscal year through fiscal year 2015-16;
  - (B) Projected cost savings during each of the same fiscal years from renewable energy and other projects planned to be implemented by the department;
  - (C) Projected operating and capital costs, means of financing, and installation timeline for the renewable energy and other projects planned to be implemented by the department through fiscal year 2015-16.

The department shall submit the report to the legislature not later than twenty days prior to the convening of the regular session of 2015.”

(22) By adding a new section to read as follows:

“SECTION 19.5. Provided that of the general fund appropriation for early learning (EDN700):

- (1) The sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be used for a pre-kindergarten program in public school classrooms identified jointly by the department of education and executive office of early learning;
- (2) None of the appropriation shall be expended for a family-child interaction learning program.”

(23) By adding a new section to read:

“SECTION 21.1. Provided that of the general fund appropriation to the University of Hawaii, Manoa (UOH100), the sum of \$200,000 shall be expended for the purpose of making improvements to the athletics training room; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(24) By adding a new section to read:

“SECTION 21.2. Provided that of the general fund appropriation to the University of Hawaii, Manoa (UOH100) athletic department, the sum of \$45,000 or so much thereof as may be necessary shall be expended for the purpose of purchasing a vehicle for the golf program; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(25) By adding a new section to read:

“SECTION 21.3. Provided that of the general fund appropriation to the University of Hawaii, Manoa (UOH100), the sum of \$72,600 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the purpose of an industrial hemp phytoremediation project; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(26) By adding a new section to read:

“SECTION 21.4. Provided that of the general fund appropriation to the University of Hawaii, Community Colleges (UOH800), the sum of \$149,870 or so much thereof as may be necessary in fiscal year 2014-2015 shall be expended for the purpose of establishing and conducting a shoreline monitoring and educational program, “Monitoring Hawaii’s Changing Shorelines: Phase I-Key South and West Shore Beaches on Kauai”; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(27) By adding a new section to read:

“SECTION 26.1. Provided that of the general fund appropriation for amelioration of physical disaster (DEF110), the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the purpose of mitigating hazardous situations statewide in accordance with section 128-10.3, Hawaii Revised Statutes; provided further that any funds not expended for this purpose shall not lapse to the general fund at the end of the fiscal year appropriated but shall be carried forward into subsequent years; and provided

further that any unexpended funds shall lapse to the general fund on June 30, 2017.”

- (28) By repealing section 27:

[SECTION 27. Provided that the Department of the Attorney General shall not release any additional funding appropriated for country's programs related to the Justice Reinvestment Initiative until such funding provided in fiscal year 2013-2014 has been fully expended.]

- (29) By adding a new section to read:

“SECTION 28.1. Provided that of the appropriation for the office of the governor (GOV100), the sum of \$108,330 or so much thereof as may be necessary in general funds for fiscal year 2014-2015 and the sum of \$308,850 or so much thereof as may be necessary in federal funds for fiscal year 2014-2015 shall be used for the healthcare transformation program; provided further that the funds may be used for up to 4.00 temporary exempt positions to provide staff support for the program; and provided further that no funds from other program IDs shall be transferred into GOV100 and expended for the healthcare transformation program or its staff.”

- (30) By adding a new section to read:

“SECTION 28.2. Provided that of the general fund appropriation for the office of the governor (GOV100):

- (1) The sum of \$315,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be used for the executive office on early learning program, and the funds may be used for up to 4.00 temporary exempt positions to provide staff support for the office; and
- (2) No funds from other program IDs shall be transferred into GOV100 and expended for the office on early learning or its staff or the early learning program.”

- (31) By adding a new section to read:

“SECTION 28.3. Provided that of the general fund appropriation for the office of the governor (GOV100):

- (1) The sum of \$20,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended to pay dues to the Education Commission of the States; and
- (2) If \$20,000 is not expended to pay the dues in fiscal year 2014-15, then the difference between \$20,000 and the expended amount shall lapse into the general fund on June 30, 2014.”

- (32) By adding a new section to read:

“SECTION 28.4. Provided that of the general fund appropriation for the office of the governor (GOV100):

- (1) The sum of \$60,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended to pay dues to the National Governors' Association; and
- (2) If \$60,000 is not expended to pay the dues in fiscal year 2014-15, then the difference between \$60,000 and the expended amount shall lapse into the general fund on June 30, 2014.”

- (33) By amending section 29 to read:

“SECTION 29. Provided that of the general fund appropriation for departmental administration and budget division (BUF101), the sum of

~~[\$15,000,000]~~ \$7,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 shall be used for the transfer of such funds to other state agencies as may be necessary to mitigate the effects of federal budget sequestration; provided further that the director of finance shall consult with the legislative federal sequestration oversight committee in making recommendations to the governor; provided further that the transfers shall be recommended by the director of finance and approved by the governor; provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year; provided further that the funds shall not be used for other purposes; provided further that the department shall report to the legislature no later than ten days after a transfer is made to a state agency; and provided further that the department shall submit a summary report of all transfers made pursuant to this section no later than thirty days prior to the convening of the regular session of 2014."

(34) By adding a new section to read:

**"SECTION 33.1. Provided that the office of information management and technology (AGS130), pursuant to section 26-6 and section 27-43.5, Hawaii Revised Statutes, shall:**

- (1) Develop and implement service level agreements with all executive agencies with regard to guaranteed levels of service, available resources, and information security services; and, provided further that the office of information management and technology shall report to the legislature no later than August 1, annually, the health status of each department's information technology environment as it relates to functionality, risk, and maturity;
- (2) Coordinate all information technology related procurement which have an impact on the statewide enterprise security architecture;
- (3) Ensure that purchases procured by executive departments and agencies shall comply with the office of information management and technology systems for software updates, patch management, and security parameters;
- (4) Conduct periodic information security and penetration audits of the executive branch information technology systems; and
- (5) Submit quarterly to the legislature on July 1, October 1, January 1, and April 1 a report on its findings."

(35) By amending section 35 to read:

**"SECTION 35. Provided that of the general fund appropriations for debt service payments (BUF721-BUF728), the following sums specified in fiscal biennium 2013-2015 shall be expended for principal and interest payments on general obligation bonds only as follows:**

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF721	[\$330,095,983] \$316,503,711	\$332,473,416
BUF725	[\$284,657,378] \$272,936,119	\$286,707,551
BUF728	[\$105,351,314] \$101,013,292	\$106,110,080;

provided further that unrequired balances may be transferred only to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the

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general fund at the end of the respective fiscal year for which the appropriation was made.”

(36) By amending section 36 to read:

“SECTION 36. Provided that of the general fund appropriations for retirement benefits payments (BUF741-BUF748), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer’s share of the employees’ retirement pension accumulation only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF741	<u>[\$180,625,042]</u> \$193,351,357	<u>[\$189,994,966]</u> \$202,667,669
BUF745	<u>[\$187,772,212]</u> \$183,588,287	<u>[\$197,512,896]</u> \$194,030,521
BUF748	<u>[\$88,514,845]</u> \$88,616,691	<u>[\$97,485,617]</u> \$96,837,851;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made.”

(37) By amending section 37 to read:

“SECTION 37. Provided that of the general fund appropriations for retirement benefits payments (BUF741-BUF748), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer’s share of the social security/Medicare payment for employees only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF741	<u>[\$80,316,777]</u> \$83,786,711	<u>[\$81,923,113]</u> \$85,312,479
BUF745	<u>[\$86,774,755]</u> \$88,845,622	<u>[\$88,510,250]</u> \$91,107,967
BUF748	<u>[\$38,513,157]</u> \$39,513,476	<u>[\$41,090,227]</u> \$41,853,441;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made.”

(38) By amending section 38 to read:

“SECTION 38. Provided that of the general fund appropriations for health premium payments (BUF761-BUF768), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer’s share of health premiums for active employees and retirees only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF761	<u>[\$208,860,839]</u> \$196,492,534	<u>[\$228,473,835]</u> \$212,434,645
BUF765	<u>[\$231,658,073]</u> \$209,170,168	<u>[\$253,426,037]</u> \$228,329,456
BUF768	<u>[\$82,978,795]</u> \$78,883,566	<u>[\$90,795,204]</u> \$85,153,921;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and retirement benefits payments (BUF741-BUF748); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund at the end of the respective fiscal year for which the appropriation was made."

(39) By adding a new section to read:

**"SECTION 38.1. The \$7,000,000 of general funds encumbered or otherwise reserved, but no longer needed, by the department of accounting and general services to pay the principal and interest for certificates of participation for the acquisition of the Kapolei state office building and the No. 1 capitol district building shall be unencumbered or otherwise unreserved and then allowed to lapse into the general fund on June 30, 2014."**

SECTION 5. Part IV, Act 134, Session Laws of Hawaii 2013, is amended by amending section 39 to read as follows:

**"SECTION 39. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED.** The sums of money appropriated or authorized in part II of this Act for capital improvements shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects as such projects are listed in this section. Several related or similar projects may be combined into a single project if such combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

#### CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2013-2014	M O F

#### A. ECONOMIC DEVELOPMENT

##### BED105 - CREATIVE INDUSTRIES DIVISION

1. CID002 HAWAII FILM STUDIO, VARIOUS IMPROVEMENTS, PHASE 2, OAHU

DESIGN AND CONSTRUCTION FOR  
VARIOUS IMPROVEMENTS TO THE HAWAII  
FILM STUDIO.

DESIGN	460	
CONSTRUCTION	3,000	
TOTAL FUNDING	AGS	3,460 C

2. CID003 CREATIVE MEDIA/FILM STUDIO FACILITY, STATEWIDE

PLANS FOR A NEW MULTI-STAGE  
PRODUCTION AND POST PRODUCTION  
FACILITY.

PLANS	250	
TOTAL FUNDING	BED	250 C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

**BED107 - FOREIGN TRADE ZONE**

3. FTZ013 FOREIGN TRADE ZONE (FTZ) PIER 2 FACILITY ROOF REPAIRS, OAHU

PLANS, DESIGN AND CONSTRUCTION TO REPAIR LEAKING ROOF OF THE FTZ'S PIER 2 FACILITY, INCLUDING RUSTED GUTTER LINES AND DRAINS, BROKEN SKYLIGHT PANELS, PERIMETER EAVES, AND WATERPROOFING THE PARAPET WALL.

PLANS	30	
DESIGN	120	
CONSTRUCTION	2,050	
TOTAL FUNDING	2,200	C

4. FOREIGN TRADE ZONE IMPORT-EXPORT STEP-UP INCUBATOR, MAUKA RENOVATION, OAHU

DESIGN AND CONSTRUCTION FOR RENOVATION OF MAUKA END OF THE FOREIGN TRADE ZONE WAREHOUSE TO PROVIDE 30,000 SQ. FT. OF ADDITIONAL OFFICE SPACE WITH 40 INDIVIDUAL OFFICES, COMMON CONFERENCE ROOM AND OTHER FACILITIES TO SUPPORT IMPORT-EXPORT RELATED SMALL BUSINESSES.

DESIGN	100	
CONSTRUCTION	2,900	
TOTAL FUNDING	3,000	D

**LNR172 - FORESTRY RESOURCE MANAGEMENT AND DEVELOPMENT**

5. D01D DOFAW BASEYARD ENERGY RETROFIT, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR PHOTOVOLTAIC SYSTEM INSTALLATION AND ENERGY SAVING ELECTRICAL UPGRADES TO EXISTING FACILITIES.

PLANS	25	
DESIGN	50	
CONSTRUCTION	205	
TOTAL FUNDING	280	C

- 5.01. D02C PU'U WA'WA'A STRUCTURE IMPROVEMENTS AND DAM COMPLIANCE, HAWAII

PLANS, DESIGN AND CONSTRUCTION FOR PU'U WA'WA'A STRUCTURE IMPROVEMENTS AND DAM COMPLIANCE.

PLANS	1	
DESIGN	1	
CONSTRUCTION	2,998	
TOTAL FUNDING	3,000	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR O 2013-2014 F	FISCAL YEAR O 2014-2015 F

5.02. KOKUA KALIHI VALLEY, ACCESS CENTER AT HOOULU AINA, OAHU

CONSTRUCTION FOR THE REPAVEMENT OF PARKING LOT AND DRIVEWAY OF THE ACCESS CENTER AT HOOULU AINA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION  
TOTAL FUNDING LNR

C 195  
195C

## AGR141 - AGRICULTURAL RESOURCE MANAGEMENT

6. SW0602 STATE IRRIGATION SYSTEM RESERVOIR SAFETY IMPROVEMENTS, STATEWIDE

LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR STATEWIDE RESERVOIR SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

LAND	1
DESIGN	1
CONSTRUCTION	8,998
TOTAL FUNDING	AGR 6,000C
	AGR 3,000N

C N

7. 201104 WAIAHOLE WATER SYSTEMS IMPROVEMENTS, OAHU

PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO WAIAHOLE WATER SYSTEMS.

PLANS	100
DESIGN	150
CONSTRUCTION	6,749
TOTAL FUNDING	AGR 250C
	6,750C

8. P12004 KUNIA AGRICULTURAL PARK, OAHU

DESIGN AND CONSTRUCTION FOR THE KUNIA AGRICULTURAL PARK.

DESIGN	1
CONSTRUCTION	2,499
TOTAL FUNDING	AGR 2,500C

C

9. 200402 MOLOKAI IRRIGATION SYSTEM IMPROVEMENTS, MOLOKAI

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE MOLOKAI IRRIGATION SYSTEM.

PLANS	1
LAND	1
DESIGN	199
CONSTRUCTION	1,998
TOTAL FUNDING	AGR 200C
	2,000C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.	200603	WAIMANALO IRRIGATION SYSTEM IMPROVEMENTS, OAHU  DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE WAIMANALO IRRIGATION SYSTEM.	DESIGN CONSTRUCTION TOTAL FUNDING AGR	250 1,250 250C	1,250 1,250C
11.	HA6002	WAIMEA IRRIGATION SYSTEM IMPROVEMENTS, HAWAII  DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE WAIMEA IRRIGATION SYSTEM.	DESIGN CONSTRUCTION TOTAL FUNDING AGR	300 1,700 300C	1,700 1,700C
12.	980002	LOWER HAMAKUA DITCH WATERSHED PROJECT, HAWAII  PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE LOWER HAMAKUA DITCH SYSTEM AND APPURTENANT WORKS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	PLANS LAND DESIGN CONSTRUCTION TOTAL FUNDING AGR AGR	1 1 2 4,398 2,200C 2,200N	998 500C 500N
13.	P97002	UPCOUNTRY MAUI WATERSHED PROJECT, MAUI  DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A NEW PIPELINE SYSTEM FOR THE UPCOUNTRY MAUI WATERSHED. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	DESIGN CONSTRUCTION TOTAL FUNDING AGR AGR	2 2,998 1,500C 1,500N	2 2,998 1,500C 1,500N
14.	201210	WAIANAE AGRICULTURAL PARK MISCELLANEOUS IMPROVEMENTS, OAHU  DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO THE WAIANAE AGRICULTURAL PARK.	DESIGN CONSTRUCTION TOTAL FUNDING AGR	60 540 C	600C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
16.		KA'U IRRIGATION SYSTEM, HAWAII				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO IRRIGATION SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		100		
		CONSTRUCTION		2,400		
		TOTAL FUNDING AGR		2,500 C		
17.		KEKAHA SHAFT, NEW CONNECTION PIPELINE, KAUAI				
		DESIGN AND CONSTRUCTION OF A NEW WATER SOURCE AND CONNECTION PIPELINE FOR THE KEKAHA WATER SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		1		
		CONSTRUCTION		199		
		TOTAL FUNDING AGR		200 C		
18.		UPCOUNTRY MAUI AGRICULTURAL PARK, MAUI				
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF A COUNTY AGRICULTURAL PARK IN UPCOUNTRY MAUI, WITH MATCHING FUNDS FROM THE COUNTY OF MAUI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		LAND		1,000		
		DESIGN		1,000		
		CONSTRUCTION		4,000		
		TOTAL FUNDING AGR		5,000 C		
		AGR		1,000 S		C
18.03. 201304		WAIMEA HOMESTEAD COMMUNITY AGRICULTURAL PARK, HAWAII				
		DESIGN AND CONSTRUCTION OF A COMMUNITY AGRICULTURAL PARK IN WAIMEA, HAWAII.				
		DESIGN		525		
		CONSTRUCTION		2,975		
		TOTAL FUNDING AGR		3,500 C		

## AGR161 - AGROBUSINESS DEVELOPMENT AND RESEARCH

19.	201401	AAHOAKA RESERVOIR IMPROVEMENTS, KAUAI			
		CONSTRUCTION FOR IMPROVEMENTS TO THE UPPER AND LOWER AAHOAKA RESERVOIRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING AGR		1,000 C	C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
20.		AGRICULTURAL LAND, OAHU  LAND ACQUISITION OF AGRICULTURAL LANDS ON OAHU: TMKS 7-1-02-04, 7-1-02-23, 7-4-012-016, 6-5-02-05, 6-5-02-01, 7-1-02-34, 7-1-02-06.	LAND TOTAL FUNDING AGR	12,500 12,500 C		C
21.		AGRICULTURAL LANDS, <sup>6</sup> OAHU  LAND ACQUISITION OF AGRICULTURAL LANDS ON OAHU.	LAND TOTAL FUNDING AGR	175,000 175,000 E		E
21.01.		ZERO WASTE CONVERSION PROJECT, HAWAII  PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE KEEAU DEMONSTRATION FACILITY TO DEVELOP BIOFUEL AND ANIMAL FEEDS IN KEEAU, HAWAII.	PLANS LAND DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING AGR	200 550 200 900 1,150 3,000 C		
21.02.		WASTEWATER RECLAIMED WATER IRRIGATION SYSTEM, WAHIWA, OAHU  PLANS AND DESIGN FOR A NEW WASTEWATER RECLAIMED WATER IRRIGATION SYSTEM AT THE WAHIWA WASTEWATER TREATMENT PLANT.	PLANS DESIGN TOTAL FUNDING AGR	100 2,400 2,500 C		
21.03.		WHITMORE PROJECT MASTER PLAN, WAHIWA, OAHU  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A WHITMORE PROJECT MASTER PLAN AND OTHER FACILITY IMPROVEMENTS ON TMKS 7-1-02-09, 7-4-12-16, 7-1-02-04, AND 7-1-02-23. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURANCES.	PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING AGR	1 1 1,497 1 1,500 C		
21.04.		THERMOPHILIC BIODIGESTER, OAHU  PLANS, DESIGN AND CONSTRUCTION FOR A THERMOPHILIC BIODIGESTER TO PROCESS BIOWASTE.	PLANS	1		

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 O	M F	FISCAL YEAR 2014-2015 O

DESIGN						1
CONSTRUCTION						948
TOTAL FUNDING	AGR					950 C

21.05. MALAMA KAUAI, KAUAI

CONSTRUCTION FOR THE DEVELOPMENT OF KILAUEA AGRICULTURAL PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION						120
TOTAL FUNDING	AGR					120 C

**AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE**

22. 1411921 DEPARTMENT OF AGRICULTURE, ENERGY EFFICIENCY IMPROVEMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO DEPARTMENT OF AGRICULTURE FACILITIES STATEWIDE TO PROVIDE FOR ENERGY SAVINGS.

PLANS				100	
DESIGN				400	
CONSTRUCTION					2,000
TOTAL FUNDING	AGS			500 C	2,000 C

23. 981921 MISCELLANEOUS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE.

DESIGN				100	
CONSTRUCTION				400	
TOTAL FUNDING	AGS			500 C	500 C

**AGR153 - AQUACULTURE DEVELOPMENT PROGRAM**

23.01. AQUAPONICS ACRE PROJECT, OAHU

CONSTRUCTION AND EQUIPMENT FOR AN AQUAPONICS ACRE PROJECT LOCATED AT MĀRI'S GARDEN IN MILILANI, OAHU.

CONSTRUCTION					549
EQUIPMENT					1
TOTAL FUNDING	AGR				550 C

**BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY**

24. 2 NELHA SEAWATER SYSTEM UPGRADES, HAWAII

DESIGN AND CONSTRUCTION FOR SYSTEM WIDE UPGRADES, ADD ADDITIONAL PIPELINE AND PUMP STATION UPGRADES TO ALLOW FOR TRANSFER OF SURFACE SEAWATER BETWEEN THE NORTH AND SOUTH SEAWATER SYSTEMS.

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
		DESIGN CONSTRUCTION TOTAL FUNDING	BED	75 2,248 2,323 C		
25.	1	NELHA FRONTAGE ROAD AND NEW INTERSECTION CONNECTIONS, HAWAII				C
		CONSTRUCTION OF A FRONTAGE ROAD AND NEW CONNECTIONS TO THE KAIMINANI DRIVE AND MAKAKO BAY DRIVE INTERSECTIONS ON QUEEN KAAHUMANU HIGHWAY.				
		CONSTRUCTION TOTAL FUNDING	BED	9,694 9,694 C		
	25.01.	NELHA3 NELHA POTABALE WATER WELL, HAWAII				C
		PLANS, DESIGN AND CONSTRUCTION TO COMPLETE THE EXPLORATION PHASE FOR POTABLE WATER. TO INCLUDE WELL SITING STUDIES, FIELD INVESTIGATIONS, ENVIRONMENTAL ASSESSMENT, PERMITTING, PLANS AND SPECIFICATIONS FOR THE EXPLORATORY WELL.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	BED	1 499 2,000 2,500 C		
		LNR141 - WATER AND LAND DEVELOPMENT				
26.	J45	ROCKFALL AND FLOOD MITIGATION, STATEWIDE				
		PLANS, DESIGN AND CONSTRUCTION FOR ROCKFALL AND FLOOD MITIGATION AT VARIOUS LOCATIONS STATEWIDE. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	LNR	1 1 2,998 3,000 C	1 1 5,998 6,000 C	
27.	J38A	GEOTHERMAL WELL PLUGGING AND ABANDONMENT, HAWAII				
		DESIGN AND CONSTRUCTION TO PLUG AND ABANDON TWO GEOTHERMAL WELLS AND RESTORE WELL SITES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	LNR	250 250 C	250 2,300	
		2,300 C				
28.	J38B	STATE WATER PROJECTS PLAN UPDATE, STATEWIDE				
		PLANS TO UPDATE THE STATE WATER PROJECTS PLAN, AS MANDATED BY THE STATE WATER CODE, CHAPTER 174C, HRS.				
		PLANS TOTAL FUNDING	LNR	500 500 C		
						C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
28.01.	G54A	ALA WAI CANAL DREDGING, OAHU  PLANS AND DESIGN FOR DREDGING AND RELATED IMPROVEMENTS.	PLANS DESIGN TOTAL FUNDING LNR	1,000 1,000 C	1,000 1,000 2,000 C	
28.02.		KALAUHAEHAE FISHPOND (LUCAS SPRING), NIU VALLEY, OAHU  CONSTRUCTION TO DEMOLISH ABANDONED HOME AND RESTORE SPRING AND FISHPOND AREA.	CONSTRUCTION TOTAL FUNDING LNR	500 C	500 500 C	
28.03.		ROCKFALL MITIGATION, MENEHUNE ROAD, KAUAI  PLANS, DESIGN AND CONSTRUCTION FOR ROCKFALL MITIGATION AT MENEHUNE ROAD IN WAIMEA, KAUAI. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.	PLANS DESIGN CONSTRUCTION TOTAL FUNDING LNR	100 200 1,700 C	100 200 1,700 2,000 C	

## BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY

29.	KA010	KEWALO BASIN JETTY RIPRAP WALL REPAIR, KAKAAKO, OAHU  DESIGN AND CONSTRUCTION FOR JETTY RIPRAP WALL REPAIR AT THE MOUTH OF KEWALO BASIN HARBOR.	DESIGN CONSTRUCTION TOTAL FUNDING BED	300 300 C	300 700 700 C	
30.	HCD001	HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS, OAHU  PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT AND NON-PERMANENT PROJECT-FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS AS MAY BE AVAILABLE.	PLANS TOTAL FUNDING BED	1,855 1,855 C	1,855 1,855 C	

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				FISCAL YEAR 2013-2014 F	M O	FISCAL YEAR 2014-2015 F
30.01.	KL008	KALAELOA ENTERPRISE ENERGY CORRIDOR, OAHU				
		PLANS, DESIGN AND CONSTRUCTION OF AN ELECTRICAL DISTRIBUTION SYSTEM BETWEEN ROOSEVELT ROAD TO TRIPOLI ROAD. THIS PROJECT MAY ALSO INCLUDE THE CONSTRUCTION OF A SERVICE ROADWAY TO MAINTAIN CORRIDOR AS REQUIRED BY HEKO.				
		PLANS			1	
		DESIGN			699	
		CONSTRUCTION			6,300	
		TOTAL FUNDING	BED			7,000 C
31.	HFDC07	WAIAHOLE WATER SYSTEM IMPROVEMENTS, OAHU				
		DESIGN AND CONSTRUCTION TO IMPROVE THE WAIAHOLE WATER SYSTEM INFRASTRUCTURE TO BOARD OF WATER SUPPLY STANDARDS.				
		DESIGN			750	
		CONSTRUCTION			550	
		TOTAL FUNDING	BED		1,300 C	6,500
32.	HFDC05	DWELLING UNIT REVOLVING FUND INFUSION, STATEWIDE				
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE HOUSING, STATEWIDE.				
		CONSTRUCTION			7,000	
		TOTAL FUNDING	BED		7,000 C	7,000 C
32.01.	HFDC04	RENTAL HOUSING TRUST FUND INFUSION, STATEWIDE				
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE RENTAL HOUSING, STATEWIDE.				
		CONSTRUCTION			5,000	
		TOTAL FUNDING	BED		5,000 C	
32.02.	P11003	LOW INCOME HOUSING TAX CREDIT LOANS, STATEWIDE				
		CONSTRUCTION TO PROVIDE LOW-INCOME HOUSING TAX CREDIT LOANS PURSUANT TO SECTION 201H, HRS.				
		CONSTRUCTION			7,832	
		TOTAL FUNDING	BED		7,832 C	
32.03.		HALE MAHAOLU EWALU, INC., MAUI				
		CONSTRUCTION FOR A SENIOR AFFORDABLE RENTAL HOUSING CAMPUS AT THE KULAMALU TOWN CENTER SUBDIVISION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION			4,000	
		TOTAL FUNDING	BED		4,000 C	

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## B. EMPLOYMENT

## LBR903 - OFFICE OF COMMUNITY SERVICES

1. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

PLANS, DESIGN AND CONSTRUCTION FOR  
EMERGENCY REPAIRS AND HANDICAPPED  
ACCESS IMPROVEMENTS. THIS PROJECT  
QUALIFIES AS A GRANT, PURSUANT TO  
CHAPTER 42F, HRS.

PLANS	1
DESIGN	1
CONSTRUCTION	48
TOTAL FUNDING LBR	50C

2. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

PLANS, DESIGN AND CONSTRUCTION  
FOR NAALEHU OFFICE EMERGENCY  
REPAIRS AND HANDICAPPED ACCESS  
IMPROVEMENTS. THIS PROJECT QUALIFIES  
AS A GRANT, PURSUANT TO CHAPTER 42F,  
HRS.

PLANS	1
DESIGN	1
CONSTRUCTION	48
TOTAL FUNDING LBR	50C

3. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

EQUIPMENT FOR THE PURCHASE OF  
VEHICLES FOR TRANSPORTATION  
PROGRAM. THIS PROJECT QUALIFIES AS A  
GRANT, PURSUANT TO CHAPTER 42F, HRS.

EQUIPMENT	170
TOTAL FUNDING LBR	170C

3.01. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

PLANS, DESIGN, CONSTRUCTION AND  
EQUIPMENT FOR A BOTANICAL GARDEN  
AT RAINBOW FALLS. THIS PROJECT  
QUALIFIES AS A GRANT, PURSUANT TO  
CHAPTER 42F, HRS.

PLANS	1
DESIGN	1
CONSTRUCTION	326
EQUIPMENT	1
TOTAL FUNDING LBR	329C

4. KAHILU THEATRE FOUNDATION, HAWAII

PLANS, DESIGN, CONSTRUCTION AND  
EQUIPMENT FOR IMPROVEMENT OF  
EXISTING FACILITIES. THIS PROJECT  
QUALIFIES AS A GRANT, PURSUANT TO  
CHAPTER 42F, HRS.

PLANS	1
DESIGN	100
CONSTRUCTION	1,398

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
		EQUIPMENT		1		
		TOTAL FUNDING LBR		1,500 C		C
5.		HAWAII PUBLIC TELEVISION FOUNDATION, STATEWIDE				
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW BUILDING FOR PBS HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		1		1
		DESIGN		1		1
		CONSTRUCTION		1,998		2,498
		TOTAL FUNDING LBR		2,000 B		B
		LBR		C		500 C
		LBR		U		2,000 U
6.		THE FILIPINO COMMUNITY CENTER, INC, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR A RETRACTABLE ROOF COVERING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		1		1
		DESIGN		1		1
		CONSTRUCTION		248		
		TOTAL FUNDING LBR		250 C		C
7.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR THE PATSY T. MINK CENTER FOR BUSINESS AND LEADERSHIP. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		100		
		DESIGN		100		
		CONSTRUCTION		300		
		TOTAL FUNDING LBR		500 C		C
7.01.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION, OAHU				
		CONSTRUCTION FOR SECURITY AND SAFETY IMPROVEMENTS TO DOWNTOWN HEADQUARTERS FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION				500
		TOTAL FUNDING LBR			C	500 C
8.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION, KAUAI				
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR EXPANSION AND RENOVATION FOR A NEW WOMEN'S CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		1		
		LAND		1		
		DESIGN		1		
		CONSTRUCTION		397		
		TOTAL FUNDING LBR		400 C		C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 O F	FISCAL YEAR 2014-2015 O F	FISCAL YEAR 2014-2015 O F
9.		OLA KA'ILIMA ARTS CENTER, LLC, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR THE OLA KA'ILIMA ARTSPACE LOFTS PROJECT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		100		
		DESIGN		100		
		CONSTRUCTION		150		
		TOTAL FUNDING LBR		350C		1,500 1,500C
10.		EAST-WEST CENTER INC., OAHU				
		CONSTRUCTION FOR EAST-WEST CENTER BUILDINGS REHABILITATION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		1,700		
		TOTAL FUNDING LBR		1,700C		C
11.		EASTER SEALS, MAUI				
		CONSTRUCTION FOR PHASE 2 OF THE MAUI CAMPUS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		950		
		TOTAL FUNDING LBR		950C		C
12.		HUI O'LAKA, KAUAI				
		CONSTRUCTION FOR RENOVATIONS TO CIVILIAN CONSERVATION CORPS CAMP AND KOKEE STATE PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		50		
		TOTAL FUNDING LBR		50C		C
13.		MANOA HERITAGE CENTER, OAHU				
		CONSTRUCTION OF A NEW MANOA HERITAGE CENTER VISITOR HALE AND EDUCATION CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		1,000		
		TOTAL FUNDING LBR		1,000C		C
14.		MAUI ECONOMIC OPPORTUNITY INC., MAUI				
		CONSTRUCTION FOR VARIOUS FACILITIES AT THE MEO INC. TRANSPORTATION CENTER SITE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		500		
		TOTAL FUNDING LBR		500C		C

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				FISCAL YEAR 2013-2014 O F	FISCAL YEAR 2014-2015 O F	FISCAL YEAR 2014-2015 F
14.01.		MAUI ECONOMIC OPPORTUNITY INC., MAUI				
		CONSTRUCTION AND EQUIPMENT FOR THE INSTALLATION OF AN EMERGENCY ELECTRICAL GENERATOR. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION EQUIPMENT TOTAL FUNDING LBR		600 75 C		675 C
15.		NATIONAL KIDNEY FOUNDATION OF HAWAII, INC., OAHU				
		DESIGN AND CONSTRUCTION FOR A PROGRAM DEVELOPMENT CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN CONSTRUCTION TOTAL FUNDING LBR		150 1,350 1,500 C		C
16.		THE CONGREGATION OF CHRISTIAN BROTHERS INC., OAHU				
		CONSTRUCTION FOR CAMPUS RENOVATIONS AT DAMIEN MEMORIAL SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING LBR		1,500 1,500 C		C
17.		BRANTLEY CENTER, INC., HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR RENOVATIONS OF EXISTING FACILITIES IN HONOKA'A. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING LBR		1 1 28 30 C		C
18.		WAIPA FOUNDATION, KAUAI				
		CONSTRUCTION FOR WAIPA KITCHEN, POI MILL, AND HALE IMU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING LBR		200 200 C		C
19.		HALE KIPA, INC., OAHU				
		PLANS, DESIGN AND CONSTRUCTION TO CONSTRUCT THE HALE KIPA SERVICES CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING LBR		100 100 800 1,000 C		C

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
20.		JAPANESE CULTURAL CENTER, OAHU  CONSTRUCTION FOR HEALTH, SAFETY AND ENERGY IMPROVEMENTS TO THE JAPANESE CULTURAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.	CONSTRUCTION TOTAL FUNDING LBR	450 450 C		C
20.01.		SHOBUKAN JUDO CLUB, OAHU  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW JUDO DOJO/GYM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.	PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING LBR	1 1 247 1 C	1 1 250 C	
20.02.		KUPU, OAHU  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE KUPU GREEN JOB TRAINING CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.	PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING LBR	1 100 1,148 1 C	1 100 1,148 1 1,250 C	
20.03.		WAIKIKI COMMUNITY CENTER, OAHU  PLANS, DESIGN AND CONSTRUCTION FOR ADA COMPLIANCE AND SECURITY UPGRADES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.	PLANS DESIGN CONSTRUCTION TOTAL FUNDING LBR	1 1 458 C	1 1 460 C	
20.04.		JAPANESE CULTURAL CENTER OF HAWAII, OAHU  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE HAWAII SUMO MUSEUM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.	PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING LBR	1 1 597 1 C	1 1 597 1 600 C	

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				FISCAL YEAR 2013-2014 F	FISCAL YEAR 2014-2015 O	FISCAL YEAR 2014-2015 F
20.05.		GIRL SCOUTS OF HAWAII, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR ACCESS ROAD IMPROVEMENTS TO CAMP PAUMALU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			498	
		TOTAL FUNDING	LBR		C	500C
20.06.		CENTRAL OAHU YOUTH SERVICE ASSOCIATION, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR THE EMERGENCY SHELTER RENOVATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			398	
		TOTAL FUNDING	LBR		C	400C
20.07.		POI DOGS POPOKI, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATION AND IMPROVEMENTS FOR POPOKI PLACE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN			1	
		CONSTRUCTION			198	
		EQUIPMENT			1	
		TOTAL FUNDING	LBR		C	200C
20.08.		ST. FRANCIS HEALTHCARE FOUNDATION OF HAWAII, OAHU				
		DESIGN AND CONSTRUCTION FOR AN INTERGENERATIONAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN			200	
		CONSTRUCTION			1,200	
		TOTAL FUNDING	LBR		C	1,400C
20.09.		HAWAII ISLAND HUMANE SOCIETY, HAWAII				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE HAWAII ISLAND ANIMAL COMMUNITY CENTER PHASE I. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			197	
		EQUIPMENT			1	
		TOTAL FUNDING	LBR		C	200C

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20.10.		KUALOA-HEEIA ECUMENICAL YOUTH PROJECT, OAHU				
		DESIGN AND CONSTRUCTION FOR REPAIR AND IMPROVEMENT OF PARKING LOT AND RELATED INFRASTRUCTURE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN CONSTRUCTION TOTAL FUNDING LBR				1 63 64C
20.11.		MAUI FAMILY YMCA, MAUI				
		CONSTRUCTION FOR A NEW GYMNASIUM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING LBR				2,000 2,000C
20.12.		OAHU SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OAHU				
		CONSTRUCTION FOR AN ANIMAL SHELTER AND STERILIZATION CLINIC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING LBR				350 350C
<b>HMS802 - VOCATIONAL REHABILITATION</b>						
20.13.	CPN001	HOOPONO BUILDINGS, REPAIRS AND IMPROVEMENTS, OAHU				
		DESIGN AND CONSTRUCTION OF REPAIRS AND IMPROVEMENTS AT THE HOOPONO SERVICES FOR THE BLIND FACILITY.				
		DESIGN CONSTRUCTION TOTAL FUNDING HMS				250 1,550 1,800C
20.14.		KA LIMA O MAUI, MAUI				
		CONSTRUCTION FOR A NEW PROGRAM, ADMINISTRATIVE AND SUPPORT FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HMS				500 500C
20.15.		THE FOOD BASKET, INC., HAWAII				
		CONSTRUCTION FOR INFRASTRUCTURE REPAIRS AND DEFERRED MAINTENANCE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HMS				250 250C

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<b>C. TRANSPORTATION FACILITIES</b>									
<b>TRN102 - HONOLULU INTERNATIONAL AIRPORT</b>									
1.	A23R	HONOLULU INTERNATIONAL AIRPORT, RUNWAY 8L WIDENING AND LIGHTING IMPROVEMENTS, OAHU							
		CONSTRUCTION FOR RUNWAY 8L WIDENING, LIGHTING AND OTHER RELATED IMPROVEMENTS. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES)							
		CONSTRUCTION		16,080					
		TOTAL FUNDING TRN		16,080X		X			
2.	A41Q	HONOLULU INTERNATIONAL AIRPORT, NEW MAUKA CONCOURSE IMPROVEMENTS, OAHU							
		DESIGN AND CONSTRUCTION FOR A NEW COMMUTER TERMINAL, NEW MAUKA CONCOURSE, AIRCRAFT APRON, TAXIWAYS AND BLAST FENCE NEAR THE INTERISLAND TERMINAL, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.							
		DESIGN		1,224					
		CONSTRUCTION		12,218	280,000				
		TOTAL FUNDING TRN		13,442E	280,000E				
3.	A11E	HONOLULU INTERNATIONAL AIRPORT, ELLIOTT STREET SUPPORT FACILITIES, OAHU							
		CONSTRUCTION FOR SUPPORT FACILITIES NEAR ELLIOT STREET INCLUDING MAINTENANCE FACILITIES, CARGO FACILITIES, TAXIWAY G AND L WIDENING AND REALIGNMENT, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.							
		CONSTRUCTION		38,000	100,000				
		TOTAL FUNDING TRN		38,000E	100,000E				
4.	A29B	HONOLULU INTERNATIONAL AIRPORT, REPLACE UNDERGROUND CHILLED WATER PIPES, OAHU							
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF EXISTING UNDERGROUND CHILLED WATER PIPING TO NEW ABOVEGROUND PIPING SERVICING THE OVERSEAS TERMINAL.							
		DESIGN		800					
		CONSTRUCTION			4,500				
		TOTAL FUNDING TRN		800E	4,500E				
5.	A41F	HONOLULU INTERNATIONAL AIRPORT, TICKET LOBBY IMPROVEMENTS, OAHU							
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE OVERSEAS TERMINAL TICKET LOBBY.							
		DESIGN		2,000					
		CONSTRUCTION			12,000				
		TOTAL FUNDING TRN		2,000E	12,000E				

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				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M F	FISCAL YEAR 2014-2015 O E
6.	A35D	HONOLULU INTERNATIONAL AIRPORT, OVERSEAS TERMINAL SIGNAGE AND SIDEWALK IMPROVEMENTS, OAHU  CONSTRUCTION FOR SIGNAGE AND SIDEWALK IMPROVEMENTS AT THE OVERSEAS TERMINAL. CONSTRUCTION TOTAL FUNDING TRN		5,385	5,385E	E
7.	A08B	HONOLULU INTERNATIONAL AIRPORT, CONCESSION IMPROVEMENTS, OAHU  DESIGN AND CONSTRUCTION TO EXPAND, RENOVATE AND IMPROVE THE EXISTING CONCESSION SPACE IN THE OVERSEAS TERMINAL CENTRAL AREA, DIAMOND HEAD CONCOURSE AND EWA CONCOURSE. DESIGN CONSTRUCTION TOTAL FUNDING TRN		1,500	11,000	11,000E
8.	A20C	HONOLULU INTERNATIONAL AIRPORT, WIKI WIKI SHUTTLE STATION IMPROVEMENTS, OAHU  CONSTRUCTION FOR IMPROVEMENTS TO THE TWO WIKI WIKI SHUTTLE STATIONS LOCATED ON THE THIRD LEVEL OF THE OVERSEAS TERMINAL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. CONSTRUCTION TOTAL FUNDING TRN TRN		10,700 4,300E 6,400N		E N
9.	A09B	HONOLULU INTERNATIONAL AIRPORT, GATES 30-34 MOVING WALKWAYS, OAHU  DESIGN AND CONSTRUCTION FOR MOVING WALKWAYS IN THE STERILE CORRIDOR OF THE EWA CONCOURSE FROM GATES 30-34. DESIGN CONSTRUCTION TOTAL FUNDING TRN		850	7,000	7,000E
10.	A18A	HONOLULU INTERNATIONAL AIRPORT, NEW RAMP CONTROL OFFICE, OAHU  CONSTRUCTION FOR A NEW RAMP CONTROL OFFICE. CONSTRUCTION TOTAL FUNDING TRN		3,000 3,000E		E

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
11.	A10D	HONOLULU INTERNATIONAL AIRPORT, OVERSEAS TERMINAL 2ND LEVEL ROADWAY IMPROVEMENTS, OAHU				
		CONSTRUCTION FOR CONCRETE RECONSTRUCTION, EXPANSION JOINT REPLACEMENT, DRAINAGE AND LIGHTING IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS ON THE SECOND LEVEL ROADWAY FRONTING THE OVERSEAS TERMINAL.				
		CONSTRUCTION TOTAL FUNDING TRN		5,000 5,000 E		E
12.	A11F	HONOLULU INTERNATIONAL AIRPORT, INTERISLAND TERMINAL 3RD LEVEL ROADWAY IMPROVEMENTS, OAHU				
		CONSTRUCTION FOR THE INTERISLAND TERMINAL THIRD LEVEL ROADWAY IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.				
		CONSTRUCTION TOTAL FUNDING TRN		6,000 6,000 E	3,000 3,000 E	
13.	A35E	HONOLULU INTERNATIONAL AIRPORT, ROADWAY/TERMINAL SIGNAGE IMPROVEMENTS, OAHU				
		CONSTRUCTION FOR ROADWAY AND TERMINAL SIGNAGE IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.				
		CONSTRUCTION TOTAL FUNDING TRN		15,000 15,000 E		E
14.	A04B	HONOLULU INTERNATIONAL AIRPORT, LAND ACQUISITION OF AIRPORT CENTER BUILDING, OAHU				
		LAND ACQUISITION OF THE AIRPORT CENTER BUILDING PARCEL.				
		LAND TOTAL FUNDING TRN		25,000 25,000 E		E
14.01.	A41R	HONOLULU INTERNATIONAL AIRPORT, DIAMOND HEAD CONCOURSE IMPROVEMENTS, OAHU				
		CONSTRUCTION FOR ASBESTOS ABATEMENT, CEILING AND AIR CONDITIONING IMPROVEMENTS, AND OTHER RELATED IMPROVEMENTS.				
		CONSTRUCTION TOTAL FUNDING TRN		E	9,400 9,400 E	
14.02.	A24C	HONOLULU INTERNATIONAL AIRPORT, PEDESTRIAN BRIDGE REPLACEMENT AND/OR REHABILITATION, OAHU				
		CONSTRUCTION FOR THE REPLACEMENT AND/OR REHABILITATION OF THE PEDESTRIAN BRIDGES BETWEEN THE OVERSEAS TERMINAL AND THE OVERSEAS TERMINAL PARKING STRUCTURE AND OTHER RELATED IMPROVEMENTS.				
		CONSTRUCTION TOTAL FUNDING TRN		E	12,000 12,000 E	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

## TRN111 - HILO INTERNATIONAL AIRPORT

15. B10Y HILO INTERNATIONAL AIRPORT, NEW ARFF FACILITY, HAWAII

CONSTRUCTION FOR A NEW AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF) STATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION	19,000
TOTAL FUNDING	TRN
	3,300 E
	TRN
	15,700 N

E  
N

16. B05A HILO INTERNATIONAL AIRPORT, RUNWAY 3-21 RECONSTRUCTION, HAWAII

DESIGN AND CONSTRUCTION FOR THE STRUCTURAL IMPROVEMENTS OF RUNWAY 3-21 INCLUDING PAVING, STRIPING AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN	1,300
CONSTRUCTION	17,600
TOTAL FUNDING	TRN
	6,975 E
	TRN
	11,925 N

E  
N

17. B11B HILO INTERNATIONAL AIRPORT, SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM, HAWAII

CONSTRUCTION FOR A SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM FOR THE AIRPORT MODERNIZATION PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.

CONSTRUCTION	5,500
TOTAL FUNDING	TRN
	10 B
	TRN
	1,365 E
	TRN
	4,125 X

B  
E  
X

## TRN114 - KONA INTERNATIONAL AIRPORT AT KE'AHOLE

19. C05A KONA INTERNATIONAL AIRPORT, SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM, HAWAII

CONSTRUCTION FOR A SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM FOR THE AIRPORT MODERNIZATION PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.

CONSTRUCTION	5,909
TOTAL FUNDING	TRN
	10 B
	TRN
	5,899 X

B  
X

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
20.	C03T	KONA INTERNATIONAL AIRPORT AT KEAHOLE, TERMINAL EXPANSION, HAWAII			
		CONSTRUCTION FOR THE FIRST PHASE OF THE TERMINAL EXPANSION PROGRAM. INCLUDES RELOCATION OF TENANT FACILITIES, RENOVATION OF THE TERMINAL FOR A CENTRALIZED CHECKPOINT AND INLINE EXPLOSIVE DETECTION SYSTEM FOR CHECKED BAGGAGE, INFRASTRUCTURE, AND OTHER RELATED IMPROVEMENTS FOR THE NEW DAY WORK PROJECTS.			
		CONSTRUCTION		70,000	
		TOTAL FUNDING TRN		70,000 E	
21.	C03A	KONA INTERNATIONAL AIRPORT AT KEAHOLE, INTERNATIONAL ARRIVALS BUILDING, HAWAII			
		DESIGN AND CONSTRUCTION FOR AN INTERNATIONAL ARRIVALS BUILDING TO MEET CUSTOMS AND SECURITY REQUIREMENTS AND OTHER RELATED IMPROVEMENTS.			
		DESIGN		1,499	
		CONSTRUCTION		1	
		TOTAL FUNDING TRN		1,500 E	
21.01.	C06B	KONA INTERNATIONAL AIRPORT AT KEAHOLE, SOUTH RAMP TAXIWAY AND RAMP IMPROVEMENTS, HAWAII			
		DESIGN FOR IMPROVEMENTS TO THE SOUTH RAMP TAXIWAY AND RAMP AND OTHER RELATED IMPROVEMENTS.			
		DESIGN			1,900
		CONSTRUCTION			1,900 E
		TOTAL FUNDING TRN			
21.02.	C03Z	ELLISON S. ONIZUKA SPACE MUSEUM, HAWAII			
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE ELLISON S. ONIZUKA SPACE MUSEUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		2,900	
		TOTAL FUNDING TRN		3,000 C	
					C
		<b>TRN131 - KAHULUI AIRPORT</b>			
22.	DO4U	KAHULUI AIRPORT, LAND ACQUISITION, MAUI			
		LAND ACQUISITION OF PARCELS NEAR THE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.			
		LAND		50,000	
		TOTAL FUNDING TRN		7,500 E	
		TRN		22,500 N	
		TRN		20,000 X	
					E N X

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014	M YEAR O 2014-2015	F 2014-2015

23. DO4M<sup>1</sup> KAHULUI AIRPORT, ACCESS ROAD, MAUI

CONSTRUCTION FOR A NEW ACCESS ROAD TO THE AIRPORT FROM HANA HIGHWAY, IMPROVEMENTS INCLUDE SITE WORK, PAVING, ELECTRICAL, DRAINAGE, UTILITIES, AND OTHER RELATED IMPROVEMENTS. (OTHER FUNDS FROM CUSTOMER FACILITY CHARGES.)

CONSTRUCTION  
TOTAL FUNDING TRN

10,000  
10,000X

X

## TRN133 - HANA AIRPORT

23.01. D20B HANA AIRPORT, PART 139 IMPROVEMENTS, MAUI

CONSTRUCTION FOR PART 139 COMPLIANCE IMPROVEMENTS FOR A NEW AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF) STATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION  
TOTAL FUNDING TRN  
TRN

6,350  
1,040E  
5,310N

E  
N

## TRN195 - AIRPORTS ADMINISTRATION

24. F08F AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECT STAFF COSTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES)

PLANS 250  
DESIGN 900  
CONSTRUCTION 1,400  
TOTAL FUNDING TRN 2,450B  
TRN 100X 2,450B  
100X

25. F051 AIRFIELD IMPROVEMENTS, STATEWIDE

DESIGN AND CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AT STATEWIDE AIRPORTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
		DESIGN		1,000		1,000
		CONSTRUCTION		11,000		11,000
		TOTAL FUNDING	TRN	4,500 B		4,500 B
			TRN	7,500 N		7,500 N
26.	F08G	MISCELLANEOUS AIRPORT PROJECTS, STATEWIDE				
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS AT VARIOUS STATE AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS, OPERATIONAL EFFICIENCY, AND PROJECTS REQUIRED FOR AIRPORT RELATED DEVELOPMENT.				
		DESIGN		1,000		1,000
		CONSTRUCTION		2,500		2,500
		TOTAL FUNDING	TRN	3,500 B		3,500 B
27.	F04J	AIRPORT PLANNING STUDY, STATEWIDE				
		PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES, RESEARCH, NOISE MONITORING STUDIES, NOISE COMPATIBILITY STUDIES, AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.				
		PLANS		1,000		1,000
		TOTAL FUNDING	TRN	1,000 B		1,000 B
28.	F08O	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE				
		CONSTRUCTION FOR CONSTRUCTION MANAGEMENT SUPPORT AT AIRPORT FACILITIES, STATEWIDE.				
		CONSTRUCTION		1,000		
		TOTAL FUNDING	TRN	1,000 B		B
29.	F08Y	PROGRAM MANAGEMENT, STATEWIDE				
		DESIGN FOR THE PROGRAM MANAGEMENT OF THE MODERNIZATION PROGRAM AT STATEWIDE AIRPORTS.				
		DESIGN		2,500		2,500
		TOTAL FUNDING	TRN	2,500 E		2,500 E
30.	F05L	RENTAL CAR FACILITY IMPROVEMENTS, STATEWIDE				
		CONSTRUCTION TO PROVIDE CONSOLIDATED CAR RENTAL FACILITY FOR THE RENTAL CAR AGENCIES AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT NEW DAY WORKS PROGRAM (OTHER FUNDS FROM SHORT TERM LOAN).				
		CONSTRUCTION		80,000		132,000
		TOTAL FUNDING	TRN	80,000 E		90,000 E
			TRN	X		42,000 X

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

30.01. F08P	STORMWATER PERMIT COMPLIANCE, STATEWIDE CONSTRUCTION FOR ENVIRONMENTAL IMPROVEMENTS AT STATEWIDE AIRPORTS, INCLUDING INSTALLATION OF WASHRACKS AND OTHER RELATED IMPROVEMENTS.	CONSTRUCTION TOTAL FUNDING TRN	E	2,000 2,000E
30.02. F04U	TAXIWAY CONVERSION, STATEWIDE PLANS FOR FEASIBILITY STUDIES FOR TAXIWAY CONVERSIONS TO RUNWAYS AT KONA INTERNATIONAL AIRPORT AT KEAHOLE AND LIHUE AIRPORT.	PLANS TOTAL FUNDING TRN	E	200 200E

## TRN301 - HONOLULU HARBOR

31. J42	NDWP-KAPALAMA MILITARY RESERVATION IMPROVEMENTS, HONOLULU HARBOR, OAHU PLANS, DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW CONTAINER TERMINAL FACILITY AND OTHER RELATED IMPROVEMENTS. THIS IS A NEW DAY WORK PROJECT.	PLANS DESIGN CONSTRUCTION TOTAL FUNDING TRN	500 1,500 248,000 250,000E	E
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## TRN303 - KALAELOA BARBERS POINT HARBOR

32. J44	FUEL PIER FACILITY IMPROVEMENTS, KALAELOA BARBERS POINT HARBOR, OAHU PLANS AND DESIGN FOR A NEW FUEL PIER FACILITY AND OTHER RELATED IMPROVEMENTS.	PLANS DESIGN TOTAL FUNDING TRN	1,000 1,000E 2,000E
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33. J10	KALAELOA-BARBERS POINT HARBOR MODIFICATIONS, OAHU PLANS AND DESIGN TO MODIFY THE TURNING BASIN, ENTRANCE CHANNEL, AND OTHER PHYSICAL FEATURES TO IMPROVE NAVIGATIONAL SAFETY AND OPERATIONAL EFFICIENCIES AT KALAELOA BARBERS POINT HARBOR, OAHU.	PLANS DESIGN TOTAL FUNDING TRN	100 150 250B
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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F

**TRN311 - HILO HARBOR**

34. L01 HILO HARBOR MODIFICATIONS, HAWAII

PLANS TO MODIFY THE TURNING  
BASIN, ENTRANCE CHANNEL, AND  
OTHER PHYSICAL FEATURES TO  
IMPROVE NAVIGATIONAL SAFETY AND  
OPERATIONAL EFFICIENCIES AT HILO  
HARBOR, HAWAII.

PLANS	925	500
TOTAL FUNDING TRN	925 B	500 B

**TRN331 - KAHULUI HARBOR**

35. M22 KAHULUI HARBOR IMPROVEMENTS, MAUI

PLANS, DESIGN, AND CONSTRUCTION  
OF CAPITAL IMPROVEMENTS THAT  
WILL PROVIDE FOR SAFER AND MORE  
EFFICIENT USE OF OPERATIONAL AREAS  
AT KAHULUI HARBOR, MAUI.

PLANS	250	
DESIGN	750	
CONSTRUCTION	4,000	1,000
TOTAL FUNDING TRN	5,000 E	1,000 E

**TRN395 - HARBORS ADMINISTRATION**

36. I21 NDWP HARBORS DIVISION CAPITAL IMPROVEMENT PROGRAM  
STAFF COSTS, STATEWIDE

PLANS FOR COSTS RELATED TO WAGES  
AND FRINGES FOR PERMANENT HARBOR  
MODERNIZATION PLAN PROJECT  
FUNDED STAFF POSITIONS FOR THE  
IMPLEMENTATION OF NEW DAY WORK  
PROJECTS CAPITAL IMPROVEMENT  
PROGRAM PROJECTS FOR THE  
DEPARTMENT OF TRANSPORTATION'S  
HARBORS DIVISION. PROJECTS MAY ALSO  
INCLUDE FUNDS FOR NON PERMANENT  
CAPITAL IMPROVEMENT PROGRAM  
RELATED POSITIONS.

PLANS	1,735	1,735
TOTAL FUNDING TRN	1,735 E	1,735 E

37. I07 ENVIRONMENTAL REMEDIATION OF COMMERCIAL HARBOR  
FACILITIES, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION  
FOR ASSESSMENT, MITIGATION, AND/  
OR REMEDIATION OF ENVIRONMENTAL  
CONDITIONS AT COMMERCIAL HARBOR  
FACILITIES, STATEWIDE.

PLANS	200	200
DESIGN	450	450
CONSTRUCTION	2,350	2,350
TOTAL FUNDING TRN	3,000 B	3,000 B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
38.	I20	NDWP CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE  CONSTRUCTION FOR CONSULTANT SERVICES DURING CONSTRUCTION OF NEW DAY WORK PROJECTS AT COMMERCIAL HARBOR FACILITIES STATEWIDE.	CONSTRUCTION TOTAL FUNDING TRN	5,000 5,000 E	5,000 5,000 E	5,000 5,000 E
39.	I24	COMMERCIAL HARBOR FACILITY IMPROVEMENTS, STATEWIDE  PLANS, DESIGN, AND CONSTRUCTION OF SHORE-SIDE AND WATER IMPROVEMENTS FOR COMMERCIAL HARBOR FACILITIES, STATEWIDE.	PLANS DESIGN CONSTRUCTION TOTAL FUNDING TRN	250 500 4,250 5,000 B	250 500 4,250 5,000 B	250 500 4,250 5,000 B
40.	I01	HARBOR PLANNING, STATEWIDE  PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH, AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.	PLANS TOTAL FUNDING TRN	500 500 B	500 500 B	500 500 B
41.	I13	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE  CONSTRUCTION FOR CONSULTANT SERVICES FOR CONSTRUCTION PROJECTS AT HARBOR FACILITIES STATEWIDE.	CONSTRUCTION TOTAL FUNDING TRN	1,000 1,000 B	1,000 1,000 B	1,000 1,000 B
42.	I06	ARCHITECTURAL AND ENGINEERING SUPPORT, STATEWIDE  PLANS AND DESIGN FOR CONSULTANT SERVICES FOR DEVELOPMENT OF STUDIES AND COMMERCIAL HARBOR FACILITIES, STATEWIDE.	PLANS DESIGN TOTAL FUNDING TRN	100 300 400 B	100 300 400 B	100 300 400 B
43.	I15	SECURITY IMPROVEMENTS AT COMMERCIAL HARBORS, STATEWIDE  PLANS, DESIGN AND CONSTRUCTION FOR SECURITY SYSTEM IMPROVEMENTS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	PLANS DESIGN CONSTRUCTION TOTAL FUNDING TRN	300 850 1,350 500 B TRN	300 850 1,350 500 B 2,000 P	300 850 1,350 500 B 2,000 P

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR O 2013-2014 F	FISCAL YEAR O 2014-2015 F

**TRN333 - HANA HARBOR**

44. M21 NDWP HANA HARBOR IMPROVEMENTS, MAUI

PLANS FOR ENVIRONMENTAL  
REQUIREMENTS FOR HANA HARBOR  
IMPROVEMENTS, MAUI.

PLANS	500
TOTAL FUNDING TRN	500 E

45. HANA HARBOR IMPROVEMENTS, MAUI

PLANS, DESIGN, AND CONSTRUCTION  
FOR CAPITAL IMPROVEMENTS THAT WILL  
DEVELOP INFRASTRUCTURE AND EXPAND  
OPERATIONAL AREAS AT HANA HARBOR,  
MAUI.

PLANS	500
DESIGN	1,000
CONSTRUCTION	18,500
TOTAL FUNDING TRN	20,000 E

E

**TRN501 - OAHU HIGHWAYS**

46. S332 EROSION CONTROL PROGRAM FOR STATE HIGHWAYS AND  
FACILITIES, OAHU

CONSTRUCTION FOR PERMANENT  
EROSION CONTROL MITIGATION  
MEASURES ON STATE HIGHWAYS AND  
FACILITIES ON OAHU.

CONSTRUCTION	2,000	2,000
TOTAL FUNDING TRN	2,000 E	2,000 E

47. S344 MISCELLANEOUS PERMANENT BEST MANAGEMENT  
PRACTICES, OAHU

LAND ACQUISITION, DESIGN, AND  
CONSTRUCTION FOR PERMANENT  
BEST MANAGEMENT PRACTICE  
IMPROVEMENTS TO EXISTING HIGHWAY  
FACILITIES INCLUDING INSTALLATION  
OF STRUCTURAL AND NATURAL BEST  
MANAGEMENT PRACTICES AT VARIOUS  
LOCATIONS ON OAHU.

LAND	200
DESIGN	750
CONSTRUCTION	1,610
TOTAL FUNDING TRN	2,560 E

E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
48.	S246	INTERSTATE ROUTE H-1, WESTBOUND AFTERNOON (PM) CONTRAFLOW, OAHU				
		CONSTRUCTION FOR A PM CONTRAFLOW LANE ON INTERSTATE ROUTE H-1 FROM THE VICINITY OF RADFORD DRIVE TO THE VICINITY OF WAIKELE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		15,000	40,000	
		TOTAL FUNDING	TRN	1,500 E	8,000 E	
			TRN	13,500 N	32,000 N	
48.01.	S313	INTERSTATE ROUTE H-1, ADDITION AND/OR MODIFICATION OF FREEWAY ACCESS FROM MAKAKILO TO PALAILAI INTERCHANGE, OAHU				
		CONSTRUCTION TO IMPROVE AND/OR MODIFY THE MAKAKILO AND PALAILAI INTERCHANGES AND CONSTRUCT A NEW INTERCHANGE (KAPOLEI INTERCHANGE). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION			5,700	
		TOTAL FUNDING	TRN	E	200 E	
			TRN	N	5,500 N	R
49.	R030	INTERSTATE ROUTE H-3, FINISH WORK AND MITIGATION, JUNCTION AT H-1 TO KMCAS, OAHU				
		DESIGN AND CONSTRUCTION FOR A DIVIDED HIGHWAY FROM JUNCTION H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		75		
		CONSTRUCTION		30		
		TOTAL FUNDING	TRN	15 E	5,000	
			TRN	60 N	1,000 E	
			TRN	30 R	4,000 N	R
50.	S266	GUARDRAIL AND SHOULDER IMPROVEMENTS, VARIOUS LOCATIONS, OAHU				
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING THE EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILING, BRIDGE ENDPOSTS AND CRASH ATTENUATORS, RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN			500	
		CONSTRUCTION			6,180	
		TOTAL FUNDING	TRN	E	1,336 E	
			TRN	N	5,344 N	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
51.	S352	KAMEHAMEHA HWY, KARSTEN THOT BRIDGE, REALIGN. AND/ OR REPLACEMENT/REHABILITATION, OAHU				
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OR REHABILITATION OF THE NORTH FORK KAUKONAHUA STREAM BRIDGE (KARSTEN THOT BRIDGE), AND/ OR CONSTRUCTION OF A NEW BRIDGE ON A NEW ROADWAY ALIGNMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		2,001		
		CONSTRUCTION			9,000	
		TOTAL FUNDING	TRN	2,000 E	9,000 E	
			TRN	1 N		N
52.	S221	KALANIANAOLE HIGHWAY, INOAOLE STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU				
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF THE INOAOLE STREAM BRIDGE WITH A LARGER BRIDGE, INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, DETOUR ROAD, AND UTILITY RELOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		1,095	6,500	
		TOTAL FUNDING	TRN	219 E	1,300 E	
			TRN	876 N	5,200 N	
52.01.	S231	KALANIANAOLE HIGHWAY IMPROVEMENTS, OLOMANA GOLF COURSE TO WAIMANALO BEACH PARK, OAHU				
		DESIGN OF TURNING LANES, SIDEWALKS, CURB RAMPS, BIKE PATHS OR BIKE ROUTES, UPGRADING TRAFFIC SIGNALS, UTILITY RELOCATION, DRAINAGE IMPROVEMENTS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		500		
		TOTAL FUNDING	TRN		100 E	
			TRN		400 N	
53.	S306	KAMEHAMEHA HIGHWAY, SOUTH KAHANA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU				
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF SOUTH KAHANA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		26,000		
		TOTAL FUNDING	TRN		5,200 E	
			TRN		20,800 N	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
54.	S315	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF LAIELOA STREAM BRIDGE, OAHU				
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE SLAB BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF LAIE TO INCLUDE BRIDGE RAILINGS, WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		691		500
		TOTAL FUNDING	TRN	138 E		100 E
			TRN	553 N		400 N
55.	S317	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIPILOILO STREAM BRIDGE, OAHU				
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE TEE-BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF HAUULA TO INCLUDE BRIDGE RAILINGS, WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION				7,600
		TOTAL FUNDING	TRN		E	1,520 E
			TRN		N	6,080 N
56.	S328	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF MAKAUA STREAM BRIDGE, OAHU				
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF MAKAUA STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION				5,088
		TOTAL FUNDING	TRN		E	1,018 E
			TRN		N	4,070 N
57.	S329	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIKANE STREAM BRIDGE, OAHU				
		LAND ACQUISITION AND CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF WAIKANE STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND		162		
		CONSTRUCTION				9,070
		TOTAL FUNDING	TRN		32 E	1,814 E
			TRN		130 N	7,256 N

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 O F	
57.01.	S297	KAMEHAMEHA HIGHWAY, KAWELA STREAM BRIDGE REPLACEMENT, OAHU				
		CONSTRUCTION FOR REPLACEMENT OF THE EXISTING BRIDGE ON KAMEHAMEHA HIGHWAY AT KAWELA STREAM WITH A LARGER BRIDGE INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, SEISMIC UPGRADES, TEMPORARY DETOUR ROAD, AND UTILITY RELOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION TOTAL FUNDING TRN TRN		E N	7,500 1,500 E 6,000 N	
58.	S348	FARRINGTON HIGHWAY, ULEHAWA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU				
		LAND ACQUISITION FOR THE REHABILITATION AND/OR REPLACEMENT OF ULEHAWA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND TOTAL FUNDING TRN TRN		251 50 E 201 N		E N
58.01.	SP0603	FARRINGTON HIGHWAY IMPROVEMENTS BETWEEN HONOKAI HALE AND HAKIMO ROAD, OAHU				
		DESIGN FOR IMPROVEMENTS ALONG FARRINGTON HIGHWAY FOR ALTERNATIVE CONGESTION RELIEF AND/ OR SAFETY IMPROVEMENTS ALONG FARRINGTON HIGHWAY BETWEEN HONOKAI HALE AND HAKIMO ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN TOTAL FUNDING TRN TRN		E N	500 100 E 400 N	
58.02.	S301	FARRINGTON HIGHWAY, MAKANA BRIDGES NO. 3 AND NO. 3A REPLACEMENT, OAHU				
		CONSTRUCTION FOR THE REPLACEMENT OF BRIDGES NO. 3 AND 3A IN THE VICINITY OF MAKANA BEACH PARK TO INCLUDE SIDEWALKS, BRIDGE RAILINGS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION TOTAL FUNDING TRN TRN		E N	12,500 2,500 E 10,000 N	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
58.03.	S324	FARRINGTON HIGHWAY, REPLACEMENT OF MAIPALAOA BRIDGE, OAHU				
		CONSTRUCTION FOR REPLACEMENT OF A PRE-STRESSED TEE-BEAM BRIDGE ON FARRINGTON HIGHWAY IN THE VICINITY OF MAILI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION				
		TOTAL FUNDING TRN		E	2,500	
		TRN		N	500 E	
					2,000 N	
58.04.		KAPOLEI TO KAHE POINT, FARRINGTON HWY. H1, WEST OF KAPOLEI, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR BEAUTIFICATION, ROAD WAY IMPROVEMENTS, INSTALL AND INCREASE CONCRETE BARRIERS, RAIL GUARDS, DRIVERS EDUCATION.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				9,998
		TOTAL FUNDING TRN		E	10,000 E	
58.05.		FARRINGTON HIGHWAY, BIKE PATH, OAHU				
		PLANS, DESIGN AND CONSTRUCTION OF A BIKE PATH/SIDEWALK BETWEEN WAIALUA ELEM AND WAIALUA INTER SCHOOL.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				498
		TOTAL FUNDING TRN		C	500 C	
59.	S351	CULVERT ASSESSMENT AND REMEDIATION, OAHU				
		DESIGN AND CONSTRUCTION TO ASSESS CULVERTS AND REPAIR AND/OR REPLACE CULVERTS REQUIRING REMEDIATION.				
		DESIGN			1,000	
		CONSTRUCTION			1,500	
		TOTAL FUNDING TRN			2,500 E	
					2,500 E	
60.	S354	KAMEHAMEHA HWY, KIPAPA STREAM (ROOSEVELT) BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU				
		DESIGN FOR REHABILITATION AND/ OR REPLACEMENT OF KIPAPA STREAM (ROOSEVELT) BRIDGE KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN			1,000	
		TOTAL FUNDING TRN			200 E	
		TRN			800 N	
					E	
					N	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
61.	S318	HIGHWAY LIGHTING REPLACEMENT AT VARIOUS LOCATIONS, OAHU			
		DESIGN AND CONSTRUCTION FOR REPLACING AND/OR UPGRADING THE EXISTING HIGHWAY LIGHTING SYSTEM ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		100	1,030
		CONSTRUCTION		2,013	8,500
		TOTAL FUNDING	TRN	2,112 E	2,730 E
				1 N	6,800 N
62.	S270	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS FACILITIES, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/ OR DECELERATION LANES, AND OTHER IMPROVEMENTS FOR MORE EFFICIENT TRAFFIC FLOW.			
		PLANS		200	
		DESIGN			100
		CONSTRUCTION		1,850	750
		TOTAL FUNDING	TRN	2,050 E	850 E
63.	S342	INTERSTATE ROUTE H-1, KUNIA INTERCHANGE IMPROVEMENTS, OAHU			
		PLANS FOR IMPROVEMENTS TO THE KUNIA INTERCHANGE AND APPROACHES.			
		PLANS		780	
		TOTAL FUNDING	TRN	780 E	E
64.	S353	MOTOR VEHICLE SAFETY OFFICE TESTING FACILITY, OAHU			
		DESIGN AND CONSTRUCTION FOR COMMERCIAL DRIVER'S LICENSE (CDL) AND MOTORCYCLE LICENSE TESTING FACILITY.			
		DESIGN			1
		CONSTRUCTION		2,425	2,999
		TOTAL FUNDING	TRN	2,425 E	3,000 E

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
65.	S074	OAHU BIKEWAYS, OAHU				
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR A MULTI-USE PATH FROM THE VICINITY OF WAIPIO POINT ACCESS ROAD TO LUALUALEI NAVAL ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND		100	2,832	
		DESIGN			2,500	
		CONSTRUCTION			6,500	
		TOTAL FUNDING	TRN	20E	2,366 E	
			TRN	80N	9,466 N	
66.	R053	KAMEHAMEHA HIGHWAY, HELEMANO-WAIALUA JUNCTION TO HALEWA BEACH PARK, OAHU				
		PLANS FOR ENHANCED WETLANDS IN THE VICINITY OF UKOA POND. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS		825	4,675	
		TOTAL FUNDING	TRN	165 E	935 E	
			TRN	660 N	3,740 N	
66.01.	SP0701	KAMEHAMEHA HIGHWAY MODERNIZATION BETWEEN HALEIWA AND WAIMEA BAY, OAHU				
		DESIGN AND CONSTRUCTION FOR THE MODERNIZATION OF KAMEHAMEHA HIGHWAY ON THE NORTH SHORE BETWEEN HALEIWA AND WAIMEA BAY, TO INCLUDE REALIGNMENT OF THE AREA NEAR LANIAKEA BEACH. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN			3,000	
		CONSTRUCTION			4,000	
		TOTAL FUNDING	TRN	E	1,400 E	
			TRN	N	5,600 N	
66.02.	S314	KAMEHAMEHA HIGHWAY, UPPER POAMOHO STREAM BRIDGE REPLACEMENT, OAHU				
		LAND ACQUISITION FOR REPLACEMENT OF A MULTI-GIRDER REINFORCED CONCRETE BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF WAHIWA TO INCLUDE BRIDGE RAILINGS, PEDESTRIAN WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND			1,000	
		TOTAL FUNDING	TRN	E	200 E	
			TRN	N	800 N	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
66.03.		KAMEHAMEHA HIGHWAY, ROCKFALL PROTECTION, MILILANI, OAHU  CONSTRUCTION FOR ROCKFALL/SLOPE PROTECTION AND SLOPE MITIGATION MEASURES AT KAMEHAMEHA HIGHWAY, MILILANI, NEAR KIPAPA STREAM BRIDGE.	CONSTRUCTION TOTAL FUNDING TRN	4,000 E	4,000 E
66.04.		KAMEHAMEHA HIGHWAY, HOOLAPA (NANAHU) BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU  LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF HOOLAPA (NANAHU) BRIDGE ALONG KAMEHAMEHA HIGHWAY (ROUTE 83). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	LAND DESIGN TOTAL FUNDING TRN TRN	1,000 325 E N	1,060 N
67.	S334	VINEYARD BOULEVARD IMPROVEMENTS AT LUSITANA ST., VICINITY OF QUEEN'S MEDICAL CENTER, OAHU  CONSTRUCTION OF A RIGHT TURN LANE FROM LUSITANA STREET ONTO VINEYARD BOULEVARD TO PROVIDE EASTBOUND FREEWAY ACCESS FROM THE QUEEN'S MEDICAL CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	CONSTRUCTION TOTAL FUNDING TRN TRN	1,390 1N 1,389 R	10,201 1N 10,200 R
67.01.		VINEYARD CROSSWALK, OAHU  CONSTRUCTION OF A SIGNALIZED CROSSWALK ON VINEYARD BOULEVARD AT RIVER STREET.	CONSTRUCTION TOTAL FUNDING TRN	750 C	750 C
68.	SP0905	KUALAKAI PARKWAY EXTENSION. KAPOLEI PARKWAY TO ROOSEVELT AVENUE, OAHU  CONSTRUCTION FOR AN APPROXIMATE 1/2 MILE EXTENSION BETWEEN KAPOLEI PARKWAY AND ROOSEVELT AVENUE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	CONSTRUCTION TOTAL FUNDING TRN TRN	15,001 15,000 E 1N	E N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
69.		KAHEKILI AND KAMEHAMEHA HIGHWAY MULTI-USE PATHWAYS, OAHU				
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR MULTI-USE PATHWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS			1	
		LAND			1	
		DESIGN			1	
		CONSTRUCTION				
		TOTAL FUNDING TRN			1,547	
				E	1,550 E	
70.		KALANIANAOLE HIGHWAY BEAUTIFICATION, OAHU				
		PLANS AND DESIGN FOR HIGHWAY BEAUTIFICATION ALONG KALANIANAOLE HIGHWAY FROM KANAPUU DRIVE TO OLD KALANIANAOLE ROAD.				
		PLANS			10	
		DESIGN			190	
		TOTAL FUNDING TRN			200 E	
				E		
71.		KALANIANAOLE HIGHWAY, WAILUPE DRAINAGE, OAHU				
		DESIGN AND CONSTRUCTION OF STORM DRAIN IMPROVEMENTS IN WAILUPE ALONG KALANIANAOLE HIGHWAY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN			50	
		CONSTRUCTION			1,300	
		TOTAL FUNDING TRN			1,350 E	
				E		
72.		KUNIA ROAD, OAHU				
		PLANS, DESIGN, AND CONSTRUCTION TO EXTEND THIRD LANE OVER FARRINGTON HIGHWAY TO THE H-1 FREEWAY SOUTHBOUND TO THE VICINITY OF LAULAUNUI STREET; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS			10	
		DESIGN			90	
		CONSTRUCTION			2,900	
		TOTAL FUNDING TRN			3,000 E	
				E		
73.		NAKINI STREET AND KALANIANAOLE HIGHWAY, OAHU				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CROSSWALK AT INTERSECTION OF NAKINI STREET AND KALANIANAOLE HIGHWAY.				
		DESIGN			10	
		CONSTRUCTION			90	
		TOTAL FUNDING TRN			100 E	
				E		

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				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F
74.		FORT WEAVER ROAD, OAHU				
		PLANS, DESIGN, AND CONSTRUCTION FOR DRAINAGE AT THE SOUTH END OF EWA BEACH ROAD.				
		PLANS		100		
		DESIGN		500		
		CONSTRUCTION		2,400		
		TOTAL FUNDING TRN		3,000	E	
75.		FORT WEAVER ROAD, OAHU				
		DESIGN AND CONSTRUCTION TO ADD A THIRD LANE ON FORT WEAVER ROAD FROM THE CROSS SECTION OF GEIGER ROAD TO KEONEULA PARKWAY IN BOTH DIRECTIONS.				
		DESIGN		3,000		
		CONSTRUCTION		33,000		
		TOTAL FUNDING TRN		36,000	E	
76.		KAHEKILI HIGHWAY, OAHU				
		PLANS AND DESIGN FOR ROAD WIDENING IMPROVEMENTS TO KAHEKILI HIGHWAY FROM HEEIA STREET TO THE INTERSECTION OF KAMEHAMEHA AND KAHEKILI HIGHWAY.				
		PLANS		500		
		DESIGN		1,000		
		TOTAL FUNDING TRN		1,500	E	
77.		KAMEHAMEHA HIGHWAY, LUMIAUAU STREET TO LANIKUHANA AVE, OAHU				
		CONSTRUCTION AND EQUIPMENT FOR RESURFACING AND INSTALLATION OF LIGHTING.				
		CONSTRUCTION		3,000		4,000
		EQUIPMENT		1,000		
		TOTAL FUNDING TRN		4,000	E	4,000
78.		H2 FREEWAY, KA UKA BLVD TO MEHEULA PARKWAY, OAHU				
		CONSTRUCTION FOR REPAVEMENT OF ONRAMP AND OFFRAMP.				
		CONSTRUCTION		1,500		
		TOTAL FUNDING TRN		1,500	E	
79.		H1 FREEWAY, WAIKELE, OAHU				
		CONSTRUCTION FOR REPAVEMENT OF ONRAMP AND OFFRAMP.				
		CONSTRUCTION		1,500		
		TOTAL FUNDING TRN		1,500	E	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR O 2013-2014	M 2013-2014 F	FISCAL YEAR O 2014-2015 F
79.01.	S239	FREEWAY MANAGEMENT SYSTEM, OAHU				
		DESIGN AND CONSTRUCTION FOR A FREEWAY MANAGEMENT SYSTEM, INCLUDING INTELLIGENT TRANSPORTATION SYSTEMS TECHNOLOGIES AND INTERAGENCY COORDINATION TO MONITOR AND MANAGE TRAFFIC OPERATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN CONSTRUCTION			5,500	
		TOTAL FUNDING	TRN	E	13,500	
			TRN	N	3,800 E	
					15,200 N	
79.02.	S284	FREEWAY DESTINATION SIGN UPGRADE/REPLACEMENT, OAHU				
		DESIGN AND CONSTRUCTION FOR REPLACING AND/OR UPGRADING THE EXISTING FREEWAY DESTINATION SIGNS AND SIGN SUPPORT STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN CONSTRUCTION			500	
		TOTAL FUNDING	TRN	E	1,000	
			TRN	N	300 E	
					1,200 N	
79.03.	S356	SAND ISLAND ACCESS ROAD, TRUCK WEIGH STATION, OAHU				
		DESIGN, LAND ACQUISITION AND CONSTRUCTION OF A TRUCK WEIGH STATION ON SAND ISLAND ACCESS ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FINANCIAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND			200	
		DESIGN			50	
		CONSTRUCTION			4,500	
		TOTAL FUNDING	TRN	E	950 E	
			TRN	N	3,800 N	
79.04.		KAILUA RD AND S. KALAHEO AVE., OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR ROUNDABOUT, CONFLUENCE OF KAILUA ROAD AND S. KALAHEO AVENUE, OAHU.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			478	
		TOTAL FUNDING	TRN	E	480 E	

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**TRN511 - HAWAII HIGHWAYS**

80. T143      MAMALAHOA HIGHWAY, DRAINAGE IMPROVEMENTS, VICINITY OF PUUWAAWAA RANCH ROAD, HAWAII

LAND ACQUISITION AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS FOR MAMALAHOA HIGHWAY IN THE VICINITY OF PUUWAAWAA RANCH ROAD THAT INCLUDES: RETAINING WALLS, ROAD REALIGNMENT AND/OR WIDENING, DRAINAGE STRUCTURES, RELOCATING UTILITIES, LAND ACQUISITION, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

LAND	200		
CONSTRUCTION	6,000		
TOTAL FUNDING	TRN	E	1,400 E
	TRN	N	4,800 N

81. T150      MAMALAHOA HWY, GUARDRAIL AND SHOULDER IMPROVEMENTS AND REALIGNMENT, NAALEHU TO HONUAPO, HAWAII

LAND ACQUISITION AND DESIGN FOR REPLACEMENT OF GUARDRAIL, SHOULDER IMPROVEMENTS, AND/ OR REALIGNMENT OF MAMALAHOA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

LAND	300		
DESIGN	600		
TOTAL FUNDING	TRN	E	180 E
	TRN	N	720 N

81.01. T135    MAMALAHOA HIGHWAY DRAINAGE IMPROVEMENTS AT KAWA, HAWAII

CONSTRUCTION FOR DRAINAGE IMPROVEMENTS, INCLUDING THE INSTALLATION OF DRAINAGE BOX CULVERTS AND RAISING OF THE ROADWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION	4,500		
TOTAL FUNDING	TRN	E	900 E
	TRN	N	3,600 N

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
82.	T125	AKONI PULE HIGHWAY, REALIGNMENT AND WIDENING AT AAMAKAO GULCH, HAWAII	CONSTRUCTION FOR REALIGNMENT AND WIDENING OF AKONI PULE HIGHWAY ON THE POLOLU VALLEY SIDE OF AAMAKAO GULCH, INCLUDING INSTALLING GUARDRAILS AND SIGNS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	7,570	
			CONSTRUCTION TOTAL FUNDING TRN	1,514 E	E
			TRN	6,056 N	N
83.	T151	HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS AT PAPAALOA, M.P. 24.47, HAWAII	CONSTRUCTION FOR DRAINAGE IMPROVEMENTS IN THE VICINITY OF M.P. 24.47 ON HAWAII BELT ROAD.	2,500	
			CONSTRUCTION TOTAL FUNDING TRN	2,500 E	E
84.	T152	MAMALAHOA HIGHWAY, HILEA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII	DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF HILEA STREAM BRIDGE ALONG MAMALAHOA HIGHWAY (ROUTE 11). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	810	
			DESIGN TOTAL FUNDING TRN	162 E	E
			TRN	648 N	N
85.	T110	HAWAII BELT ROAD ROCKFALL PROTECTION AT MAULUA, LAUPAHOEHOE, AND KAAWALLI <sup>1</sup> , HAWAII	DESIGN FOR SLOPE PROTECTION ALONG ROUTE 19, HAWAII BELT ROAD IN THE VICINITY OF MAULUA GULCH, LAUPAHOEHOE GULCH, AND KAAWALLI GULCH. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.	1,505	
			DESIGN TOTAL FUNDING TRN	301 E	E
			TRN	1,204 N	N

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				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F
85.01.	T144	HAWAII BELT ROAD, REPLACEMENT OF PAHOEHOE STREAM BRIDGE, HAWAII				
		LAND ACQUISITION FOR THE REPLACEMENT OF A CONCRETE ARCH-DECK BRIDGE ON HAWAII BELT ROAD (ROUTE 19) ON THE BIG ISLAND IN THE VICINITY OF PAPAIAKOU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND				500
		TOTAL FUNDING	TRN	E	100 E	
			TRN	N	400 N	
85.02.	T136	HAWAII BELT ROAD DRAINAGE IMPROVEMENTS, VICINITY OF HAKALAU BRIDGE, HAWAII				
		LAND ACQUISITION AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS, INCLUDING INSTALLING A DRAINAGE SPILLWAY AND BOX CULVERTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND				1
		CONSTRUCTION				4,899
		TOTAL FUNDING	TRN	E	1,300 E	
			TRN	N	3,600 N	
85.03.	T153	HAWAII BELT ROAD, NINOLE BRIDGE REHABILITATION, HAWAII				
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF NINOLE BRIDGE ALONG HAWAII BELT ROAD (ROUTE 19). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND				1,044
		DESIGN				261
		TOTAL FUNDING	TRN	E	261 E	
			TRN	N	1,044 N	
86.	T118	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, HAWAII				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		DESIGN CONSTRUCTION TOTAL FUNDING	TRN TRN	100 1,115 1,111E	1,000 1,000E N
87.	T108	SADDLE ROAD EXTENSION, HAWAII			
		DESIGN FOR A NEW ROADWAY AND/OR REALIGNMENT AND EXTENDING THE SADDLE ROAD FROM THE HILO TERMINUS TO THE QUEEN KAAHUMANU HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN TOTAL FUNDING	TRN TRN	8,175 1,635E 6,540N	1,000 200E 800N
88.	T011	PUAINAKO ST WIDENING/REALIGNMENT, KANOELIHUA AVE TO KOMOHANA ST, HAWAII			
		LAND ACQUISITION AND DESIGN FOR WIDENING AND REALIGNING PUAINAKO STREET FROM 2 TO 4 LANES FROM KANOELIHUA STREET TO KOMOHANA STREET. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN TOTAL FUNDING	TRN TRN	4,650 1,600 1,250E 5,000N	500 100E 400N
89.	T139	SADDLE ROAD MAINTENANCE BASEYARD, VICINITY OF MAUNA KEA STATE PARK, HAWAII			
		LAND ACQUISITION AND CONSTRUCTION FOR A ROAD MAINTENANCE FACILITY THAT INCLUDES MAINTENANCE AND OFFICE STRUCTURES, SITE IMPROVEMENTS, LAND ACQUISITION, STORAGE FACILITIES, AND OTHER RELATED IMPROVEMENTS.			
		LAND CONSTRUCTION TOTAL FUNDING	TRN	100 7,522 7,622E	E
90.	T082	QUEEN KAAHUMANU HIGHWAY WIDENING, HAWAII			
		CONSTRUCTION FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR-LANE DIVIDED HIGHWAY FROM VICINITY OF KEALAKEHE PARKWAY TO VICINITY OF KEAHOLE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION TOTAL FUNDING	TRN TRN	27,700 10,900E 16,800N	E N

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
91.		MAMANE STREET INTERSECTION AND SIDEWALK, HONOKAA, HAWAII			
		CONSTRUCTION FOR IMPROVEMENTS TO INTERSECTION AND SIDEWALK FROM LEHUA STREET TO PLUMERIA STREET; PROVIDE PEDESTRIAN CONNECTIVITY BETWEEN TOWN AND NHERC AND STATE LONG-TERM CARE AND EMERGENCY ROOM.			
		CONSTRUCTION TOTAL FUNDING TRN		C	1,000 1,000 C
92.		PAHOA BYPASS/POST OFFICE ROAD INTERSECTION, HAWAII			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INTERSECTION IMPROVEMENTS AND INSTALLATION OF A TRAFFIC SIGNAL AT THE PAHOA BYPASS/ POST OFFICE ROAD INTERSECTION.			
		PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING TRN TRN		1 100 1,898 1 C 2,000 E	1 100 1,398 1 1,500 C E
92.01.	T077	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, HAWAII			
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILING, BRIDGE END POSTS AND CRASH ATTENUATOR, AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN CONSTRUCTION TOTAL FUNDING TRN TRN		E N	500 6,500 1,400 E 5,600 N
92.02.	T080	KAWAIHAE ROAD, WAIAKA STREAM BRIDGE REPLACEMENT AND REALIGNMENT, HAWAII			
		LAND ACQUISITION AND DESIGN FOR REPLACING THE EXISTING WAIAKA STREAM BRIDGE, REALIGNING THE BRIDGE APPROACHES, RECONSTRUCTING THE ROUTE 19/ROUTE 250 INTERSECTION, AND INSTALLING SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN TOTAL FUNDING TRN TRN		E N	500 1,500 400 E 1,600 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR O 2013-2014 F	FISCAL YEAR O 2014-2015 F	
92.03.		HIGHWAY 130 AND HOMESTEAD ROAD INTERSECTION IMPROVEMENTS, HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS ON HIGHWAY 130 AND HOMESTEAD ROAD.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				1,998
		TOTAL FUNDING	TRN		E	2,000 E
		TRN531 - MAUI HIGHWAYS				
93.	V092	HONOAPIILANI HIGHWAY SHORELINE IMPROVEMENTS, VICINITY OF OLOWALU, MAUI				
		CONSTRUCTION FOR SHORELINE IMPROVEMENTS TO INCLUDE SHORELINE EROSION MITIGATION AND ROADWAY WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		3,000		
		TOTAL FUNDING	TRN	600 E		E
			TRN	2,400 N		N
93.01.	V051	HONOAPIILANI HIGHWAY WIDENING AND/OR REALIGNMENT, HONOKOWAI TO LAUNIUPOKO, MAUI				
		CONSTRUCTION FOR A NEW ALIGNMENT OF HONOAPILANI HIGHWAY FROM LAHAINALUNA ROAD TO THE VICINITY OF LAUNIUPOKO. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		8,500		
		CONSTRUCTION			1,700 E	
		TOTAL FUNDING	TRN			N
			TRN			6,800 N
94.	V060	KIHEI-UPCOUNTRY HIGHWAY, MAUI				
		LAND ACQUISITION AND CONSTRUCTION FOR A NEW TWO-LANE HIGHWAY FROM KIHEI TO UPCOUNTRY MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL FINANCING AND/OR REIMBURSEMENT.				
		LAND		3,600		
		CONSTRUCTION			69,000	
		TOTAL FUNDING	TRN			13,800 E
			TRN			55,200 N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
95.	V094	HONOAPIILANI HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF HONOLUA BRIDGE, MAUI				
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE TEE-BEAM BRIDGE ON HONOAPIILANI HIGHWAY IN THE VICINITY OF HONOLUA BAY TO INCLUDE BRIDGE RAILINGS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND		63		
		CONSTRUCTION			5,400	
		TOTAL FUNDING	TRN	13E	1,080E	
			TRN	50N	4,320N	
96.	W013	KAMEHAMEHA V HWY, MAKAKUPAIA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MOLOKAI				
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF MAKAKUPAIA BRIDGE TO INCLUDE BRIDGE RAILINGS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION			599	
		TOTAL FUNDING	TRN	E	120E	
			TRN	N	479N	
97.	V109	HANA HIGHWAY, KAILUA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI				
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF KAILUA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND			500	
		DESIGN			600	
		TOTAL FUNDING	TRN	E	220E	
			TRN	N	880N	
98.	V110	HANA HIGHWAY, PUOHOKAMOA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI				
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF PUOHOKAMOA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND			180	
		DESIGN				
		TOTAL FUNDING	TRN	730		
			TRN	146E	36E	
				584N	144N	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
99.	V111	HANA HIGHWAY, KOPILIULA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF KOPILIULA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		235	
		DESIGN			
		TOTAL FUNDING	TRN	870	
			TRN	174E	47E
				696N	188N
100.	V112	HANA HIGHWAY, MAKANALI STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF MAKANALI STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		500	
		DESIGN		615	
		TOTAL FUNDING	TRN	E	223E
			TRN	N	892N
101.	V113	HANA HIGHWAY, MOKULEHUA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF MOKULEHUA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		200	
		DESIGN			
		TOTAL FUNDING	TRN	800	
			TRN	160E	40E
				640N	160N
102.	V114	HANA HIGHWAY, ULAINO STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF ULAINO STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		195	
		DESIGN			
		TOTAL FUNDING	TRN	755	
			TRN	151E	39E
				604N	156N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
103.	V095	HALEAKALA HIGHWAY WIDENING AT MILE POST 0.8, MAUI			
		LAND ACQUISITION AND DESIGN FOR WIDENING THE HIGHWAY FROM ONE LANE TO TWO LANES, EXTENDING A BOX CULVERT, AND CONSTRUCTING HEADWALLS AND WING WALLS.			
		LAND			250
		DESIGN		300	
		TOTAL FUNDING TRN		300 E	250 E
104.	VP1101	HALEAKALA HIGHWAY INTERSECTION IMPROVEMENTS AT KULA HIGHWAY, MAUI			
		DESIGN AND CONSTRUCTION TO INSTALL RIGHT-TURN LANE ON WEST- BOUND HALEAKALA HIGHWAY, INSTALL WALKWAYS AND PAVED SHOULDERS AND/ OR SIDEWALKS FROM INTERSECTION TO KING KEKAULIKE HIGH SCHOOL ENTRANCES, AND TO MAKE TRAFFIC SIGNAL IMPROVEMENTS, SIGNAGE, MARKINGS, AND OTHER RELATED IMPROVEMENTS.			
		DESIGN			350
		CONSTRUCTION		150	2,000
		TOTAL FUNDING TRN		150 E	2,350 E
105.	V083	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, MAUI			
		CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/ OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.			
		CONSTRUCTION			3,080
		TOTAL FUNDING TRN		E	3,080 E
106.	VP1001	HALEAKALA HIGHWAY, INTERSECTION IMPROVEMENTS AT MAKAWAO AVENUE, MAUI			
		CONSTRUCTION TO EXTEND THE LEFT TURN LANE AT MAKAWAO AVENUE TO HALEAKALA HIGHWAY AND CONSTRUCT PEDESTRIAN FACILITIES.			
		CONSTRUCTION		3,250	
		TOTAL FUNDING TRN		2,000 E	
		TRN		1,250 S	S

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
107.	V096	HANA HIGHWAY WIDENING, KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, MAUI			
		LAND ACQUISITION FOR THE WIDENING OF HANA HIGHWAY FROM KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, FROM FOUR TO SIX LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		19	500
		TOTAL FUNDING	TRN	4E	100 E
			TRN	15N	400 N
108.	V076	HANA HIGHWAY/KAAHUMANU AVENUE BEAUTIFICATION, DAIRY ROAD TO NANIOA OVERPASS, MAUI			
		CONSTRUCTION FOR THE BEAUTIFICATION OF THE MAIN CORRIDOR BETWEEN KAHULUI AND WAILUKU, TO INCLUDE LANDSCAPE AND IRRIGATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,545	
		TOTAL FUNDING	TRN	309 E	E
			TRN	1,236 N	N
109.		HONOAPIILANI HIGHWAY, UKUMEHAME TO OLOWALU, MAUI			
		DESIGN AND CONSTRUCTION FOR SAFETY IMPROVEMENTS TO HIGHWAY FACILITIES AND INTERSECTIONS FROM UKUMEHAME TO OLOWALU ON HONOAPIILANI HIGHWAY.			
		DESIGN		5	
		CONSTRUCTION		125	
		TOTAL FUNDING	TRN	130 E	E
109.01.	V048	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MAUI			
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPOSTS AND CRASH ATTENUATORS, AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		500	
		CONSTRUCTION		1,500	
		TOTAL FUNDING	TRN	400 E	
			TRN	1,600 N	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M F
109.02.	V097	PU'UNENE AVENUE IMPROVEMENTS, KAMEHAMEHA AVENUE TO KUIHELANI HIGHWAY, MAUI			
		CONSTRUCTION FOR THE WIDENING OF PU'UNENE AVENUE FROM KAMEHAMEHA AVENUE TO KUIHELANI HIGHWAY FROM TWO TO FOUR LANES, AND FOR THE INSTALLATION OF SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		10,000	
		TOTAL FUNDING	TRN	E	2,000E
			TRN	N	8,000N
109.03.	V107	KAHULUI BASEYARD IMPROVEMENTS, MAUI			
		DESIGN FOR KAHULUI BASEYARD IMPROVEMENTS.			
		DESIGN		100	
		TOTAL FUNDING	TRN	E	100E
109.04.	W008	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MOLOKAI			
		CONSTRUCTION TO BUILD ASPHALT CONCRETE PAVED SHOULDERS AND INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FINANCIAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING	TRN	E	200E
			TRN	N	800N
109.05.		PIILANI HIGHWAY TRAFFIC SIGNAL IMPROVEMENTS, MAUI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR TRAFFIC SIGNAL IMPROVEMENTS AT THE INTERSECTION OF PIILANI HIGHWAY AND KULANIHAKOI STREET IN KIHEI, MAUI.			
		DESIGN		10	
		CONSTRUCTION		480	
		EQUIPMENT		10	
		TOTAL FUNDING	TRN	C	500C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014	FISCAL M YEAR O 2014-2015

## TRN561 - KAUAI HIGHWAYS

110. X137 KAUMUALII HIGHWAY, HANAPEPE RIVER BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI

LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF HANAPEPE RIVER BRIDGE ALONG KAUMUALII HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

LAND	100
DESIGN	2,500
CONSTRUCTION	25,000
TOTAL FUNDING TRN	520E
TRN	20,000N

111. X051 GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, KAUAI

DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE END POSTS AND CRASH ATTENUATORS; AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN	100
CONSTRUCTION	247
TOTAL FUNDING TRN	49E
TRN	198N

112. X121 KUHIO HIGHWAY, REPLACEMENT OF WAINIHA BRIDGES NOS. 1, 2, AND 3, KAUAI

LAND ACQUISITION AND DESIGN FOR REPLACEMENT OF WAINIHA BRIDGES NOS. 1, 2, AND 3. PROJECT WILL CONSTRUCT BRIDGE APPROACHES, DETOUR ROADS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

LAND	170
DESIGN	500
TOTAL FUNDING TRN	499E
TRN	1N

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CAPITAL ITEM NO.	PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR O 2013-2014 F	FISCAL YEAR O 2014-2015 F
113.	X124	KUHIO HIGHWAY, KAPAIA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A MULTI-TEE BEAM REINFORCED CONCRETE GIRDER BRIDGE ON KUHIO HIGHWAY IN THE VICINITY OF KAPAIA TO INCLUDE PEDESTRIAN WALKWAYS, BRIDGE RAILINGS AND APPROACHES, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		2,145	
		TOTAL FUNDING	TRN	E	429E
			TRN	N	1,716N
114.	X127	KAPULE HWY/RICE ST/WAAPA RD IMPROVEMENTS AND STRENGTHENING/WIDENING OF NAWILIWILI BRIDGE, KAUAI			
		LAND ACQUISITION AND DESIGN FOR THE IMPROVEMENT OF KAPULE HIGHWAY, RICE STREET AND WAAPA ROAD; AND STRENGTHENING/WIDENING OF NAWILIWILI BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		754	
		DESIGN		500	
		TOTAL FUNDING	TRN	E	251E
			TRN	N	1,003N
115.	X130	KUHIO HIGHWAY, MAILIHUNA RD INTERSECTION IMPROVEMENTS AND KAPAA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		LAND ACQUISITION AND DESIGN FOR THE CONSTRUCTION OF INTERSECTION SAFETY IMPROVEMENTS AND REHABILITATION AND/OR REPLACEMENT OF KAPAA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		520	
		DESIGN		1,000	
		TOTAL FUNDING	TRN	8E	304E
			TRN	32N	1,216N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
115.01.	X128	KUHIO HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIOLI, WAIPA AND WAIKOKO STREAM BRIDGES, KAUAI			
		LAND ACQUISITION AND DESIGN FOR THE REHABILITATION AND/OR REPLACEMENT OF WAIOLI STREAM BRIDGE, WAIPA STREAM BRIDGE, AND WAIKOKO STREAM BRIDGE ON KUHIO HIGHWAY, ROUTE 560. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		500	
		DESIGN		1,500	
		TOTAL FUNDING	TRN	E	400 E
			TRN	N	1,600 N
115.02.	X100	KUHIO HIGHWAY, RETAINING WALLS AND/OR ROADWAY REMEDIATION AT LUMAHAI AND WAINIHA, KAUAI			
		LAND ACQUISITION FOR RETAINING WALLS AND/OR ROADWAY REMEDIATION FOR THE PRESERVATION OF KUHIO HIGHWAY IN THE VICINITY OF LUMAHAI AND WAINIHA.			
		LAND		100	
		TOTAL FUNDING	TRN	E	100 E
116.	X136	KAUMUALII HIGHWAY, BRIDGE NO. 7E REHABILITATION AND/ OR REPLACEMENT, KAUAI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF BRIDGE NO. 7E ALONG KAUMUALII HIGHWAY (ROUTE 50). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		65	
		DESIGN		725	
		TOTAL FUNDING	TRN	145 E	
			TRN	580 N	13 E 52 N
116.01.	X006	KAUMUALII HIGHWAY IMPROVEMENTS, LIHUE TO WEST OF MALUHIA ROAD, KAUAI			
		CONSTRUCTION FOR WIDENING OF KAUMUALII HIGHWAY, LIHUE TO WEST OF MALUHIA ROAD, FROM TWO TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		5,000	
		TOTAL FUNDING	TRN	E	1,000 E
			TRN	N	4,000 N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
117.	X134	KUHIO HIGHWAY, SLOPE STABILIZATION AT LUMAHAI HILLSIDE, KAUAI			
		LAND ACQUISITION AND CONSTRUCTION FOR SLOPE STABILIZATION AT LUMAHAI HILLSIDE.			
		LAND		400	
		CONSTRUCTION			2,000
		TOTAL FUNDING TRN		400E	2,000E
118.	X112	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS, KAUAI			
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.			
		LAND		824	
		DESIGN		376	488
		CONSTRUCTION		3,430	1,000
		TOTAL FUNDING TRN		4,630E	1,488E
<b>TRN595 - HIGHWAYS ADMINISTRATION</b>					
119.	X225	HIGHWAYS DIVISION CAPITAL IMPROVEMENTS PROGRAM PROJECT STAFF COSTS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES & FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CIP PROJECTS FOR DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CIP PROJECT RELATED POSITIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		23,997	23,997
		TOTAL FUNDING TRN		16,000B	16,000B
			TRN	8,000N	8,000N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
120.	X098	IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		500		1,500
		CONSTRUCTION		1,700		3,300
		TOTAL FUNDING	TRN	220 E		480 E
				TRN	1,980 N	4,320 N
121.	X224	HIGHWAY SHORELINE PROTECTION, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR SHORELINE PROTECTION IMPROVEMENTS OF EXISTING STATE HIGHWAY FACILITIES, INCLUDING SHORELINE PROTECTION STRUCTURES, RELOCATION AND REALIGNMENT OF THE HIGHWAY AND BEACH FILL/NOURISHMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		1,385		2,400
		CONSTRUCTION		6,837		17,264
		TOTAL FUNDING	TRN	6,004 E		5,853 E
				TRN	2,218 N	13,811 N
122.	X097	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF DRAINAGE FACILITIES, CATCH BASINS, GRATED DROP INLETS, LINED SWALES, HEADWALLS, AND CULVERTS AT VARIOUS LOCATIONS.				
		DESIGN		200		400
		CONSTRUCTION		610		3,100
		TOTAL FUNDING	TRN	810 E		3,500 E
123.	X099	HIGHWAY PLANNING, STATEWIDE				
		PLANS FOR FEDERAL AID AND NON-FEDERAL AID PROGRAMS AND PROJECTS THAT INCLUDE ROADWAY CLASSIFICATION, DATA COLLECTION, LONG- AND MID-RANGE PLANNING, TRANSPORTATION NEEDS STUDIES, RESEARCH, HRS 343/NEPA STUDIES, CORRIDOR STUDIES, AND SCOPING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS		14,528		8,025
		TOTAL FUNDING	TRN	3,026 E		1,725 E
				TRN	11,502 N	6,300 N

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F
124.	X091	ADA AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE				
		DESIGN AND CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING ADA AND PEDESTRIAN FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		200		
		CONSTRUCTION		285	2,000	
		TOTAL FUNDING	TRN	325 E	400 E	
			TRN	160 N	1,600 N	
125.	X096	CLOSE-OUT OF HIGHWAY RIGHTS-OF-WAY, STATEWIDE				
		LAND ACQUISITION FOR COMPLETION OF ACQUISITION OF OUTSTANDING RIGHT-OF-WAY PARCELS ON PREVIOUSLY CONSTRUCTED PROJECTS OR PROJECTS WITH NECESSARY MITIGATIVE RESPONSES. ALSO, TO PROVIDE FOR THE TRANSFER OF REAL ESTATE INTERESTS FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		LAND		300	15,000	
		TOTAL FUNDING	TRN	299 E	7,000 E	
			TRN	1 N	8,000 N	
125.01.	X226	CLOSEOUT OF HIGHWAY CONSTRUCTION PROJECTS, STATEWIDE				
		CONSTRUCTION FOR COMPLETION OF OUTSTANDING CONSTRUCTION PROJECTS FOR POSTING OF AS-BUILT PLANS, OUTSTANDING UTILITY BILLINGS, AND PAYMENTS TO OTHERS FOR PROJECT RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		CONSTRUCTION		20,200		
		TOTAL FUNDING	TRN	E	7,200 E	
			TRN	N	13,000 N	
125.02.	Y101	CLOSEOUT OF HIGHWAY DESIGN PROJECTS, STATEWIDE				
		DESIGN FOR COMPLETION AND CLOSEOUT OF DESIGN PROJECTS IN ONGOING AND/ OR CLOSING STAGES AND/OR REQUIRING FUNDS PREVIOUSLY IDENTIFIED AS NON-LAPSING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR O 2013-2014	M 2013-2014 F	FISCAL YEAR O 2014-2015 F

DESIGN		20,000
TOTAL FUNDING	TRN	E
	TRN	6,000E
		14,000N

125.03. X235 MOTOR CARRIER SAFETY AND HIGHWAY SAFETY OFFICE  
FACILITY, STATEWIDE

CONSTRUCTION TO RENOVATE AND  
REFURBISH EXISTING BUILDING  
STRUCTURES AND INSTALL  
MISCELLANEOUS SITE IMPROVEMENTS  
UNDER THE WAIMALU VIADUCT.

CONSTRUCTION		1,100
TOTAL FUNDING	TRN	E
		1,100E

## D. ENVIRONMENTAL PROTECTION

## HTH840 - ENVIRONMENTAL MANAGEMENT

1. 840141 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION  
CONTROL, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE  
STATE MATCH (20%) FOR FEDERAL  
CAPITALIZATION GRANTS FOR  
WASTEWATER PROJECTS. FUNDS TO BE  
TRANSFERRED TO THE WATER POLLUTION  
CONTROL REVOLVING FUND PURSUANT  
TO CHAPTER 342D, HRS. THIS PROJECT  
IS DEEMED NECESSARY TO QUALIFY  
FOR FEDERAL AID FINANCING AND/OR  
REIMBURSEMENT.

CONSTRUCTION		13,146	13,146
TOTAL FUNDING	HTH	2,200C	2,200C
	HTH	10,946N	10,946N

2. 840142 SAFE DRINKING WATER REVOLVING FUND, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE  
STATE MATCH (20%) FOR FEDERAL  
CAPITALIZATION FOR DRINKING WATER  
PROJECTS. FUNDS TO BE TRANSFERRED  
TO THE DRINKING WATER TREATMENT  
REVOLVING FUND LOAN, PURSUANT  
TO CHAPTER 340E, HRS. THIS PROJECT  
IS DEEMED NECESSARY TO QUALIFY  
FOR FEDERAL AID FINANCING AND/OR  
REIMBURSEMENT.

CONSTRUCTION		10,950	10,950
TOTAL FUNDING	HTH	1,825C	1,825C
	HTH	9,125N	9,125N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M F

**LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM**

3. D01E DOFAW BASEYARD IMPROVEMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT DIVISION OF FORESTRY AND WILDLIFE BASEYARD FACILITIES.

PLANS	100	
DESIGN	300	
CONSTRUCTION	1,589	
TOTAL FUNDING LNR	1,989 C	7,837

4. KAWAINUI MARSH, OAHU

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ENVIRONMENTAL CLEAN-UP AND RESTORATION OF ENDANGERED HABITATS AND WETLANDS.

PLANS	1	
DESIGN	100	
CONSTRUCTION	923	
EQUIPMENT	1	1,200
TOTAL FUNDING LNR	1,025 C	1,200 C

**LNR404 - WATER RESOURCES**

5. G75B DEEP MONITOR WELLS, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION TO CONSTRUCT AND/OR REPAIR DEEP MONITOR WELLS STATEWIDE TO MONITOR THE HEALTH OF DRINKING WATER AQUIFERS AND OTHER RELATED COSTS.

PLANS	1	
LAND	1	
DESIGN	1	
CONSTRUCTION	1,497	
TOTAL FUNDING LNR	1,500 C	C

**LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT**

6. D01A WATERSHED INITIATIVE, STATEWIDE

DESIGN AND CONSTRUCTION FOR DLNR DIVISION OF FORESTRY AND WILDLIFE WATERSHED INITIATIVE FUNDING SUPPORT FOR WATERSHED PROTECTION, MANAGEMENT AND ADMINISTRATION. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.

DESIGN	1	
CONSTRUCTION	4,999	
TOTAL FUNDING LNR	5,000 C	3,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014	M YEAR O 2014-2015 F	F 2014-2015 C
7.	D01H	MANUKA NATURAL AREA RESERVE BOUNDARY FENCE, HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR UNGULATE-PROOF BOUNDARY FENCE AT THE MANUKA NATURAL AREA RESERVE.				
		PLANS		50		
		DESIGN		100		
		CONSTRUCTION		1,350	2,000	
		TOTAL FUNDING	LNR	1,500 C	2,000 C	
7.01.	D02E	AHIHI KINAU NATURAL AREA RESERVE KANAHENNA PARKING IMPROVEMENTS, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT KANAHENNA PARKING AREA AND INSTALLATION OF FEE PARKING MACHINE.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			358	
		TOTAL FUNDING	LNR	C	360 C	
7.02.		ALA WAI WATERSHED FLOOD STUDY, OAHU				
		PLANS, DESIGN AND CONSTRUCTION TO INVESTIGATE CONDITIONS AND PROVIDE MITIGATIVE MEASURES TO ALLEVIATE FLOODING IN THE ALA WAI WATERSHED, INCLUDING THE UPPER REACHES OF MAKIKI, MANOA, AND PALOLO VALLEYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			499	
		TOTAL FUNDING	LNR	C	500 C	
				N	1 N	
7.03.		HAWAII MAOLI, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN ENVIRONMENTAL ASSESSMENT AND TO CONSTRUCT A FENCE LINE IN MAKAHANA VALLEY TO PROTECT THE WATERSHED. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			497	
		EQUIPMENT			1	
		TOTAL FUNDING	LNR	C	500 C	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F

**LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT**

8. G01CS CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE

PLANS FOR COSTS RELATED TO WAGES  
AND FRINGES FOR PERMANENT  
PROJECT FUNDED STAFF POSITIONS  
FOR THE IMPLEMENTATION OF CAPITAL  
IMPROVEMENT PROGRAM PROJECTS  
FOR THE DEPARTMENT OF LAND AND  
NATURAL RESOURCES. PROJECT MAY  
INCLUDE FUNDS FOR NON-PERMANENT  
CAPITAL IMPROVEMENT PROGRAM  
RELATED POSITIONS.

PLANS	2,597	2,922
TOTAL FUNDING LNR	2,597C	2,922C

8.01. J00F PULEHUNUI FEASIBILITY STUDY AND INFRASTRUCTURE PLANNING, MAUI

PLANS TO DETERMINE INFRASTRUCTURE REQUIREMENTS FOR DEVELOPMENT OF STATE LANDS IN PULEHUNUI, MAUI.

PLANS	1,000	
TOTAL FUNDING LNR	C	1,000C

8.02. J00 ADA PUBLIC ACCESSIBILITY AT DLNR FACILITIES, STATEWIDE

DESIGN AND CONSTRUCTION TO PROVIDE PUBLIC ACCESSIBILITY AT DLNR FACILITIES.

DESIGN	1	
CONSTRUCTION	1,999	
TOTAL FUNDING LNR	C	2,000C

8.03. MAUI OFFICE ANNEX BUILDING, MAUI

DESIGN AND CONSTRUCTION FOR REPLACEMENT BUILDING AND RELATED IMPROVEMENTS TO SUPPORT VARIOUS DEPARTMENTAL DIVISIONS AND PROGRAMS.

DESIGN	1	
CONSTRUCTION	4,999	
TOTAL FUNDING LNR	C	5,000C

8.04. WEST KAUAI FIELD OPERATIONS FACILITY, KAUAI

PLANS, DESIGN AND CONSTRUCTION TO PROVIDE A SECURE AND ACCESSIBLE LOCATION FOR EIGHT DIVISIONS OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES WITH STORAGE, FUELING, PARKING, RESTROOMS AND OFFICE SPACE.

PLANS	1	
DESIGN	1	
CONSTRUCTION	7,948	
TOTAL FUNDING LNR	C	7,950C

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
8.05.		KAHO'OLawe ISLAND RESERVE, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR A RENEWABLE ENERGY SYSTEM LOCATED AT THE BASE CAMP FACILITY CENTER OF OPERATIONS CENTER ON KAHO'OLawe.			
		PLANS		100	
		DESIGN		250	
		CONSTRUCTION		2,150	
		TOTAL FUNDING	LNR		2,500 C

**E. HEALTH****HTH100 - COMMUNICABLE DISEASE SERVICES<sup>1</sup>**

0.06. 100151 KALAUPAPA SETTLEMENT IMPROVEMENTS, MOLOKAI

DESIGN AND CONSTRUCTION TO CLOSE  
LANDFILLS AND OTHER IMPROVEMENTS.

DESIGN		1
CONSTRUCTION		520
TOTAL FUNDING	AGS	521 C

**HTH595 - HEALTH RESOURCES ADMINISTRATION**

1. MOLOKAI OHANA HEALTH CENTER, MOLOKAI

DESIGN AND CONSTRUCTION FOR  
RENOVATION AND RELOCATION OF THE  
MOLOKAI COMMUNITY HEALTH CENTER.  
THIS PROJECT QUALIFIES AS A GRANT,  
PURSUANT TO CHAPTER 42F, HRS.

DESIGN	50	
CONSTRUCTION	450	
TOTAL FUNDING	HTH	500 C

2. WAI'ANAE COAST COMPREHENSIVE HEALTH CENTER (WCCHC),  
OAHUCONSTRUCTION TO UPGRADE AND  
EXPAND EMERGENCY SERVICES  
BUILDING FOR THE WAI'ANAE COAST  
COMPREHENSIVE HEALTH CENTER.  
THIS PROJECT QUALIFIES AS A GRANT,  
PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION	500	
TOTAL FUNDING	HTH	500 C

3. KALIHI-PALAMA HEALTH CENTER, OAHU

CONSTRUCTION FOR A NEW HEALTH AND  
HEALING HOME FACILITY. THIS PROJECT  
QUALIFIES AS A GRANT, PURSUANT TO  
CHAPTER 42F, HRS.

CONSTRUCTION	3,000	
TOTAL FUNDING	HTH	3,000 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
4.		HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION, HAWAII				
		CONSTRUCTION FOR A NEW ADULT DAY CARE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HTH		1,000	1,000 C	C
4.01.		HANA HEALTH, MAUI				
		PLANS, DESIGN AND CONSTRUCTION TO REPLACE THREE LARGE CAPACITY CESSPOOLS AS REQUIRED BY THE EPA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING HTH		1 1 198	200 C	C
4.02.		LANA'I COMMUNITY HEALTH CENTER, LANA'I				
		CONSTRUCTION FOR A NEW FACILITY FOR THE LANA'I COMMUNITY HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HTH		1,750	1,750 C	C
4.03.		WEST HAWAII COMMUNITY HEALTH CENTER, HAWAII				
		CONSTRUCTION FOR THE WEST HAWAII COMMUNITY HEALTH CENTER IN KONA, HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HTH		1,000	1,000 C	C
4.04.		J. WALTER CAMERON CENTER, MAUI				
		CONSTRUCTION FOR FACILITY REPAIRS, RENOVATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING HTH		2,225	2,225 C	C
4.05.		PUNA COMMUNITY MEDICAL CENTER, HAWAII				
		PLANS AND DESIGN FOR A NEW FREE- STANDING EMERGENCY ROOM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN TOTAL FUNDING HTH		100 650 750 C		C

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

4.06. THE WAHIWA CENTER FOR COMMUNITY HEALTH, OAHU

PLANS, DESIGN AND CONSTRUCTION  
FOR FACILITY REPAIRS, RENOVATIONS  
AND OTHER RELATED IMPROVEMENTS  
TO THE WAHIWA MEDICAL BUILDING.  
THIS PROJECT QUALIFIES AS A GRANT,  
PURSUANT TO CHAPTER 42F, HRS.

PLANS	100
DESIGN	149
CONSTRUCTION	1
TOTAL FUNDING HTH	250 C

4.07. HAWAII ISLAND VETERANS MEMORIAL, HAWAII

CONSTRUCTION FOR A COMMUNITY  
BASED OUTPATIENT CLINIC AND BOX  
CULVERT. THIS PROJECT QUALIFIES AS A  
GRANT, PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION	425
TOTAL FUNDING HTH	425 C

**HTH210 - HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE**5. 210001<sup>1</sup> HAWAII HEALTH SYSTEMS CORPORATION, INFORMATION/  
ELECTRONIC MEDICAL RECORD SYSTEM, STATEWIDE

EQUIPMENT TO IMPLEMENT THE HIS/EMR  
SYSTEM AT HHSC FACILITIES.

EQUIPMENT	14,321
TOTAL FUNDING HTH	14,321 C

**HTH211 - KAHUKU HOSPITAL**

6. KAHUKU MEDICAL CENTER, OAHU

PLANS, DESIGN, CONSTRUCTION, AND  
EQUIPMENT FOR REPAIRS, MAINTENANCE,  
UPGRADES AND IMPROVEMENTS, TO  
INCLUDE HEALTH AND SAFETY PROJECTS;  
GROUND AND SITE IMPROVEMENTS;  
EQUIPMENT AND APPURTENANCES.

PLANS	1
DESIGN	1
CONSTRUCTION	1,459
EQUIPMENT	1
TOTAL FUNDING HTH	1,462 C

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				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F

**HTH212 - HAWAII HEALTH SYSTEMS CORPORATION-REGIONS**

7. HAWAII HEALTH SYSTEMS CORPORATION, LUMP SUM CIP,  
STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND  
EQUIPMENT FOR REPAIRS, MAINTENANCE,  
UPGRADES AND IMPROVEMENTS, TO  
INCLUDE HEALTH AND SAFETY PROJECTS,  
FOR THE HAWAII HEALTH SYSTEMS  
CORPORATION.

PLANS	1	
DESIGN	1	2,530
CONSTRUCTION	39,997	28,770
EQUIPMENT	1	8,700
TOTAL FUNDING HTH	40,000 C	40,000 C

- 7.01. MAUI MEMORIAL-HOSPITAL PARKING STRUCTURE, MAUI

PLANS, DESIGN AND CONSTRUCTION FOR  
A NEW PARKING GARAGE AT THE MAUI  
MEMORIAL MEDICAL CENTER, MAUI.

PLANS	1	
DESIGN	1	
CONSTRUCTION	34,598	
TOTAL FUNDING HTH	C	3,100 C
	E	31,500 E

- 7.02. VA LONG-TERM CARE FACILITY, OAHU

PLANS AND DESIGN FOR A NEW VA LONG-  
TERM CARE FACILITY. THIS PROJECT  
IS DEEMED NECESSARY TO QUALIFY  
FOR FEDERAL AID FINANCING AND/OR  
REIMBURSING.

PLANS	2,000	
DESIGN	3,500	
TOTAL FUNDING HTH	C	2,000 C
	N	3,500 N

**HTH430 - ADULT MENTAL HEALTH - INPATIENT**

8. 430142 HAWAII STATE HOSPITAL, REPAIRS AND IMPROVEMENTS, OAHU

DESIGN AND CONSTRUCTION FOR  
VARIOUS REPAIRS AND IMPROVEMENTS.

DESIGN	300	1
CONSTRUCTION	950	783
TOTAL FUNDING AGS	1,250 C	784 C

9. HAWAII STATE HOSPITAL, OAHU

DESIGN AND CONSTRUCTION FOR  
THE DEMOLITION OF THE GODDARD  
BUILDING AND REMOVAL OF HAZARDOUS  
MATERIALS.

DESIGN	500	
CONSTRUCTION	2,000	
TOTAL FUNDING AGS	2,500 C	C

## CAPITAL IMPROVEMENT PROJECTS

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				FISCAL YEAR 2013-2014 F	M O	FISCAL YEAR 2014-2015 F
9.01. 430151		HAWAII STATE HOSPITAL, NEW PATIENT FACILITY AT GODDARD BUILDING, OAHU				
		DESIGN AND CONSTRUCTION FOR A NEW FACILITY AT THE SITE OF GODDARD BUILDING.				
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	2,500 1 C		2,501 C
		<b>HTH440 - ALCOHOL AND DRUG ABUSE'</b>				
9.02.		THE ALCOHOLIC REHABILITATION SERVICES OF HAWAII, INC., OAHU				
		CONSTRUCTION FOR THE EXPANSION OF THE HINA MAUKA FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING	HTH	1,500 C		1,500 C
		<b>HTH907 - GENERAL ADMINISTRATION</b>				
10. 907141		DEPARTMENT OF HEALTH, HEALTH AND SAFETY, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HEALTH FACILITIES STATEWIDE, NECESSARY TO MAINTAIN HEALTH AND SAFETY FOR CLIENTS AND STAFF.				
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	500 4,500 5,000 C	472 3,000 3,472 C	
11. 907142		DEPARTMENT OF HEALTH, ENERGY EFFICIENCY IMPROVEMENTS, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HEALTH FACILITIES STATEWIDE TO PROVIDE FOR ENERGY SAVINGS.				
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	1,000 3,665 4,665 C	625 625 C	
12.		WAIMANO RIDGE, IMPROVEMENTS TO BUILDINGS AND SITE, OAHU				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO WAIMANO RIDGE BUILDINGS AND SITE FOR PROGRAMS RELOCATING FROM AAFES BUILDING.				
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	1 10,027 10,028 C	253 1,747 2,000 C	

**ACT 122**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F

**F. SOCIAL SERVICES**

**HMS501 - IN-COMMUNITY YOUTH PROGRAMS**

1. HALE 'OPIO KAUAI INC., KAUAI

CONSTRUCTION FOR RENOVATIONS,  
UPGRADES AND ENERGY IMPROVEMENTS,  
TO INCLUDE PHOTOVOLTAIC SYSTEMS.  
THIS PROJECT QUALIFIES AS A GRANT,  
PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION  
TOTAL FUNDING HMS

435  
435C

C

**DEF112 - SERVICES TO VETERANS**

2. OAHU VETERANS COUNCIL, OAHU

PLANS, DESIGN AND CONSTRUCTION  
FOR PHASE 3 OF THE OAHU VETERANS  
CENTER LOCATED AT FOSTER VILLAGE.  
THIS PROJECT QUALIFIES AS A GRANT,  
PURSUANT TO CHAPTER 42F, HRS.

PLANS  
DESIGN  
CONSTRUCTION  
TOTAL FUNDING DEF

1  
1  
1,998  
2,000C

265  
265C

3. WEST HAWAII VETERANS CENTER, HAWAII

PLANS AND DESIGN FOR SITE SELECTION  
FOR A NEW VETERANS CENTER IN WEST  
HAWAII.

PLANS  
DESIGN  
TOTAL FUNDING DEF

100  
200  
300C

C

3.01. OV1501 NON-POTABLE WELL FOR WEST HAWAII VETERANS CEMETERY,  
HAWAII

PLANS, DESIGN AND CONSTRUCTION FOR  
NON-POTABLE WATER WELL INCLUDING  
PUMPS, PIPING AND APPURTENANCES,  
WATER TANK AND POWER GENERATION  
SYSTEM FOR WEST HAWAII VETERANS  
CEMETERY. THIS PROJECT IS DEEMED  
NECESSARY TO QUALIFY FOR  
FEDERAL AID FINANCING AND/OR  
REIMBURSEMENT.

PLANS  
DESIGN  
CONSTRUCTION  
TOTAL FUNDING DEF  
DEF

50  
160  
1,400  
210C  
1,400N

## CAPITAL IMPROVEMENT PROJECTS

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				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
3.02.	OV1502	HAWAII STATE VETERANS CEMETERY UPGRADES AND IMPROVEMENTS, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR UPGRADES AND IMPROVEMENTS AT HAWAII STATE VETERANS CEMETERY TO INCLUDE THE CONSTRUCTION OF DOUBLE-DEPTH LAWN CRYPTS, IMPROVEMENTS TO THE COMMITTAL SHELTER, INSTALLATION OF SECURITY SYSTEMS AT THE ADMINISTRATION AND MAINTENANCE BUILDINGS, AND UPGRADE TO THE IRRIGATION SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID AND/OR REIMBURSEMENT.				
		PLANS DESIGN CONSTRUCTION			1 499 5,854	
		TOTAL FUNDING DEF		C	500 C	
		DEF		N	5,854 N	
3.03.		VETERANS OF FOREIGN WARS-HAWAII, OAHU				
		PLANS AND DESIGN FOR A VETERANS OF FOREIGN WARS CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN			1 499	
		TOTAL FUNDING DEF		C	500 C	
3.04.		PACIFIC AVIATION MUSEUM PEARL HARBOR, OAHU				
		CONSTRUCTION FOR THE HISTORIC FORD ISLAND CONTROL TOWER COMPLEX RESTORATION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION				
		TOTAL FUNDING DEF		C	550	
					550 C	
<b>HMS220 - RENTAL HOUSING SERVICES</b>						
4.	HPHA01	LUMP SUM PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO DEVELOP, UPGRADE OR RENOVATE PUBLIC HOUSING FACILITIES, INCLUDING GROUND & SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT, APPURTENANCES AND ALL RELATED OR ASSOCIATED PROJECT COSTS FOR PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE.				
		PLANS DESIGN			200 900	
		CONSTRUCTION			43,800	26,000
		EQUIPMENT			100	
		TOTAL FUNDING HMS		C	45,000 C	26,000 C

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5.		THE SALVATION ARMY FAMILY INTERVENTION SERVICES, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RECONSTRUCTION AND/OR RENOVATION OF THE FAMILY INTERVENTION SERVICE FACILITY IN HILO, HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		640	
		EQUIPMENT		1	
		TOTAL FUNDING	HMS	643 C	
5.01.		HOUSING SOLUTIONS, INC., OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RECONSTRUCTION AND/OR RENOVATION OF THE THOMAS BUILDING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		497	
		EQUIPMENT		1	
		TOTAL FUNDING	HMS	C	500 C
<b>HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS</b>					
6.	14002	NAHASDA DEVELOPMENT PROJECTS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR VARIOUS HAWAIIAN HOMESTEAD PROJECTS AND IMPROVEMENTS STATEWIDE, PURSUANT TO THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT, PUBLIC LAW 107-73, 107TH CONGRESS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		19,998	19,998
		TOTAL FUNDING	HHL	20,000 N	20,000 N
7.		PAPAKOLEA SEWER SYSTEM IMPROVEMENTS, OAHU			
		DESIGN FOR SEWER SYSTEM IMPROVEMENTS AND SLOPE STABILIZATION.			
		DESIGN		1,000	
		TOTAL FUNDING	HHL	1,000 C	
					C

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
8.	P14001	WAIMANALO HAWAIIAN HOMESTEAD COMMUNITY CENTER, OAHU				
		DESIGN AND CONSTRUCTION FOR PHASE IV, THE COMMUNITY TECHNOLOGY, EDUCATION AND EMPLOYMENT CENTER (CTEEC) OF THE WAIMANALO HAWAIIAN HOMESTEAD COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN		1		
		CONSTRUCTION		749		
		TOTAL FUNDING	HHL	750 C		C
9.		KAPOLEI COMMUNITY DEVELOPMENT CORPORATION, OAHU				
		CONSTRUCTION OF THE KAPOLEI COMMUNITY DEVELOPMENT CORPORATION HERITAGE CENTER MULTI-PURPOSE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION		1,150		
		TOTAL FUNDING	HHL	1,150 C		C
9.01.	P15003	HAWAIIAN HOME LANDS DAMS AND RESERVOIRS, KAUAI				
		CONSTRUCTION FOR REMEDIATION IMPROVEMENTS TO DHHL DAMS AND RESERVOIRS, ANAHOLA, KAUAI.				
		CONSTRUCTION		3,000		
		TOTAL FUNDING	HHL	3,000 C		C
9.02.	P15004	PULEHUNUI SITE IMPROVEMENT AND INFRASTRUCTURE, PULEHUNUI, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS AND INFRASTRUCTURE OF A MASTER-PLANNED MIXED USE DEVELOPMENT IN PULEHUNUI, MAUI.				
		PLANS		1		
		DESIGN		3,998		
		CONSTRUCTION		1		
		TOTAL FUNDING	HHL	4,000 C		C
9.03.		PAPAKOLEA COMMUNITY DEVELOPMENT CORPORATION, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR THE PAPAKOLEA FACILITY IMPROVEMENT PROJECT TO IMPROVE AND MAINTAIN EXISTING STRUCTURES.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		248		
		TOTAL FUNDING	HHL	250 C		C

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9.04.		MOLOKAI HOMESTEAD FARMERS ALLIANCE, MOLOKAI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS, IMPROVEMENTS AND INSTALLATION OF RENEWABLE ENERGY SYSTEMS FOR THE LANIKEHA CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		1,748	
		EQUIPMENT		1	
		TOTAL FUNDING	HHL		1,750 C
9.05.		KAILAPA COMMUNITY ASSOCIATION, HAWAII			
		PLANS AND DESIGN FOR THE KAILAPA COMMUNITY RESOURCE CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		59	
		TOTAL FUNDING	HHL		60 C
9.06.		LA'T'OPUA 2020, HAWAII			
		CONSTRUCTION FOR IMPROVEMENTS FOR THE PARKING LOT AND ROAD. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		950	
		TOTAL FUNDING	HHL		950 C
9.07.		WAIOHULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC., MAUI			
		CONSTRUCTION FOR PHASE 2 OF THE WAIOHULI COMMUNITY CENTER AND PARK MASTER PLAN. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING	HHL		1,500 C
<b>HTH904 - EXECUTIVE OFFICE ON AGING</b>					
10.		LANAKILA PACIFIC, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR LANAKILA PACIFIC'S CENTRAL FACILITY TO ADDRESS HEALTH, SAFETY AND CAPACITY ISSUES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		279	
		EQUIPMENT		1	
		TOTAL FUNDING	HTH		280 C
					C

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10.01.	HALE MAKUA HEALTH SERVICES, MAUI					
PLANS AND CONSTRUCTION FOR A NEW NURSE CALL SYSTEM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.						
	PLANS				1	
	CONSTRUCTION				149	
	TOTAL FUNDING	HTH			C	150C
10.02.	KOKUA KALIHI VALLEY, GULIC <sup>1</sup> ELDER CENTER, OAHU					
CONSTRUCTION AND EQUIPMENT FOR FACILITY REPAIRS, RENOVATIONS AND OTHER RELATED IMPROVEMENTS TO THE GULIC <sup>1</sup> ELDER CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.						
	CONSTRUCTION				300	
	EQUIPMENT				40	
	TOTAL FUNDING	HTH			C	340C

## HMS904 - GENERAL ADMINISTRATION (DHS)

11.	F14001	MODERNIZATION OF DEPARTMENT OF HUMAN SERVICES ELIGIBILITY AND CASE MANAGEMENT SYSTEMS, STATEWIDE				
PLANS AND DESIGN FOR THE MODERNIZATION OF THE ELIGIBILITY SYSTEM FOR THE DHS PUBLIC ASSISTANCE PROGRAMS AND CASE MANAGEMENT SYSTEM FOR THE SOCIAL SERVICES PROGRAMS.						
	PLANS				1	
	DESIGN				3,999	
	TOTAL FUNDING	HMS			4,000C	C
11.01.	MODERNIZATION OF PUBLIC ASSISTANCE ELIGIBILITY SYSTEM					
PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A REPLACEMENT ELIGIBILITY SYSTEM FOR THE PUBLIC ASSISTANCE PROGRAMS. THESE SYSTEMS WILL INTEGRATE WITH THE NEW MEDICAID ELIGIBILITY SYSTEM TO REPLACE THE EXISTING LEGACY PUBLIC ASSISTANCE ELIGIBILITY SYSTEM AND THE CHILD/ADULT WELFARE SYSTEMS THAT HAS OUTLIVED ITS CURRENT UTILITY OF 25 YEARS.						
	PLANS				1	
	DESIGN				1	
	CONSTRUCTION				95,000	
	EQUIPMENT				6,369	
	TOTAL FUNDING	HMS			C	41,385C
		HMS			N	59,986N

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**G. FORMAL EDUCATION**

**EDN100 - SCHOOL BASED BUDGETING**

1. 10 LUMP SUM CIP - PROJECT ADJUSTMENT FUND, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION AND EQUIPMENT FOR  
A CONTINGENCY FUND FOR PROJECT  
ADJUSTMENT PURPOSES SUBJECT TO THE  
PROVISIONS OF THE APPROPRIATIONS  
ACT. OTHER DEPARTMENT OF EDUCATION  
PROJECTS WITHIN THIS ACT WITH  
UNREQUIRED BALANCES MAY BE  
TRANSFERRED INTO THIS PROJECT.

PLANS	1	1
LAND	1	1
DESIGN	600	600
CONSTRUCTION	1,397	397
EQUIPMENT	1	1
TOTAL FUNDING EDN	2,000 C	1,000 C

2. 03 LUMP SUM CIP - CONDITION, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND  
EQUIPMENT TO MAINTAIN AND IMPROVE  
FACILITIES AND INFRASTRUCTURE,  
INCLUDING HAZARDOUS MATERIALS  
REMEDIATION; GROUND AND SITE  
IMPROVEMENTS; EQUIPMENT AND  
APPURTEANCES.

PLANS	1	1
DESIGN	13,860	18,100
CONSTRUCTION	58,865	52,398
EQUIPMENT	100	1
TOTAL FUNDING EDN	72,826 C	70,500 C

3. LUMP SUM CIP - PROGRAM SUPPORT, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION AND EQUIPMENT FOR  
PROGRAM SUPPORT INCLUDING NEW  
FACILITIES, TEMPORARY FACILITIES, AND  
IMPROVEMENTS AND/OR ADDITIONS  
TO EXISTING FACILITIES; GROUND AND  
SITE IMPROVEMENTS; EQUIPMENT AND  
APPURTEANCES.

PLANS	1	1,000
LAND	1	1
DESIGN	320	1,840
CONSTRUCTION	22,174	11,059
EQUIPMENT	128	100
TOTAL FUNDING EDN	22,624 C	14,000 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
4.	05	LUMP SUM CIP - CAPACITY, STATEWIDE				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAPACITY, INCLUDING NEW FACILITIES, TEMPORARY FACILITIES, AND EXPANSION/ REPURPOSING OF EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		1		1
		LAND		1		1
		DESIGN		2,498		1,099
		CONSTRUCTION		13,250		17,898
		EQUIPMENT		1,000		1,001
		TOTAL FUNDING EDN		16,750C		20,000C
5.	06	LUMP SUM CIP - EQUITY, STATEWIDE				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR EQUITY, INCLUDING RENOVATION, HEAT ABATEMENT, EXPANSION AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		1,000		1,000
		LAND		1		1
		DESIGN		3,400		2,050
		CONSTRUCTION		17,945		10,395
		EQUIPMENT		54		554
		TOTAL FUNDING EDN		22,400C		14,000C
6.		AIEA ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE AIR CONDITIONING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		200		
		CONSTRUCTION		1,300		
		TOTAL FUNDING EDN		1,500C		C
7.		AIEA HIGH SCHOOL, OAHU				
		DESIGN FOR A WEIGHT TRAINING FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN				140
		TOTAL FUNDING EDN				140C
8.		AIEA HIGH SCHOOL, OAHU				
		PLANS AND DESIGN FOR THE REPLACEMENT OF FOOTBALL FIELD AND TRACK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		250		
		DESIGN		250		
		TOTAL FUNDING EDN		500C		C

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9.		AJEA INTERMEDIATE SCHOOL, OAHU				
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO CAFETERIA STAGE AND SUPPORT SPACES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		10		
		CONSTRUCTION		540		
		EQUIPMENT		10		
		TOTAL FUNDING	EDN	560	C	
10.		ALA WAI ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF ADDITIONAL SECURITY CAMERAS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		1		
		CONSTRUCTION		8		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	10	C	
11.		ALA WAI ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		100		
		CONSTRUCTION		600		
		TOTAL FUNDING	EDN	700	C	
11.01.		ALA WAI ELEMENTARY, OAHU				
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IN BUILDINGS A, B, AND C. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		1		
		CONSTRUCTION		399		
		TOTAL FUNDING	EDN	400	C	
12.		ALVAH SCOTT ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR THE EXPANSION OF PARKING LOT FOR BUS TURN AROUND; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		25		
		CONSTRUCTION		700		
		TOTAL FUNDING	EDN	725	C	
12.01.		ALVAH SCOTT ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR AMERICANS WITH DISABILITIES ACT UPGRADES TO CAFETERIA RESTROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				

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		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	1 899 900C	C
13.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CEILING FANS IN EXISTING PORTABLES AND SECOND FLOOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	EDN	1 178 1 180C	C
14.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW WALKWAY AT FRONT OF CAMPUS FOR PEDESTRIAN SAFETY. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	50 250 300C	C
15.		CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR ELECTRICAL UPGRADES TO EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	100 900 1,000C	C
15.01.		CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR SCHOOL-WIDE HEAT ABATEMENT AND AIR CONDITIONING UPGRADES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	300 2,000 2,300C	C
16.		CASTLE HIGH SCHOOL, OAHU			
		PLANS AND DESIGN FOR THE EXPANSION OF CASTLE HIGH SCHOOL'S CAFETERIA. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS DESIGN TOTAL FUNDING	EDN	100 800 900C	C

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16.01.		CENTRAL MIDDLE SCHOOL, OAHU  CONSTRUCTION FOR REPAVEMENT AND RESURFACING OF KUKUI, ADMINISTRATIVE, AND QUEEN EMMA PARKING LOTS.	CONSTRUCTION TOTAL FUNDING EDN			310 310C
16.02.		CENTRAL MAUI NEW MIDDLE SCHOOL, MAUI  PLANS AND DESIGN FOR A NEW MIDDLE SCHOOL IN CENTRAL MAUI. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	PLANS DESIGN TOTAL FUNDING EDN		1,250 1,250 2,500C	
17.		EAST KAPOLEI HIGH SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW HIGH SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN		100 4,800 100 5,000C	
18.		EAST KAPOLEI MIDDLE SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW MIDDLE SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN		50 2,940 10 3,000C	
18.01.		ENCHANTED LAKE ELEMENTARY SCHOOL, OAHU  CONSTRUCTION TO UPDATE ELECTRICAL SYSTEM; INSTALLATION OF PERMANENT OUTDOOR STAGE AREA; RENOVATIONS/ COVERED WALKWAYS.	CONSTRUCTION TOTAL FUNDING EDN		280 280C	
18.02.		EWA BEACH ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATION OF BUILDINGS F AND G. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN		1 428 1 430C	

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19.		EWA MAKAI MIDDLE SCHOOL, OAHU  CONSTRUCTION FOR THE THIRD WING AND OTHER IMPROVEMENTS TO THE CAMPUS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  CONSTRUCTION TOTAL FUNDING EDN		18,400	18,400C	C
20.		FARRINGTON HIGH SCHOOL, OAHU  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE MODERNIZATION OF CAMPUS FACILITIES TO INCLUDE THE TRACK AND OTHER ATHLETIC FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN		150 800 8,550 500 10,000C	800 500 10,000C	C
20.01.		FARRINGTON HIGH SCHOOL, OAHU  DESIGN AND CONSTRUCTION FOR PHASE 2 OF CAMPUS MASTER PLAN IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  DESIGN CONSTRUCTION TOTAL FUNDING EDN		1 1,999 2,000C	1 1,999 2,000C	C
20.02.		FERN ELEMENTARY SCHOOL, OAHU  PLANS, DESIGN AND CONSTRUCTION FOR BUILDING B BOYS RESTROOM RENOVATION. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN		1 1 198 200C	1 1 198 200C	C
21.		HAIKU ELEMENTARY SCHOOL, MAUI  PLANS, DESIGN AND CONSTRUCTION OF TWO (2) PORTABLE CLASSROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN		1 1 698 700C	1 1 698 700C	C
21.01.		HONOKAA ELEMENTARY SCHOOL, HAWAII  PLANS, DESIGN AND CONSTRUCTION FOR STUDENT DROP OFF AND PARKING.				

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	EDN		1 1 1,998 2,000 C	
21.02.		HELEMANO ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT TO RENOVATE AND EXPAND THE CAFETERIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	EDN		100 3,500 400 4,000 C	
22.		HONOKAA HIGH SCHOOL, HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR CONSTRUCTION OF COVERED BLEACHERS AND OTHER ATHLETIC FACILITY IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	EDN		50 150 700 900 C	2,000 2,000 C
23.		HONOKAA HIGH SCHOOL, HAWAII				
		DESIGN AND CONSTRUCTION FOR ELECTRICAL AND LIGHTING IMPROVEMENTS IN GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN		10 90 100 C	C
24.		HONOWAI ELEMENTARY SCHOOL, OAHU				
		PLANS AND DESIGN FOR A NEW EIGHT-CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		PLANS DESIGN TOTAL FUNDING	EDN		80 800 880 C	C
24.01.		ILIMA INTERMEDIATE SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR SCHOOL-WIDE HEAT ABATEMENT AND AIR CONDITIONING UPGRADES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN		200 800 1,000 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 F	M O 2013-2014 F	FISCAL YEAR 2014-2015 O 2014-2015 F
24.02.		ILIAHI ELEMENTARY SCHOOL, OAHU				
		CONSTRUCTION AND EQUIPMENT FOR OUTDOOR COVERED PLAY COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		CONSTRUCTION			450	
		EQUIPMENT			50	
		TOTAL FUNDING	EDN	C		500C
25.		JEFFERSON ELEMENTARY, OAHU				
		EQUIPMENT FOR SECURITY FENCING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		EQUIPMENT		75		
		TOTAL FUNDING	EDN	75C		C
26.		KAHALA ELEMENTARY SCHOOL, OAHU				
		CONSTRUCTION FOR REPLACEMENT OF STAGE FLOOR AND CURTAINS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		CONSTRUCTION		60		
		TOTAL FUNDING	EDN	60C		C
26.01.		KAHALA ELEMENTARY SCHOOL, OAHU				
		CONSTRUCTION FOR REPAINTING THE EXTERIOR OF CAMPUS BUILDINGS.				
		CONSTRUCTION			360	
		TOTAL FUNDING	EDN	C		360C
27.		KAHUKU HIGH SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR REPLACEMENT AND/OR RENOVATION OF BLEACHERS AT FOOTBALL FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		50		
		CONSTRUCTION		250		
		TOTAL FUNDING	EDN	300C		C
28.		KAILUA ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR THE RESURFACING OF THE BASKETBALL COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		5		
		CONSTRUCTION		55		
		TOTAL FUNDING	EDN	60C		C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 O F	FISCAL YEAR 2014-2015 O F	FISCAL YEAR 2014-2015 F
29.		KAILUA ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION AND/OR REPLACEMENT OF LIGHTS IN THE PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		5		
		CONSTRUCTION		40		
		EQUIPMENT		5		
		TOTAL FUNDING	EDN	50	C	
29.01.		KAILUA HIGH SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PERFORMING ARTS AND MEDIA PRESENTATION CENTER AT KAILUA HIGH SCHOOL, OAHU.				
		DESIGN		1		
		CONSTRUCTION		148		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	150	C	
29.02.		KAIMUKI HIGH SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION TO PAVE GRAVEL PARKING LOT ON THE MAKAI SIDE OF THE GYM, INCLUDING THE FIRE LANE AND FIRE ACCESS ALL THE WAY UP TO THE FENCE.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		248		
		TOTAL FUNDING	EDN	250	C	
30.		KAISER HIGH SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW TRACK AND SYNTHETIC FIELD TURF, GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		100		
		DESIGN		350		
		CONSTRUCTION		4,500		
		TOTAL FUNDING	EDN	4,500	C	
30.01.		KALAMA INTERMEDIATE SCHOOL, MAUI				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR OUTDOOR COVERED PLAY COURT.				
		DESIGN		1		
		CONSTRUCTION		1,498		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	1,500	C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
30.02.		KALANI HIGH SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR GIRLS' LOCKER ROOM AND MULTIPURPOSE ATHLETIC FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				5,997
		EQUIPMENT				1
		TOTAL FUNDING EDN		C		6,000C
30.03.		KALEIOPUU ELEMENTARY SCHOOL, OAHU				
		PLANS AND DESIGN FOR A NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				250
		DESIGN				1,550
		TOTAL FUNDING EDN		C		1,800C
30.04.		KALIHI WAENA ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR GRAVEL PARKING LOT. GROUND AND SITE IMPROVEMENTS; EQUIPMENT APPURTENANCES.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				8
		TOTAL FUNDING EDN		C		10C
30.05.		KAMALII ELEMENTARY SCHOOL, HAWAII				
		PLANS AND DESIGN FOR A NEW COVERED PLAY COURT. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				125
		DESIGN				125
		TOTAL FUNDING EDN		C		250C
30.06.		KALIHI UKA ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING THE INSTALLATION AND MAINTENANCE OF A WHEELCHAIR LIFT FOR THE CAFETERIA AND LIBRARY.				
		PLANS				1
		DESIGN				1
		CONSTRUCTION				317
		EQUIPMENT				1
		TOTAL FUNDING EDN		C		320C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F
31.		KANOELANI ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A GENERAL CLASSROOM PORTABLE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		50		
		CONSTRUCTION		375		
		EQUIPMENT		50		
		TOTAL FUNDING	EDN	475	C	
31.01.		KAPAA HIGH SCHOOL, KAUAI				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND RENOVATIONS TO CAREER PATHWAY CLASSROOMS AND ADJOINING FACILITIES INCLUDING AUTOMOTIVE, BUILDING AND CONSTRUCTION, GRAPHIC COMMUNICATION, DIGITAL MEDIA, HEALTH SERVICE, AND CULINARY ARTS FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		1,597		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	1,600	C	
32.		KAPALAMA ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR A NEW DOOR TO REPLACE AN EXISTING DOOR FOR FIRE SAFETY IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		50		
		CONSTRUCTION		200		
		TOTAL FUNDING	EDN	250	C	
32.01.		KAU HIGH SCHOOL, HAWAII				
		CONSTRUCTION TO PROVIDE IMPROVEMENTS FOR THE CURRENT LOCKER ROOM AND GYM RESTORATION.				
		CONSTRUCTION		550		
		TOTAL FUNDING	EDN	550	C	
32.02.		KAUAI HIGH SCHOOL, KAUAI				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN AUTOMOTIVE PAINT BOOTH; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		247		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	250	C	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
32.03.		KAPUNAHALA ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS BETWEEN BUILDINGS A, B, AND C; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				1
		DESIGN				50
		CONSTRUCTION				699
		TOTAL FUNDING	EDN		C	750C
33.		KAULUWELA ELEMENTARY SCHOOL, OAHU				
		PLANS FOR NOISE ABATEMENT AND AIR CONDITIONING FOR SCHOOL CAFETERIA. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				100
		TOTAL FUNDING	EDN		C	100C
34.		KAWANANAKOA MIDDLE SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				200
		DESIGN				800
		CONSTRUCTION				4,000
		TOTAL FUNDING	EDN		C	5,000C
35.		KEALAKEHE HIGH SCHOOL, HAWAII				
		DESIGN FOR UPGRADES TO AN ALL- WEATHER AND SYNTHETIC TRACK.				
		DESIGN				300
		TOTAL FUNDING	EDN		C	300C
35.01.		KEAAU HIGH SCHOOL, HAWAII				
		CONSTRUCTION TO CLEAR LAND ADJACENT TO THE SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		CONSTRUCTION				275
		TOTAL FUNDING	EDN		C	275C
36.		KEAAU MIDDLE SCHOOL, HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS				5
		DESIGN				20
		CONSTRUCTION				650
		TOTAL FUNDING	EDN		C	675C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 F	FISCAL YEAR O	FISCAL M YEAR 2014-2015 F
36.01.		KEOLU ELEMENTARY, OAHU CONSTRUCTION TO RENOVATE OR REMOVE AND REPLACE WALKWAY COVER. CONSTRUCTION	EDN		60	
		TOTAL FUNDING	EDN	C	60C	
37.		KIHEI HIGH SCHOOL, MAUI PLANS, DESIGN AND CONSTRUCTION FOR A NEW HIGH SCHOOL IN KIHEI, MAUI. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES. PLANS		1,000		
		DESIGN		9,000		
		CONSTRUCTION		120,000		
		TOTAL FUNDING	EDN	B	100,000B	
			EDN	C	30,000C	
38.		KILAUEA ELEMENTARY SCHOOL, KAUAI DESIGN AND CONSTRUCTION FOR RENOVATION OF BUILDING B TO USE FOR ADMINISTRATIVE OFFICES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES. DESIGN		120		
		CONSTRUCTION		1,400		
		TOTAL FUNDING	EDN	1,520C		
C						
39.		KING KEKAULIKE HIGH SCHOOL, MAUI CONSTRUCTION FOR A NEW AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES. CONSTRUCTION		14,000		
		TOTAL FUNDING	EDN	14,000C		
C						
39.01.		KING KEKAULIKE HIGH SCHOOL, MAUI DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE IMPROVEMENT FOR TRACK AND FIELD UPGRADES AND REPLACEMENT OF STADIUM LIGHT FIXTURES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES. DESIGN		1		
		CONSTRUCTION		3,998		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	C	4,000C	
C						
39.02.		KING WILLIAM C. LUNALILO ELEMENTARY SCHOOL, OAHU CONSTRUCTION AND EQUIPMENT FOR ELECTRICAL UPGRADE AND INSTALLATION OF CLASSROOM EQUIPMENT/FURNITURE AND FANS IN OFFICE, BUILDING A AND C. CONSTRUCTION		339		
		EQUIPMENT		1		
		TOTAL FUNDING	EDN	C	340C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 M O F	FISCAL YEAR 2014-2015 M O F	
39.03.		KONAWAENA HIGH SCHOOL, HAWAII				
		DESIGN AND EQUIPMENT FOR THE INSTALLATION OF A NEW LIGHTING SYSTEM FOR THE GYMNASIUM. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN				125
		EQUIPMENT				125
		TOTAL FUNDING	EDN			250C
40.		LAHAINA INTERMEDIATE SCHOOL, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR PEDESTRIAN SAFETY IMPROVEMENTS AT SCHOOL ENTRY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES				
		PLANS		1		
		DESIGN		15		
		CONSTRUCTION		59		
		TOTAL FUNDING	EDN	75C		
40.01.		LANIKAI ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE CAFETERIA AT LANIKAI ELEMENTARY SCHOOL.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			867	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN			870C
40.02.		LEHUA ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT OF A NEW ADMINISTRATION BUILDING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN			1	
		CONSTRUCTION			798	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN			800C
41.		Likelike ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO PLAYGROUND AND BASKETBALL COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN			1	
		CONSTRUCTION			67	
		TOTAL FUNDING	EDN			68C
41.01.		LINAPUNI ELEMENTARY SCHOOL, OAHU				
		CONSTRUCTION FOR RESTROOM RENOVATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		CONSTRUCTION				350
		TOTAL FUNDING	EDN			350C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>		
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M O	FISCAL YEAR 2014-2015 F
41.02.		MAKAWAO ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION AND EQUIPMENT OF TWO (2) PORTABLE CLASSROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN			1 1,198 1 1,200	C
41.03.		MANANA ELEMENTARY SCHOOL, OAHU  DESIGN AND CONSTRUCTION OF 5 ADDITIONAL CLASSROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 1,999 2,000	C
41.04.		MAUI HIGH SCHOOL, MAUI  DESIGN AND CONSTRUCTION FOR WEIGHT TRAINING AND WRESTLING ROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 299 300	C
41.05.		MAUI HIGH SCHOOL, MAUI  DESIGN AND CONSTRUCTION TO RENOVATE AND EXPAND THE BAND/ CHOIR BUILDING INCLUDING ADDITIONAL STORAGE. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 449 450	C
41.06.		LIKELIKE ELEMENTARY SCHOOL, OAHU  PLANS, DESIGN AND CONSTRUCTION FOR SLOPE REMEDIATION LOCATED ADJACENT TO PALAMA STREET; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.  PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 1 83 85	C
41.07.		MAKAHA ELEMENTARY SCHOOL, OAHU  DESIGN AND CONSTRUCTION FOR ADA ACCESS AND IMPROVEMENTS FOR BUILDINGS A AND B; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 O	M F	FISCAL YEAR 2014-2015 O F
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN			250 1,250 1,500C
42.		MAUKA LANI ELEMENTARY SCHOOL, OAHU			C	
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	70 630 700C		
43.		MCKINLEY HIGH SCHOOL, OAHU			C	
		DESIGN AND CONSTRUCTION FOR RESTORATION OF BUILDING W; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN			500 9,500 10,000C
43.01.		MILILANI MAUKA ELEMENTARY SCHOOL, OAHU			C	
		PLANS, DESIGN AND CONSTRUCTION FOR PARKING LOT IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	EDN			1 1 198 200C
44.		MILILANI MIDDLE SCHOOL, OAHU			C	
		DESIGN AND CONSTRUCTION FOR THE RESURFACING OF PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	25 275 300C		
44.01.		MILILANI HIGH SCHOOL, OAHU			C	
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO THE ATHLETIC FIELD TO REPLACE THE WOODEN BLEACHERS WITH ALUMINUM BLEACHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	EDN			50 500 200 750C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 F	M O 2013-2014	FISCAL YEAR 2014-2015 F
45.		MILILANI PRESBYTERIAN CHURCH, OAHU  DESIGN AND CONSTRUCTION FOR EXPANSION OF THE PRESCHOOL FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN CONSTRUCTION TOTAL FUNDING EDN		10 90 100		C
45.01.		MILILANI UKA ELEMENTARY SCHOOL, OAHU  DESIGN AND CONSTRUCTION FOR A SCHOOL-WIDE ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 999 1,000	C
46.		MILILANI WAENA ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION AND/OR REPLACEMENT OF AIR CONDITIONING UNITS IN BUILDING B AND D; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN		10 300 15 325		C
47.		MOANALUA HIGH SCHOOL, OAHU  PLANS, DESIGN AND CONSTRUCTION OF A NEW SYNTHETIC 8-LANE TRACK. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN		100 300 400		2,100 2,100 C
47.01.		MOANALUA HIGH SCHOOL, OAHU  PLANS, DESIGN AND CONSTRUCTION OF PHASE II OF THE PERFORMING ARTS CENTER TO INCLUDE SITE WORK, RELOCATION OF PORTABLES, ELECTRICAL, AND AIR CONDITIONING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN		100 500 4,400 5,000		C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
48.		MOKAPU ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAMPUS-WIDE IMPROVEMENTS TO INCLUDE MODERNIZATION OF CLASSROOMS AND OTHER FACILITIES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			1	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN		3C	
			EDN		1N	C
48.01.		MOMILANI ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION OF CAMPUS-WIDE ELECTRICAL UPGRADES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		DESIGN			1	
		CONSTRUCTION			599	
		TOTAL FUNDING	EDN		600C	C
49.		NAHIENAENA ELEMENTARY SCHOOL, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR PEDESTRIAN SAFETY IMPROVEMENTS AT SCHOOL ENTRY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.				
		PLANS			1	
		DESIGN			15	
		CONSTRUCTION			59	
		TOTAL FUNDING	EDN		75C	C
49.01.		NANAKULI HIGH AND INTERMEDIATE SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO THE STADIUM AND FOOTBALL FIELD, INCLUDING INSTALLATION OF A SCORE BOARD, VISITOR BLEACHERS, CONCESSION BOOTH, TRACK AND FIELD, AND AMERICANS WITH DISABILITIES ACT COMPLIANT RAMPS.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			497	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN		500C	C
49.02.		NEW HIGH SCHOOL IN EWA, OAHU				
		PLANS, LAND ACQUISITION AND DESIGN FOR A NEW HIGH SCHOOL IN EWA.				

**ACT 122**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		PLANS			1
		LAND			9,998
		DESIGN			1
		TOTAL FUNDING	EDN	B	10,000B
50.		NUUANU ELEMENTARY SCHOOL, OAHU			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR REPAIR AND RENOVATION OF WALKWAY ROOF; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS			1
		CONSTRUCTION			68
		EQUIPMENT			1
		TOTAL FUNDING	EDN	70C	
51.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR RENOVATION OF GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN			500
		CONSTRUCTION			3,000
		TOTAL FUNDING	EDN	3,500C	360C
52.		PEARL CITY ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN			200
		CONSTRUCTION			800
		TOTAL FUNDING	EDN	1,000C	
53.		PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR AN EXPANSION OF THE ADMINISTRATION BUILDING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS			20
		DESIGN			100
		TOTAL FUNDING	EDN	120C	
54.		PEARL CITY HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR TRACK AND FIELD IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		DESIGN			250
		CONSTRUCTION			4,650
		EQUIPMENT			100
		TOTAL FUNDING	EDN	5,000C	
					C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
54.01.		PEARL CITY HIGH SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION OF HANDICAP PARKING LOT BY TENNIS COURT. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 249 250C	C
54.02.		PEARL HARBOR KAI ELEMENTARY, OAHU				
		DESIGN AND CONSTRUCTION FOR IRRIGATION SYSTEM; GROUND AND SITE IMPROVEMENTS. EQUIPMENT AND APPURTENCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 49 50C	C
54.03.		PEARL CITY HIGH SCHOOL, OAHU				
		PLANS AND DESIGN FOR THE RESURFACING AND INSTALLATION OF SPEED LIMIT SIGNS AND CROSSWALK ON HOOKIEKIE ST; GROUND AND SITE IMPROVEMENTS. EQUIPMENT AND APPURTENCES.				
		PLANS DESIGN TOTAL FUNDING EDN			100 350 450C	C
55.		QUEEN KAAHUMANU ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN OPERABLE PARTITION TO THE CAFETERIA AND A SPLIT AIR CONDITIONING SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING EDN			10 500 30 540C	C
55.01.		QUEEN KAAHUMANU ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY LINKING A BUILDING TO THE CAFETERIA.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING EDN			1 1 333 335C	C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
56.		RADFORD HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF MULTI-PURPOSE CLASSROOM TO INCLUDE AIR-CONDITIONING, VENTILATION, PLUMBING, AND ELECTRICAL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		100	
		CONSTRUCTION			2,199
		TOTAL FUNDING	EDN	101 C	2,199 C
56.01.		RADFORD HIGH SCHOOL, OAHU			
		CONSTRUCTION FOR SOIL TESTING AND REMEDIATION FOR THE ATHLETIC TRACK AND FIELD PROJECT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION			250
		TOTAL FUNDING	EDN	C	250 C
57.		RED HILL ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION TO RESURFACE THE DRIVEWAY AND PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		20	
		CONSTRUCTION		400	
		TOTAL FUNDING	EDN	420 C	C
57.01.		ROYAL KUNIA ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW ELEMENTARY SCHOOL IN ROYAL KUNIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		1,300	
		CONSTRUCTION		100	
		TOTAL FUNDING	EDN	C	1,500 C
58.		SALT LAKE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS AND UPGRADES TO BUILDING F; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		200	
		CONSTRUCTION		1,800	
		TOTAL FUNDING	EDN	2,000 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 O	M F	FISCAL YEAR 2014-2015 O
58.01.		SALT LAKE ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INTERIOR RENOVATION OF CLASSROOM E-4 AND CONSTRUCTION OF INTERIOR WALLS IN BUILDING E-4 TO FORM FOUR INDIVIDUAL CLASSROOMS, INCLUDING CENTRAL AIR CONDITIONING ELECTRICAL UPDATES, CLASSROOM EQUIPMENT, VIDEO, AND DATA CONNECTIVITY.				
		DESIGN			1	
		CONSTRUCTION			1,398	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN			1,400 C
58.02.		SALT LAKE ELEMENTARY SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION OF PORTABLE P-2. CONSTRUCTION OF RESTROOM FACILITY FOR BOYS AND GIRLS CONNECTED TO P-1, P-2 OR P-6.				
		DESIGN			1	
		CONSTRUCTION			398	
		EQUIPMENT			1	
		TOTAL FUNDING	EDN			400 C
59.		SEAGULL SCHOOLS CHILDCARE CENTER, OAHU				
		CONSTRUCTION FOR A CHILDCARE CENTER LOCATED AT KAPOLEI ELEMENTARY SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION			1,200	
		TOTAL FUNDING	EDN		1,200 C	
60.		SOLOMON ELEMENTARY SCHOOL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAMPUS-WIDE IMPROVEMENTS TO INCLUDE MODERNIZATION OF CLASSROOMS AND OTHER FACILITIES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS			1	
		DESIGN			1	4,000
		CONSTRUCTION			1	55,000
		EQUIPMENT			1	1,000
		TOTAL FUNDING	EDN		3C	12,000 C
					1N	48,000 N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
61.		WAIAKEA ELEMENTARY SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR COVERING OF EXISTING PLAY COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		100	
		DESIGN		150	
		CONSTRUCTION		800	
		TOTAL FUNDING	EDN	1,050	C
62.		WAIAKEA HIGH SCHOOL, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION FOR A NEW BATTING CAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		1	
		DESIGN		9	
		CONSTRUCTION		440	
		TOTAL FUNDING	EDN	450	C
63.		WAIANAE ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW ADMINISTRATION BUILDING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		100	
		DESIGN		400	
		CONSTRUCTION			4,500
		TOTAL FUNDING	EDN	500	C
64.		WAIANAE HIGH SCHOOL, OAHU			
		PLANS AND DESIGN TO CONNECT TWO EXISTING SEARIDER PRODUCTIONS MEDIA BUILDINGS SP AND T. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		100	
		DESIGN		400	
		TOTAL FUNDING	EDN		500
65.		WAIANAE HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO REPLACE EXISTING WOODEN BLEACHERS WITH ALUMINUM BLEACHERS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		100	
		DESIGN		300	
		CONSTRUCTION		1,100	
		TOTAL FUNDING	EDN	1,500	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014	FISCAL M YEAR O 2014-2015
66.		WAIKELE ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR LIBRARY EXPANSION & IMPROVEMENTS FOR DIGITAL MEDIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			50
		DESIGN			350
		TOTAL FUNDING	EDN	C	400C
67.		WAIKELE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR EXPANSION OF EXISTING CAFETERIA TO INCLUDE A PERFORMING ARTS STAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		400	
		TOTAL FUNDING	EDN	500C	
68.		WAIKIKI ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INSTALLATION OF GRASS AND IRRIGATION SYSTEM FOR LEAHI FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		100	
		EQUIPMENT		40	
		TOTAL FUNDING	EDN	150C	
68.01.		WAIMALU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR AMERICANS WITH DISABILITIES ACT ACCESS TO SECOND FLOOR AND WITH CONNECTION BETWEEN BUILDING D AND BUILDING E. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			1,249
		TOTAL FUNDING	EDN	C	1,250C
68.02.		WAIKIKI ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A MINDFUL LEARNING CENTER CLASSROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			598
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	600C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
69.		WAIMANALO ELEMENTARY AND INTERMEDIATE SCHOOL, OAHU				
		PLANS AND DESIGN FOR A SCIENCE, TECHNOLOGY AND MEDIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		50		
		DESIGN		350		
		TOTAL FUNDING	EDN	400	C	
70.		WAIMEA MIDDLE SCHOOL, HAWAII				
		CONSTRUCTION AND EQUIPMENT FOR A SPECIALTY AND SUPPORT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		CONSTRUCTION		5,000		9,889
		EQUIPMENT				1
		TOTAL FUNDING	EDN	5,000	C	9,890
71.		WAIPAHU ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR NEW PARKING LOT AND REFURBISHMENT OF EXISTING PARKING AREA INTO FORMAL PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		50		
		CONSTRUCTION		500		
		TOTAL FUNDING	EDN	550	C	
71.01.		WAIPAHU ELEMENTARY SCHOOL, OAHU				
		DESIGN AND CONSTRUCTION FOR CAMPUS WIDE ELECTRICAL SYSTEM UPGRADES.				
		DESIGN				1
		CONSTRUCTION				
		TOTAL FUNDING	EDN		C	2,000
72.		WAIPAHU HIGH SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR SYNTHETIC FIELD TURF, AN ALL WEATHER 8-LANE TRACK AND OTHER RELATED IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		100		
		CONSTRUCTION		5,300		
		EQUIPMENT		100		
		TOTAL FUNDING	EDN	5,500	C	
73.		WAIPAHU HIGH SCHOOL, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR A RETAINING WALL BEHIND THE SCHOOL. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		50		

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 2013-2014 F	M O C	FISCAL YEAR 2014-2015 2014-2015 F
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	150 600 800C		
73.01.		WAIPAHU HIGH SCHOOL, OAHU				C
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW CLASSROOM BUILDING, GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	EDN	100 200 900		
73.02.		WAIPAHU HIGH SCHOOL, OAHU				C 1,200C
		DESIGN AND CONSTRUCTION FOR A CAMPUS WIDE ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN CONSTRUCTION TOTAL FUNDING	EDN	200 1,800		
74.		WASHINGTON MIDDLE SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW BAND ROOM AND RENOVATIONS TO EXISTING* FOR HAWAIIAN STUDIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	EDN	200 800 100		
				1,100C		C
74.01.		WASHINGTON MIDDLE SCHOOL, OAHU				
		CONSTRUCTION FOR THE RENOVATION OF EXISTING CLASSROOMS THAT ARE CURRENTLY BEING USED FOR WORK STORAGE TO CREATE STEM LAB.				
		CONSTRUCTION TOTAL FUNDING	EDN	500		
74.02.		WASHINGTON MIDDLE SCHOOL, OAHU				
		PLANS AND DESIGN FOR AN AUDITORIUM COMPLEX.				
		PLANS DESIGN TOTAL FUNDING	EDN	150 150 300C		
74.03.		WASHINGTON MIDDLE SCHOOL, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT TO REPLACE THE AIR CONDITIONING UNIT IN THE SCHOOL LIBRARY. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

DESIGN					1
CONSTRUCTION					79
EQUIPMENT					200
TOTAL FUNDING	EDN			C	280C

**EDN400 - SCHOOL SUPPORT**

75. 000014 LUMP SUM CIP - PROJECT POSITIONS, STATEWIDE

PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.

PLANS		5,200	5,200
TOTAL FUNDING	EDN	5,200C	5,200C

**EDN600 - CHARTER SCHOOLS<sup>1</sup>**

75.01. KANU O KA AINA LEARNING OHANA, HAWAII

CONSTRUCTION FOR A NEW COMMUNITY RECREATION CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

CONSTRUCTION		1,700	1,700
TOTAL FUNDING	EDN	C	C

**EDN407 - PUBLIC LIBRARIES**

76. 01-HS HEALTH AND SAFETY, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR HEALTH, SAFETY, ACCESSIBILITY, AND OTHER CODE REQUIREMENTS. PROJECTS MAY INCLUDE, BUT NOT BE LIMITED TO, THE REMOVAL OF HAZARDOUS MATERIALS, RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, ENVIRONMENTAL CONTROLS, FIRE PROTECTION, IMPROVEMENTS TO BUILDINGS AND GROUNDS, AND OTHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.

PLANS		200	
DESIGN		400	
CONSTRUCTION		2,399	2,499
EQUIPMENT		1	1
TOTAL FUNDING	AGS	3,000C	2,500C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
77.	P11104	NEW NANAKULI PUBLIC LIBRARY, OAHU			
		CONSTRUCTION FOR A NEW NANAKULI PUBLIC LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		CONSTRUCTION		15,500	
		TOTAL FUNDING AGS		15,500C	C
78.	92	NEW MAKIKI PUBLIC LIBRARY, OAHU			
		PLANS FOR A NEW MAKIKI PUBLIC LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS		250	
		TOTAL FUNDING AGS		250C	C
78.01.		WAIKIKI-KAPAHULU LIBRARY, OAHU			
		CONSTRUCTION FOR THE UPGRADE OF THE CURRENT IRRIGATION SYSTEM AND INSTALL AN IRRIGATION SYSTEM AT THE LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED.			
		CONSTRUCTION			175
		TOTAL FUNDING AGS			175C
78.02.		WAIKIKI-KAPAHULU LIBRARY, OAHU			
		CONSTRUCTION TO COMPLETE RENOVATION OF THE LAWN AREAS FOR BOTH THE WAIKIKI-KAPAHULU LIBRARY AND THE LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED.			
		CONSTRUCTION			150
		TOTAL FUNDING AGS			150C
78.03.		PUNA DISTRICT REGIONAL LIBRARY, HAWAII			
		PLANS AND DESIGN FOR A NEW REGIONAL LIBRARY LOCATED IN PAHOA IN THE PUNA DISTRICT OF HAWAII; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES.			
		PLANS			250
		DESIGN			550
		TOTAL FUNDING AGS			800C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

**DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY**

79. P99035 YOUTH CHALLENGE ACADEMY UPGRADE & IMPROVEMENTS, KEAUKAHA MILITARY RESERVATION, HAWAII

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR TWO (2) BILLETS TO HOUSE CADETS OF THE YCA PROGRAM ON THE ISLAND OF HAWAII; PROVIDE RENOVATION TO THE EXISTING ARMORY AT KEAUKAHA MILITARY RESERVATION (KMR) FOR ADMINISTRATION, CLASSROOMS, RESTROOMS, STORAGE, MULTI-PURPOSE/DINING AREA AND OTHER MISCELLANEOUS FACILITY AND INFRASTRUCTURE IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS	1	
DESIGN	50	
CONSTRUCTION	5,799	2,000
EQUIPMENT	50	
TOTAL FUNDING DEF	5,900 C	2,000 C

79.01. YC1501 YOUTH CHALLENGE ACADEMY, BUILDING 32 REPAIR AND IMPROVEMENTS, KALAELOA, OAHU

PLANS, DESIGN AND CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS TO BUILDING 32.

PLANS	20	
DESIGN	70	
CONSTRUCTION	250	
TOTAL FUNDING DEF	C	340 C

**UOH100 - UNIVERSITY OF HAWAII, MANOA**

80. UHM, COCONUT ISLAND, OAHU

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO COCONUT ISLAND FOR THE HAWAII INSTITUTE OF MARINE BIOLOGY. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.

PLANS	100	
DESIGN	300	
CONSTRUCTION	4,900	
EQUIPMENT	115	
TOTAL FUNDING UOH	5,415 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 O F	FISCAL YEAR 2014-2015 O F	
81.		UHM, COCONUT ISLAND, OAHU				
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS TO THE OLD PAULEY LABORATORY AND OTHER FACILITIES ON COCONUT ISLAND FOR THE HAWAII INSTITUTE OF MARINE BIOLOGY. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.				
		PLANS		200		
		DESIGN		500		
		CONSTRUCTION		5,512		
		EQUIPMENT		100		
		TOTAL FUNDING UOH		6,312	C	
82.		UHM, RICHARDSON LAW SCHOOL, EXPANSION AND MODERNIZATION, OAHU				
		CONSTRUCTION FOR THE EXPANSION AND MODERNIZATION OF THE WEST WING OF THE WILLIAM S. RICHARDSON SCHOOL OF LAW. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF NEW FACILITY, AND ALL PROJECT EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.				
		CONSTRUCTION		7,000		
		TOTAL FUNDING UOH		3,500	C	
		UOH		3,500	E	
83.		UHM, STUDENT HOUSING IMPROVEMENTS, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR STUDENT HOUSING IMPROVEMENTS AT THE UNIVERSITY OF HAWAII AT MANOA. PROJECT TO INCLUDE REPAIRS AND MAINTENANCE, RENOVATIONS, AND OTHER RELATED WORK.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		4,097		
		EQUIPMENT		1		
		TOTAL FUNDING UOH		4,100	B	
84.		UHM, SNYDER HALL, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS, UPGRADES AND IMPROVEMENTS TO SNYDER HALL. PROJECT TO INCLUDE REPAIRS AND MAINTENANCE, RENOVATIONS, AND OTHER RELATED WORK.				
		PLANS		1,000		
		DESIGN		3,000		
		CONSTRUCTION		25,000		
		EQUIPMENT		1,000		
		TOTAL FUNDING UOH		10,000	C	
		UOH		20,000	E	
						C
						E

**ACT 122**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR O 2013-2014 F	FISCAL YEAR O 2014-2015 F
84.01.	R16	UHM, MARINE CENTER RELOCATION, OAHU			
		DESIGN AND CONSTRUCTION FOR THE RELOCATION OF THE UNIVERSITY OF HAWAII MARINE CENTER FROM PIERS 43-45, BY COMPLETING THE RENOVATION OF A SHORE SUPPORT BUILDING AT PIER 35 AND CONSTRUCTING A 200 FT. SMALL BOAT FLOATING DOCK, 5,000 SQUARE FOOT STORAGE BUILDING, AND INTEGRATED SECURITY SYSTEM ON SAND ISLAND ADJOINING HONOLULU COMMUNITY COLLEGE'S MARINE EDUCATION TRAINING CENTER.			
		DESIGN		600	
		CONSTRUCTION		5,400	
		TOTAL FUNDING	UOH	E	6,000 E
84.02.	442	UHM, DANIEL K. INOUYE LIBRARY, OAHU			
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF THE DANIEL K. INOUYE LIBRARY. PROJECT TO CONSIST OF APPROXIMATELY 20,000 SQUARE FEET OF ARCHIVAL SPACE, EXHIBITION AREA, AUDITORIUM, CLASSROOMS, AND FACULTY RESEARCH SPACE.			
		DESIGN		2,500	
		CONSTRUCTION		10,000	
		TOTAL FUNDING	UOH	C	10,000 C
			UOH	R	1,000 R
			UOH	W	1,500 W
84.03.		LYON ARBORETUM, OAHU			
		CONSTRUCTION FOR A NEW MICRO- PROPAGATION LABORATORY FACILITY.			
		CONSTRUCTION		2,200	
		TOTAL FUNDING	UOH	C	1,000 C
			UOH	R	1,200 R
84.04.		UHM, MAGOON FACILITY, OAHU			
		PLANS AND DESIGN FOR THE MANOA AGRICULTURAL LEARNING EXCHANGE AT THE MAGOON FACILITY. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.			
		PLANS		500	
		DESIGN		2,000	
		TOTAL FUNDING	UOH	C	2,500 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014	FISCAL M YEAR O 2014-2015

84.05. UHM, HOLMES HALL, OAHU

PLANS AND DESIGN FOR THE  
RENOVATION, IMPROVEMENT, AND  
EXPANSION OF HOLMES HALL. PROJECT  
TO INCLUDE GROUND AND SITE  
IMPROVEMENTS, INFRASTRUCTURE,  
EQUIPMENT AND APPURTENANCES, AND  
ALL RELATED PROJECT COSTS.

PLANS	400
DESIGN	1,600
TOTAL FUNDING UOH	2,000 C

## UOH210 - UNIVERSITY OF HAWAII, HILO

85. UHH OFFICE OF MAUNA KEA MANAGEMENT, HAWAII

DESIGN AND CONSTRUCTION FOR  
INFRASTRUCTURE IMPROVEMENTS  
AND RENOVATION; GROUND AND SITE  
IMPROVEMENTS; EQUIPMENT AND  
APPURTENANCES.

DESIGN	100
CONSTRUCTION	1,900
TOTAL FUNDING UOH	2,000 C

85.01. 348 UHH, COLLEGE OF PHARMACY, NEW INSTRUCTIONAL FACILITY, HAWAII

DESIGN, CONSTRUCTION AND EQUIPMENT  
FOR A NEW INSTRUCTIONAL FACILITY  
FOR THE UNIVERSITY OF HAWAII  
AT HILO COLLEGE OF PHARMACY.  
PROJECT TO INCLUDE GROUND AND  
SITE IMPROVEMENTS, EQUIPMENT AND  
APPURTENANCES, AND ALL PROJECT  
RELATED COSTS.

DESIGN	1
CONSTRUCTION	31,999
EQUIPMENT	1,000
TOTAL FUNDING UOH	28,000 C
UOH	5,000 E

85.02. UNIVERSITY HAWAII AT HILO ASTRONOMY, HAWAII

CONSTRUCTION FOR THE  
MODERNIZATION AND REPAIR OF 2.2  
METER TELESCOPE ON MAUNA KEA.

CONSTRUCTION	2,500
TOTAL FUNDING UOH	2,500 C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
85.03.		UHH, COLLEGE OF AGRICULTURAL, FORESTRY AND NATURAL RESOURCE MANAGEMENT, HAWAII				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO ESTABLISH THE TEMPORARY SITE FOR THE UNIVERSITY OF HAWAII AT HILO INTERNATIONAL FLIGHT TRAINING CENTER AT THE HILO AIRPORT. PROJECT TO INCLUDE RENOVATING THE OLD HILO AIR TRAFFIC CONTROL TOWER AND ADJACENT BUILDING.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			497	
		EQUIPMENT			1	
		TOTAL FUNDING	UOH			500C
		UOHD00 - UNIVERSITY OF HAWAII, WEST OAHU				
86.		UNIVERSITY OF HAWAII - WEST OAHU, OAHU				
		DESIGN AND CONSTRUCTION OF ROAD B ON THE CAMPUS OF UHWO TO CONNECT TO KUALAKAI PARKWAY; PROJECT TO INCLUDE NECESSARY INTERSECTION IMPROVEMENTS. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES, AND ALL PROJECT RELATED COSTS.				
		DESIGN			350	
		CONSTRUCTION			3,150	
		TOTAL FUNDING	UOH		3,500C	
87.		UNIVERSITY OF HAWAII - WEST OAHU ADMINISTRATION AND ALLIED HEALTH FACILITY, OAHU				
		DESIGN AND CONSTRUCTION FOR THE ALLIED HEALTH AND ADMINISTRATION BUILDING. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTEANCES, AND ALL PROJECT RELATED COSTS.				
		DESIGN			800	
		CONSTRUCTION			11,000	
		TOTAL FUNDING	UOH		11,800C	
		17,000				
		17,000C				
87.01. 827		UHWO, SCIENCE, TECHNOLOGY, AND CREATIVE MEDIA FACILITY, OAHU				
		PLANS AND DESIGN FOR THE NEW SCIENCE, TECHNOLOGY, AND CREATIVE MEDIA FACILITY AT THE UNIVERSITY OF HAWAII-WEST OAHU KAPOLEI CAMPUS. PROJECT TO INCLUDE COMPLETION OF THE DESIGN, GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF NEW FACILITY, EQUIPMENT AND APPURTEANCES, AND ALL RELATED PROJECT COSTS.				
		PLANS			199	
		DESIGN			1,801	
		TOTAL FUNDING	UOH		2,000C	
		C				

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR O 2013-2014 F	M 2014-2015 F	FISCAL YEAR O 2014-2015 F

## UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES

88.		HAW, NORTH HAWAII EDUCATION AND RESEARCH CENTER, HAWAII				
		DESIGN AND CONSTRUCTION FOR RENOVATIONS TO NURSING AND CULINARY BUILDINGS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN	100			
		CONSTRUCTION	500			
		TOTAL FUNDING UOH	600	C		
89.		KAP, KOPIKO CLASSROOMS AND COURTYARD, PHASE II, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR KOPIKO CLASSROOMS AND COURTYARD, PHASE II; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN	10			
		CONSTRUCTION	489			
		EQUIPMENT	1			
		TOTAL FUNDING UOH	500	C		
90.		LEE, NATIVE HAWAIIAN CENTER FOR EXCELLENCE, OAHU				
		DESIGN AND CONSTRUCTION FOR A NATIVE HAWAIIAN CENTER FOR EXCELLENCE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN	100			
		CONSTRUCTION	1,900			
		TOTAL FUNDING UOH	2,000	C		
90.01.		LEE, THEATRE RENOVATION, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS TO THE LEEWARD COMMUNITY COLLEGE THEATRE. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.				
		DESIGN	100			
		CONSTRUCTION	7,800			
		EQUIPMENT	100			
		TOTAL FUNDING UOH	8,000	C		
91.		MAU, MOLOKAI EDUCATION CENTER, MOLOKAI				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE EXPANSION, RENOVATION, REPAIR AND MAINTENANCE OF THE MOLOKAI CAMPUS OF MAUI COMMUNITY COLLEGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	UOH	1 2,248 1 2,250		C
92.		UNIVERSITY OF HAWAII PALAMANUI CAMPUS, PHASE I, HAWAII				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE COMPLETION OF UNIVERSITY OF HAWAII PALAMANUI CAMPUS, PHASE I; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	UOH	1 2,398 1 2,400		C
93.		SYS, MINOR CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR CAMPUSES OF THE COMMUNITY COLLEGE SYSTEM, STATEWIDE				
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII, COMMUNITY COLLEGE FACILITIES, STATEWIDE. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, REROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL COMMUNITY COLLEGE CAMPUSES.				
		PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	UOH	1 1 9,997 1 10,000	1 1 9,997 1 10,000	C
94.		HON-HONOLULU COMMUNITY COLLEGE - ADVANCED TECHNOLOGY AND TRAINING CENTER, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN ADVANCED SCIENCE AND TECHNOLOGY FACILITY FOR HONOLULU COMMUNITY COLLEGE. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	UOH	1 34,395 3,817 38,213		C
94.01.		MAUI FOOD INNOVATION CENTER, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR THE MAUI FOOD INNOVATION CENTER AT THE UNIVERSITY OF HAWAII, MAUI COLLEGE.				

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014	FISCAL M YEAR O 2014-2015

PLANS	1
DESIGN	1
CONSTRUCTION	2,698
TOTAL FUNDING UOH	2,700 C

## UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT

95. 536      SYS, HEALTH, SAFETY, AND CODE REQUIREMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES FOR HEALTH, SAFETY, AND CODE REQUIREMENTS. PROJECT INCLUDES GROUND AND SITE IMPROVEMENTS, STRUCTURAL RETROFITS, NEW FACILITIES, AND ALL PROJECT RELATED COSTS.

PLANS	1	1
DESIGN	1	766
CONSTRUCTION	27,998	28,233
TOTAL FUNDING UOH	28,000 C	29,000 C

96.      SYS, CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII FACILITIES. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, REROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL UNIVERSITY CAMPUSES.

PLANS	1	1
DESIGN	1	1
CONSTRUCTION	49,997	49,997
EQUIPMENT	1	1
TOTAL FUNDING UOH	50,000 C	50,000 C

97.      SYS, UNIVERSITY OF HAWAII PROJECT ADJUSTMENT FUND, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PROJECT ADJUSTMENT FUND FOR THE UNIVERSITY OF HAWAII.

PLANS	1
DESIGN	1
CONSTRUCTION	1
EQUIPMENT	1
TOTAL FUNDING UOH	4C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
97.01.		TRANSPACIFIC FIBER, STATEWIDE			
		CONSTRUCTION AND EQUIPMENT FOR CAPITAL ACQUISITION AND ACTIVATION OF INDEFEASIBLE RIGHT OF USE ON A MAJOR TRANSPACIFIC FIBER SYSTEM PLANNED TO REACH THE STATE OF HAWAII.			
		CONSTRUCTION EQUIPMENT		5,999 1	
		TOTAL FUNDING UOH			6,000 C
		C			

**H. CULTURE AND RECREATION**

**LNR802 - HISTORIC PRESERVATION<sup>1</sup>**

0.02.		DIAMOND HEAD SEAWALL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION COSTS ASSOCIATED WITH ASSESSING, REPAIRING, AND MAINTAINING DIAMOND HEAD SEAWALL.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,498	
		TOTAL FUNDING LNR			1,500 C
0.03.		HAWAIIAN MISSION CHILDREN'S SOCIETY, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RESTORATION AND REPAIR PROJECTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		549	
		EQUIPMENT		1	
		TOTAL FUNDING LNR			552 C
		C			

**LNR804 - FOREST AND OUTDOOR RECREATION**

1.	D01C	CAMP 10 ACCESS ROAD BRIDGE, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CAMP 10 ACCESS BRIDGES THAT CONNECT KOKEE STATE PARK TO THE NA PAILI KONA FOREST RESERVE ALAKAI SWAMP AND THE ALAKAI WILDERNESS PRESERVE.			
		PLANS		25	
		DESIGN		50	
		CONSTRUCTION		425	
		TOTAL FUNDING LNR		500 C	2,300 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
2.	D01F	FOREST AND OUTDOOR RECREATION IMPROVEMENTS, STATEWIDE				
		PLANS, DESIGN AND CONSTRUCTION FOR FOREST AND OUTDOOR RECREATION IMPROVEMENTS FOR HEALTH, SAFETY, WELFARE AND SECURITY OF PUBLIC VISITORS.				
		PLANS		75		
		DESIGN		75		
		CONSTRUCTION		1,190		2,115
		TOTAL FUNDING LNR		1,340 C		2,115 C
4.		MOANALUA GARDENS FOUNDATION, OAHU				
		PLANS, DESIGN, AND CONSTRUCTION FOR KAMANANUI (MOANALUA) VALLEY IMPROVEMENTS TO INCLUDE ACCESS ROAD IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		448		1,200
		TOTAL FUNDING LNR		450 C		1,200 C
5.		HANALEI RIVER, KAUAI				
		PLANS, DESIGN AND CONSTRUCTION TO REPAIR, REINFORCE AND UPGRADE THE HANALEI RIVER BREACH.				
		PLANS		1		
		DESIGN		100		
		CONSTRUCTION		899		1,500
		TOTAL FUNDING LNR		1,000 C		1,500 C
5.01.	D02A	DLNR EAST OAHU RADIO REPEATER SYSTEM, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, EAST OAHU RADIO REPEATER SYSTEM.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		197		
		EQUIPMENT		1		
		TOTAL FUNDING LNR		C		200 C
5.02.	D02L	KULA FOREST RESERVE, MAUI				
		PLANS, DESIGN AND CONSTRUCTION FOR RECONSTRUCTION/RESURFACING TO EXISTING ACCESS ROADS, KULA FOREST RESERVE				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		248		
		TOTAL FUNDING LNR		C		250 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
5.03.		HEEIA STATE PARK, OAHU			
		CONSTRUCTION FOR THE RENOVATIONS AND IMPROVEMENTS TO MAIN ROOF, STRUCTURAL BEAMS AND LANAI ROOF OF MAIN HALL BUILDING TO CORRECT LONG TERM TERMITE DAMAGE AND PROVIDE TERMITE TREATMENT OF STRUCTURE.			
		CONSTRUCTION			150
		TOTAL FUNDING	LNR	C	150 C
5.04.		HEEIA STATE PARK, OAHU			
		CONSTRUCTION FOR THE IMPROVEMENTS TO PARKING LOT AND ACCESS TO FISHPOND.			
		CONSTRUCTION			100
		TOTAL FUNDING	LNR	C	100 C
5.05.		MAUNAWILI TRAIL VISITOR PARKING, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A PARKING AREA AND TRAILHEAD IMPROVEMENTS.			
		PLANS			1
		DESIGN			100
		CONSTRUCTION			99
		TOTAL FUNDING	LNR	C	200 C

**LNR806 - PARKS ADMINISTRATION AND OPERATION**

6.	H66	STATE PARKS HAZARD MITIGATION IMPROVEMENTS, STATEWIDE			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR STATE PARKS HAZARD MITIGATION IMPROVEMENTS, INCLUDING NATURAL, ARBOREAL AND ANTHROPOGENIC HAZARDS.			
		DESIGN		200	
		CONSTRUCTION		2,000	2,900
		EQUIPMENT		800	100
		TOTAL FUNDING	LNR	3,000 C	3,000 C
7.	H65	LUMP SUM CIP IMPROVEMENTS AT STATE PARKS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION OF STATE PARK IMPROVEMENTS, INCLUDING INFRASTRUCTURE, FACILITY SUPPORT, REGULATORY COMPLIANCE IMPROVEMENTS AND PUBLIC HEALTH AND SAFETY IMPROVEMENTS.			
		PLANS		50	
		DESIGN		900	
		CONSTRUCTION		6,550	6,750
		TOTAL FUNDING	LNR	7,500 C	6,750 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
8.		CENTRAL MAUI REGION SPORTS COMPLEX, MAUI  DESIGN AND CONSTRUCTION FOR ESTABLISHMENT OF A REGIONAL PARK IN THE AREA OF CENTRAL MAUI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		500		
		CONSTRUCTION		4,200		
		TOTAL FUNDING LNR		4,700 C		5,000 C
9.		MANA DRAG RACING STRIP, KAUAI  PLANS, DESIGN AND CONSTRUCTION TO UPGRADE AND RESURFACE MANA DRAG RACING STRIP. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		498		
		TOTAL FUNDING LNR		500 C		500 C
10.		FRIENDS OF IOLANI PALACE, OAHU  PLANS, DESIGN AND CONSTRUCTION FOR CONTINUING RENOVATIONS, REPAIRS AND RESTORATION WITHIN THE PALACE COMPLEX. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		998		
		TOTAL FUNDING LNR		1,000 C		C
11.		GIRL SCOUTS OF HAWAII, STATEWIDE  PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR INFRASTRUCTURE AND FACILITIES, STATEWIDE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS		100		
		DESIGN		150		
		CONSTRUCTION		1,000		
		TOTAL FUNDING LNR		1,250 C		C
12.		LIPOA POINT, LAND ACQUISITION, MAUI  LAND ACQUISITION FOR THE PARCEL OF LAND; TMK 2-4-1-001-010-0000, LOCATED AT LIPOA POINT, MAUI.				
		LAND		20,000		
		TOTAL FUNDING LNR		20,000 C		C
12.01.		NEW STATE PARK, OAHU  PLANS FOR A NEW STATE PARK TO BE LOCATED IN THE VICINITY OF LANIAKEA AND CHUN'S REEF.				
		PLANS		100		
		TOTAL FUNDING LNR		100 C		

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12.02.		AHA HUI E KALA, KAUAI			
		DESIGN AND CONSTRUCTION FOR INFRASTRUCTURE IMPROVEMENTS AT THE LAWAII INTERNATIONAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		299	
		TOTAL FUNDING	LNR	300	C
13.		PACIFIC AMERICAN FOUNDATION, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW FACILITY FOR EDUCATION, RESEARCH AND EMPLOYMENT PROGRAMS IN KANEOHE, OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		200	
		CONSTRUCTION		700	
		TOTAL FUNDING	LNR	1,000	C
					500
14.	B99C	MARINE DEBRIS MITIGATION, STATEWIDE			
		CONSTRUCTION FOR THE REMOVAL OF MARINE DEBRIS FROM STATE WATERS AND SHORELINES.			
		CONSTRUCTION		2,000	
		TOTAL FUNDING	LNR	2,000	C
15.	B99	LUMP SUM IMPROVEMENTS AT BOATING AND OCEAN RECREATION FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS BOATING FACILITIES TO INCLUDE PIERS, LOADING DOCKS, UTILITIES, BOAT RAMPS, RESTROOMS, PARKING AREAS, STRUCTURES, DREDGING, SEWER SYSTEMS, BUILDING, FENCING, RENDERING, MOORINGS, LANDSCAPING AND OTHER RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		12,896	
		TOTAL FUNDING	LNR	11,510	C
			LNR	825	N
			LNR	563	P
					863P

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014	FISCAL M YEAR O 2014-2015
16.	B95A	KIKIAOLA SMALL BOAT HARBOR FEDERAL PROJECT, KAUAI			
		CONSTRUCTION TO PROVIDE STATE MATCHING FUNDS FOR THE FEDERAL NAVIGATIONAL IMPROVEMENTS PROJECT AT KIKIAOLA SMALL BOAT HARBOR.			
		CONSTRUCTION		2,450	
		TOTAL FUNDING	LNR	2,450	C
16.01.		KIHEI BOAT RAMP, HAWAII			
		CONSTRUCTION FOR PROJECTS RELATED TO RE-GRADING, LAYING, PATCHING, REMOVAL, AND LINE-STRIPING.			
		CONSTRUCTION			200
		TOTAL FUNDING	LNR		200 C
16.02.		MAALAEA SMALL BOAT HARBOR, MAUI			
		CONSTRUCTION FOR THE REPLACEMENT OF WOODEN FINGER PIERS ALONG THE SOUTH MOLE AT MAALAEA SMALL BOAT HARBOR, INCLUDING THE DEMOLITION OF THE EXISTING PIERS AND STEEL PILES, INSTALLATION OF NEW ALUMINUM FRAMED PIERS AND OTHER PROJECT RELATED IMPROVEMENTS.			
		CONSTRUCTION			370
		TOTAL FUNDING	LNR		370 C
16.03.		WAIANAE SMALL BOAT HARBOR, OAHU			
		CONSTRUCTION FOR ROAD, PARKING REPAIRS AND PERIMETER FENCING ON THE WESTERN END OF THE PROPERTY.			
		CONSTRUCTION			2,000
		TOTAL FUNDING	LNR		2,000 C

## AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM

17.	Q104	LUMP SUM HEALTH AND SAFETY, ALOHA STADIUM, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR THE MITIGATION/ELIMINATION OF CONDITIONS THAT ARE HAZARDOUS TO HEALTH AND SAFETY, INCLUDING REPAIRS, ALTERATIONS, AND IMPROVEMENTS TO THE ALOHA STADIUM TO MEET CODE, SAFETY, AND/OR OPERATIONAL REQUIREMENTS.			
		PLANS		1	
		DESIGN		999	500
		CONSTRUCTION		9,000	4,499
		TOTAL FUNDING	AGS	10,000	5,000 C

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL YEAR 2013-2014 M F	FISCAL YEAR 2014-2015 M F

**I. PUBLIC SAFETY**

**PSD900 - GENERAL ADMINISTRATION**

1. P20130 GENERAL ADMINISTRATION, PSD, LUMP SUM CIP, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR NEW, ADDITIONS, RENOVATIONS, ALTERATIONS AND IMPROVEMENTS TO BUILDINGS, SITES AND UTILITIES AT FACILITIES, STATEWIDE.

PLANS	1	1
LAND	1	1
DESIGN	1	1
CONSTRUCTION	15,997	13,997
TOTAL FUNDING AGS	16,000 C	14,000 C

- 1.01. OAHU COMMUNITY CORRECTIONAL CENTER, OAHU

PLANS FOR THE RELOCATION OF OCCC AND EXPANSION OF PRISON CAPACITY.

PLANS	5,000	
TOTAL FUNDING PSD	C	5,000 C

- 1.02. MAUI REGIONAL PUBLIC SAFETY COMPLEX, MAUI

PLANS AND DESIGN FOR A NEW MAUI REGIONAL PUBLIC SAFETY COMPLEX.

PLANS	750	
DESIGN	750	
TOTAL FUNDING PSD	C	1,500 C

**LNR810 - PREVENTION OF NATURAL DISASTERS**

2. 13 GENERAL FLOOD CONTROL PLAN UPDATE, STATEWIDE

PLANS FOR GENERAL FLOOD CONTROL PLAN UPDATE TO RESEARCH AND INVENTORY FLOOD DATA AND INCORPORATION INTO NEWLY DEVELOPED GENERAL FLOOD CONTROL PLAN WEB APPLICATION.

PLANS	570	
TOTAL FUNDING LNR	570 C	

**DEF110 - AMELIORATION OF PHYSICAL DISASTERS**

3. A0201 RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT TO RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES AND INCREASE THE NUMBER OF PUBLIC SHELTERS STATEWIDE.

PLANS	1	1
LAND	1	1
DESIGN	200	200
CONSTRUCTION	550	550
EQUIPMENT	1,248	1,248
TOTAL FUNDING DEF	2,000 C	2,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
4.	A40	DISASTER WARNING AND COMMUNICATION DEVICES, STATEWIDE				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INCREMENTAL ADDITION, REPLACEMENT AND UPGRADE OF STATE CIVIL DEFENSE WARNING AND COMMUNICATIONS EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS		1	1	
		LAND		1	1	
		DESIGN		30	30	
		CONSTRUCTION		2,034	2,034	
		EQUIPMENT		434	434	
		TOTAL FUNDING	DEF	2,400	C	2,400
			DEF	100	N	C
					100	N
5.	P98134	UPGRADE AND IMPROVEMENTS TO NATIONAL GUARD FACILITIES, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND UPGRADES TO NATIONAL GUARD ARMORIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA, AND TO MEET UNANTICIPATED HEALTH, SAFETY, AND BUILDING CODE REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		700	1,200	
		CONSTRUCTION		11,900	2,200	
		TOTAL FUNDING	DEF	2,050	C	1,700
			DEF	10,550	N	C
					1,700	N
6.	AR1401	ARMY AVIATION SUPPORT FACILITY (AASF), KALAELOA, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT OF A NEW ARMY AVIATION SUPPORT FACILITY AT KALAELOA, OAHU. THE FACILITY WILL BE BUILT TO NATIONAL GUARD STANDARDS AND WILL MEET LEED SILVER LEVEL. THIS PROJECT IS NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS		1		
		DESIGN		256		
		CONSTRUCTION		30,036		
		EQUIPMENT		25		
		TOTAL FUNDING	DEF	4,536	C	901
			DEF	25,782	N	C
					901	N

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
7.		TRANSPACIFIC LANDING STATIONS, BROADBAND INFRASTRUCTURE DEPLOYMENT, STATEWIDE				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT TO PROVIDE SUBMARINE TRANSPACIFIC CABLE LANDING STATIONS, INFRASTRUCTURE IMPROVEMENTS, AND BROADBAND INFRASTRUCTURE DEPLOYMENT IMPROVEMENTS, STATEWIDE.				
		PLANS			1	
		LAND			1	
		DESIGN			1	
		CONSTRUCTION			996	
		EQUIPMENT			1	
		TOTAL FUNDING	DEF		1,000	C
						C
7.01.	AD2071	ENERGY SAVINGS IMPROVEMENTS AND RENEWABLE ENERGY PROJECTS, STATEWIDE				
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF FAILING AND INEFFICIENT EQUIPMENT WITH ENERGY EFFICIENT BUILDING AC AND LIGHTING SYSTEMS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN			400	
		CONSTRUCTION			10,102	
		TOTAL FUNDING	DEF		2,676	C
			DEF		7,826	N
7.02.	A45	AMERICANS WITH DISABILITIES ACT (ADA) AND INFRASTRUCTURE IMPROVEMENTS, STATEWIDE				
		PLANS, DESIGN AND CONSTRUCTION FOR MODIFICATIONS TO EXISTING DEPARTMENT OF DEFENSE FACILITIES TO MEET ADA REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			598	
		TOTAL FUNDING	AGS		300	C
			AGS		300	N
7.03.	P12100	LUMP SUM CIP - DEPARTMENT OF DEFENSE FACILITIES, INFRASTRUCTURE, AND DEVICES, STATEWIDE				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR UPGRADES, IMPROVEMENTS AND RENOVATIONS, TO INCLUDE REPAIR AND MAINTENANCE AND HEALTH AND SAFETY PROJECTS FOR DEPARTMENT OF DEFENSE FACILITIES, STATEWIDE.				
		PLANS			1	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014	M O F	FISCAL YEAR 2014-2015
		DESIGN				448
		CONSTRUCTION				550
		EQUIPMENT				1
		TOTAL FUNDING	DEF	C		1,000C
7.04.		CIVIL AIR PATROL, OAHU				
		CONSTRUCTION FOR THE REROOFING, STRUCTURAL REPAIR AND EXTERNAL PAINTING FOR CIVIL AIR PATROL CENTRAL HEADQUARTERS.				
		CONSTRUCTION				200
		TOTAL FUNDING	DEF	C		200C

## K. GOVERNMENT-WIDE SUPPORT

## GOV100 - OFFICE OF THE GOVERNOR

1. G01 PROJECT ADJUSTMENT FUND, STATEWIDE

PLANS FOR THE ESTABLISHMENT OF  
A CONTINGENCY FUND FOR PROJECT  
ADJUSTMENT PURPOSES SUBJECT TO THE  
PROVISIONS OF THE APPROPRIATIONS ACT.

PLANS	1	1
TOTAL FUNDING	GOV	1C

## BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION

2. 00-01 HAWAIIAN HOMELANDS TRUST FUND, STATEWIDE

CONSTRUCTION TO AUTHORIZE THE  
TRANSFER OF GENERAL OBLIGATION  
BOND FUNDS TO THE HAWAIIAN  
HOMELANDS TRUST FUND TO SATISFY  
THE PROVISIONS OF ACT 14, SPSLH 1995.

CONSTRUCTION	30,000	29,383
TOTAL FUNDING	BUF	30,000C

3. 00-02 STATE EDUCATIONAL FACILITIES IMPROVEMENT FUND,  
STATEWIDE

CONSTRUCTION TO AUTHORIZE THE  
TRANSFER OF GENERAL OBLIGATION  
BOND FUNDS AND RE-AUTHORIZATION  
TO THE STATE EDUCATIONAL FACILITIES  
IMPROVEMENT SPECIAL FUND.

CONSTRUCTION	53,000	399,000
TOTAL FUNDING	BUF	353,000 <sup>2</sup>
		399,000
		353,000 C <sup>2</sup>

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<b>APPROPRIATIONS (IN 000'S)</b>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

**TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION**

4. 3 TAX SYSTEM MODERNIZATION (TSM), STATEWIDE

DESIGN AND CONSTRUCTION OF A CORE COMPUTER SYSTEM WHICH WILL BE A REPLACEMENT FOR THE CURRENT TAX SYSTEM.

DESIGN	16,000	1
CONSTRUCTION	1	16,000
TOTAL FUNDING	16,001 C	16,001 C

**AGS131 - INFORMATION PROCESSING AND COMMUNICATIONS SERVICES**

5. Q102 LUMP SUM HEALTH AND SAFETY, INFORMATION AND COMMUNICATION SERVICES DIVISION, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS, MODERNIZATION, AND EXPANSION OF CRITICAL COMMUNICATIONS SYSTEMS, INCLUDING THE STATEWIDE ANUENUE AND HAWAIIAN MICROWAVE SYSTEMS AND LAND MOBILE RADIO, STATEWIDE SHARED BLENDED RADIO SYSTEM, AND NEW RADIO SITES AND TOWERS STATEWIDE.

PLANS	149	1
LAND	1	1
DESIGN	680	400
CONSTRUCTION	6,320	2,000
EQUIPMENT	2,100	348
TOTAL FUNDING	9,250 C	2,750 C

**AGS130 - INFORMATION MANAGEMENT AND TECHNOLOGY SERVICES**

6. U101A ENTERPRISE RESOURCE PLANNING (ERP), STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR DEVELOPMENT OF AN ENTERPRISE RESOURCE MANAGEMENT SYSTEM FOR THE STATE OF HAWAII.

PLANS	2,000	2,000
DESIGN	5,000	5,000
CONSTRUCTION	16,999	16,999
EQUIPMENT	1	1
TOTAL FUNDING	24,000 C	24,000 C

7. U102 ENTERPRISE IT INFRASTRUCTURE, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IT INFRASTRUCTURE, INCLUDING DATA/SHARED SERVICE CENTERS AND NETWORKS FOR THE STATE OF HAWAII.

PLANS	500	500
DESIGN	1,500	1,500
CONSTRUCTION	1,000	1,000
EQUIPMENT	3,000	3,000
TOTAL FUNDING	6,000 C	6,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

7.01. FIRST RESPONDERS TECHNOLOGY CAMPUS AND CYBER SECURITY COMMAND CENTER, OAHU

PLANS, LAND ACQUISITION AND DESIGN FOR TMKS: 9-5-046-041; 9-5-046-010; 9-5-002-057; 9-5-046-018; AND 9-5-046-042, TO BE DESIGNATED FOR THE SITE OF THE FIRST RESPONDERS TECHNOLOGY CAMPUS AND CYBER SECURITY COMMAND CENTER.

PLANS	1
LAND	11,498
DESIGN	1
TOTAL FUNDING AGS	11,500C

## LNR101 - PUBLIC LANDS MANAGEMENT

8. E00C ROYAL HAWAIIAN GROIN REPLACEMENT, OAHU

PLANS, DESIGN AND CONSTRUCTION TO REPLACE THE ROYAL HAWAIIAN GROIN WITH A NEW GROIN STRUCTURE. NEW GROIN TO SERVE SAME PURPOSE AS OLD GROIN TO RETAIN SAND ON WAIKIKI BEACH.

PLANS	200
DESIGN	100
CONSTRUCTION	1,000
TOTAL FUNDING LNR	500C
LNR	500R

8.01. E00D KAANAPALI BEACH RESTORATION AND BERM ENHANCEMENT, KAANAPALI, MAUI

PLANS AND DESIGN FOR SAND REPLENISHMENT AT KAANAPALI BEACH, MAUI. SAND WOULD BE BORROWED FROM AN OFFSHORE SAND FIELD AND DELIVERED TO THE BEACH. THE BEACH WOULD BE WIDENED BY 35 FEET ALONG 3,500 FEET OF BEACH AREA IN FRONT OF THE MARRIOT AND HYATT HOTELS.

PLANS	700
DESIGN	100
TOTAL FUNDING LNR	400B
LNR	400R

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	<u>APPROPRIATIONS (IN 000'S)</u>	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

**AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION**

**9. E109 CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE**

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT AND EXEMPT FROM CHAPTER 76 CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.

PLANS	7,361	8,668
LAND	1	1
DESIGN	1	1
CONSTRUCTION	1	1
EQUIPMENT	1	1
TOTAL FUNDING AGS	7,365 C	8,672 C

**10. Q101 LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE**

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND MAINTENANCE OF PUBLIC FACILITIES AND SITES, STATEWIDE. PROJECTS MAY INCLUDE REPAIRS AND IMPROVEMENTS.

PLANS	100	100
LAND	1	1
DESIGN	1,390	1,300
CONSTRUCTION	13,400	14,608
EQUIPMENT	9	9
TOTAL FUNDING AGS	14,900 C	16,018 C

**11. T105 LUMP SUM ADVANCE PLANNING, STATEWIDE**

PLANS FOR THE DEVELOPMENT AND IMPLEMENTATION OF STATEWIDE SPACE NEEDS AND BUILDING ASSET MANAGEMENT PROGRAMS TO MORE EFFECTIVELY PLAN FOR STATE OCCUPIED FACILITIES. TARGET AREAS INCLUDE WORKFORCE SPACE NEEDS PLANNING, CIVIC CENTER MASTER PLAN DEVELOPMENT, AND STATE OFFICE BUILDING ASSET MANAGEMENT AND DEVELOPMENT.

PLANS	1,000	1,000
TOTAL FUNDING AGS	1,000 C	1,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
12.	V104	LUMP SUM STATE OFFICE BUILDING REMODELING, STATEWIDE				
		PLANS, DESIGN AND CONSTRUCTION FOR REMODELING AND UPGRADE OF STATE-OWNED OFFICES, OCCUPIED BY STATE AGENCIES TO ACCOMMODATE AGENCIES OPERATIONAL REQUIREMENTS. PROJECT INCLUDES RENOVATION FOR REORGANIZATION, PROGRAM CHANGES, AND STAFFING CHANGES, AS WELL AS CORRECTION OF INEFFICIENT OFFICE LAYOUTS, ENERGY CONSERVATION, LIGHTING, VENTILATION, PLUMBING, ELECTRICAL, AND DATA/ COMMUNICATIONS SYSTEMS.				
		PLANS		1		1
		DESIGN		99		99
		CONSTRUCTION		900		400
		TOTAL FUNDING AGS		1,000 C		500 C
13.	V101	STATE CAPITOL BUILDING, REPLACE AND RECONSTRUCT FIFTH FLOOR FAÇADE, OAHU				
		DESIGN AND CONSTRUCTION TO REPLACE PRE-CAST CONCRETE MULLIONS, SILL PANELS AND WINDOWS, ROOF DECK WATERPROOFING, AND RELATED IMPROVEMENTS AT THE STATE CAPITOL BUILDING.				
		DESIGN		1,000		
		CONSTRUCTION		8,000		
		TOTAL FUNDING AGS		9,000 C		
14.	T102	STATE CAPITOL BUILDING, REPLACE UPPER ROOF, OAHU				
		DESIGN AND CONSTRUCTION TO REPLACE AND UPGRADE THE UPPER ROOF AT THE STATE CAPITOL BUILDING.				
		DESIGN		265		
		CONSTRUCTION				4,134
		TOTAL FUNDING AGS		265 C		4,134 C
15.	P104	WASHINGTON PLACE, HEALTH AND SAFETY AND QUEEN'S GALLERY RENOVATION, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO ADDRESS IMMEDIATE HEALTH AND SAFETY NEED AT WASHINGTON PLACE. PROJECT INCLUDES LEAD BASED PAINT ABATEMENT/ENCAPSULATION, BUILDING CODE REQUIREMENTS (STRUCTURAL, ELECTRICAL, PLUMBING AND VENTILATION), AND ADAAG REQUIREMENTS. ASSOCIATED TO THE WORK IS RENOVATION FOR BUILDING PRESERVATION WITH THE RETENTION OF EXISTING HISTORIC MATERIAL.				
		PLANS		1		
		DESIGN		1		
		CONSTRUCTION		649		1,500

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	FISCAL M YEAR O 2014-2015 F
		EQUIPMENT			1	
		TOTAL FUNDING AGS		652C		2,000C
16.		BISHOP MUSEUM, ENERGY IMPROVEMENTS, OAHU				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR ENERGY IMPROVEMENTS AT BISHOP MUSEUM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN			1	
		CONSTRUCTION			1,998	
		EQUIPMENT			1	
		TOTAL FUNDING AGS		2,000C		C
16.01.		LILIHA CIVIC CENTER, OAHU				
		PLANS AND DESIGN TO DEVELOP A FACILITY AT LILIHA CIVIC CENTER, OAHU.				
		PLANS			7,500	
		DESIGN			7,500	
		TOTAL FUNDING AGS		C	15,000C	
16.02.		MOLOKAI ATHLETIC COMPLEX, MOLOKAI				
		PLANS, DESIGN AND CONSTRUCTION OF GYM, FOOTBALL FIELD, TENNIS COURTS AND BASEBALL FIELD.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			398	
		TOTAL FUNDING AGS		C	400C	
16.03.		KAUAI MUSEUM ASSOCIATION, LTD, KAUAI				
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND RENOVATIONS OF THE MUSEUM, TO INCLUDE INSTALLATION OF A PHOTOVOLTAIC SYSTEM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN			1	
		CONSTRUCTION			775	
		TOTAL FUNDING AGS		C	776C	
16.04.		WAIMANALO COMMUNITY MASTER LAND USE PLAN, OAHU				
		PLANS FOR THE DEVELOPMENT AND IMPLEMENTATION OF STATE LAND USE NEEDS, MANAGEMENT AND ASSESSMENT FOR STATE OCCUPIED LAND AND FACILITIES IN WAIMANALO.				
		PLANS			250	
		TOTAL FUNDING AGS		C	250C	
16.05.		ANEKONA OULI KANEHOA VFD COMPANY, HAWAII				
		CONSTRUCTION FOR A VOLUNTEER APPARATUS GARAGE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION			20	
		TOTAL FUNDING AGS		C	20C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
16.06.		BISHOP MUSEUM, FACILITY IMPROVEMENTS, OAHU				
		CONSTRUCTION AND EQUIPMENT FOR THE DEFERRED MAINTENANCE OF VARIOUS BISHOP MUSEUM BUILDINGS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION EQUIPMENT TOTAL FUNDING AGS		999 1 C	1,000 C	
16.07.		MAUI ARTS AND CULTURAL CENTER, MAUI				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND FACILITY/GROUNDS EXPANSION IN ACCORDANCE WITH THE MASTER DEVELOPMENT PLAN FOR THE MAUI ARTS AND CULTURAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING AGS		623 1 C	625 C	
16.08.		LYMAN HOUSE MEMORIAL MUSEUM, HAWAII				
		CONSTRUCTION OF A NEW ISLAND HERITAGE GALLERY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		CONSTRUCTION TOTAL FUNDING AGS		C	500 500 C	
16.09.		THE FILIPINO COMMUNITY CENTER, INC., OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO RETROFIT EXISTING CENTRAL AIR-CONDITIONING SYSTEM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.				
		PLANS DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING AGS		547 1 C	550 C	

## SUB201 - CITY AND COUNTY OF HONOLULU

17.	HAMAKUA MARSH AND KAELEPULU AND KAWAINUI STREAMS, OAHU			
	DESIGN AND CONSTRUCTION FOR MANGROVE ERADICATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
	DESIGN CONSTRUCTION TOTAL FUNDING CCH		20 780 800 C	C

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F	
18.		CENTRAL OAHU AMBULANCE FACILITY, OAHU				
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN AMBULANCE FACILITY FOR CENTRAL OAHU LOCATED ON TMK: 9-4-122-103.				
		PLANS		100		
		DESIGN		500		
		CONSTRUCTION		3,249		
		EQUIPMENT		1		
		TOTAL FUNDING	CCH	3,850 C		
18.01.		NANAKULI AVENUE CROSSWALK IMPROVEMENTS, WAIANAE, OAHU				
		PLANS, DESIGN AND CONSTRUCTION FOR A TRAFFIC STUDY AND THE POSSIBLE RELOCATION OF EXISTING CROSSWALK.				
		PLANS			1	
		DESIGN			1	
		CONSTRUCTION			125	
		TOTAL FUNDING	CCH			127 C
<b>SUB301 - COUNTY OF HAWAII</b>						
19.		WAIMEA DISTRICT/REGIONAL PARK, HAWAII				
		PLANS, DESIGN AND CONSTRUCTION FOR WAIMEA DISTRICT/REGIONAL PARK, PHASE 1, FOR A ONE-TO-ONE MATCH OF COUNTY FUNDS.				
		PLANS		1,000		
		DESIGN		1,000		
		CONSTRUCTION		3,000		8,000
		TOTAL FUNDING	COH	2,500 C		4,000 C
				2,500 S		4,000 S
19.01.		HAWAII OCEAN VIEW ESTATES, HAWAII				
		PLANS AND DESIGN FOR THE EXPANSION OF WATER RESOURCES.				
		PLANS			125	
		DESIGN			600	
		TOTAL FUNDING	COH			725 C
<b>SUB401 - COUNTY OF MAUI</b>						
19.02.		WATER TRANSMISSION AND STORAGE, MAUI				
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR A NEW WATER TRANSMISSION AND/OR STORAGE FACILITY FOR UPCOUNTRY MAUI.				
		PLANS			1	
		LAND			1	
		DESIGN			1	
		CONSTRUCTION			2,497	
		TOTAL FUNDING	COM			2,500 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 2013-2014 M O F	FISCAL YEAR 2014-2015 M O F	

## SUB501 - COUNTY OF KAUAI

## 20. KILAUEA SCHOOL WATERLINE IMPROVEMENTS, KAUAI

PLANS, DESIGN AND CONSTRUCTION  
TO REPAIR, UPGRADE AND INSTALL  
WATERLINES FOR FIRE PROTECTION  
SPRINKLERS AT KILAUEA SCHOOL.

PLANS	50
DESIGN	100
CONSTRUCTION	1,150
TOTAL FUNDING COK	1,300 C

C

## 21. HAWAIIAN ISLAND LAND TRUST, KAUAI

PLANS, LAND ACQUISITION, AND DESIGN  
FOR A LONG RANGE DEVELOPMENT PLAN  
FOR THE FORMER COCO PALMS SITE.

PLANS	50
LAND	170
DESIGN	50
TOTAL FUNDING COK	270 C

C

## 21.01. SHELTERED BUS STOPS, KAUAI

CONSTRUCTION FOR APPROXIMATELY  
46 SHELTERED BUS STOPS ALONG STATE  
HIGHWAYS AND COLLECTOR ROADS;  
CONSTRUCTION TO INCLUDE LARGER  
PADS TO ACCOMMODATE AMERICANS  
WITH DISABILITIES ACT; TRANSITION  
ACCESSIBILITY; PROTECTIVE TRANSIT  
SHELTER WITH LIGHTING, TRASH AND  
RECYCLING RECEPTACLES, AND A BIKE  
RACK.

CONSTRUCTION	600
TOTAL FUNDING COK	600 C"

C

SECTION 6. Part V, Act 134, Session Laws of Hawaii 2013, is amended:

(1) By adding a new section to read as follows:

"SECTION 40.1. Provided that of the general obligation fund appropriation for the department of land and natural resources (LNR 141), the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the department of land and natural resources for rockfall and flood mitigation, statewide, provided further that of the total sum:

(1) \$1,000,000 shall be used for rockfall mitigation, along menehune road, Kauai."

(2) By adding a new section to read as follows:

"SECTION 41.1. Provided that of the general obligation fund appropriation for Hawaii health systems corporation (HTH 212), the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the Hawaii health systems corporation for repair and maintenance

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projects, including those to correct health and safety deficiencies; provided further that of the total sum:

- (1) \$850,000 shall be used for mechanical and electrical improvements, including plumbing, piping, pumps, steam lines and traps at Maui Memorial Medical Center;
  - (2) \$2,000,000 shall be used for elevator replacement at Kona Community Hospital;
  - (3) \$2,000,000 shall be used for electrical upgrades at Kona Community Hospital;
  - (4) \$1,000,000 shall be used for asbestos abatement at Kona Community Hospital;
  - (5) \$2,000,000 shall be used for facility repairs at Maui Memorial Medical Center;
  - (6) \$2,650,000 shall be used for facility repairs at Kula Hospital;
  - (7) \$500,000 shall be used for cesspool closures and installation of new systems at Kula Hospital;
  - (8) \$3,285,000 shall be used for air conditioning system upgrades and duct work at Hilo Medical Center.”
- (3) By adding a new section to read as follows:

“SECTION 41.2. Provided that of the general obligation fund appropriation for Lump Sum Public Housing Development, Improvements, and Renovations, Statewide, for the Department of Human Services (HMS220), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended as follows:

- (1) \$1,500,000 for the construction of plumbing, electrical repairs and leakage repairs at the Palolo Valley Housing.”
- (4) By adding a new section to read as follows:

“SECTION 41.3. Provided that of the general obligation bond fund appropriation for the department of education, (EDN 100), Kalani High School, girl’s locker room and multi-purpose athletic facility, the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the department of education with the intent to provide gender equity in accordance with the Patsy T. Mink Equal Opportunity Education Act (Title IX).

- (5) By adding a new section to read as follows:

“SECTION 41.4. Provided that of the revenue bond fund appropriation for the university of Hawaii, (UOH 100), Marine Center Relocation, the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall not be expended by the university of Hawaii until such time as an executed lease agreement is signed between the department of transportation and the university of Hawaii.”

- (6) By adding a new section to read as follows:

“SECTION 42.1. Provided that of the general obligation fund appropriation for Retrofit Public Buildings with Hurricane Protective Measures, Statewide, for the Department of Defense (DEF 110), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended as follows:

- (1) \$250,000 for the plans and designs for the upgrade to school and community facilities to conform to civil defense shelter standards at Noelani Elementary School;

(2) \$250,000 for the plans and designs for the upgrade to school and community facilities to conform to civil defense shelter standards at Manoa Elementary School.”

(7) By amending section 46 to read as follows:

“SECTION 46. Any law to the contrary notwithstanding, the appropriations under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
C-40	17,005 E
C-41	17,188 <sup>9</sup> E
C-43	48,205 <sup>10</sup> N
C-59E	41,826 E
C-59E	26,757 N
C-59F	242,744 N
C-59L	18,430 N
C-69	4,420 E
C-76	16,379 N
<u>F-2</u>	<u>3,500</u> C
<u>H-9</u>	<u>24,600</u> C
<u>H-8B</u>	<u>1,000</u> C
I-8	41,800 C
I-10	2,100 C
<u>I-10A</u>	<u>10,000</u> C”

(8) By amending section 47 to read as follows:

“SECTION 47. Any law to the contrary notwithstanding, the appropriations under Act 218, Session Laws of Hawaii 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
C-28	10,000 E
C-48	430,719 N
C-48	57,282 R
C-49G	6 E
C-49I	27,094 E
C-49I	65,631 N
C-69	22,046 E
C-69	34,243 N
C-74	21,904 E
C-76	19,920 E
C-76	91,025 N
C-82	1,016,389 N
C-83	13,282 E
C-83	397,126 N
C-84	69,500 C
<u>C-85A</u>	<u>18,200</u> C
F-2	634,500 C
<u>G-79</u>	<u>372,700</u> C

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<u>I-8</u>	<u>53,600</u>	C
<u>I-9</u>	<u>17,600</u>	C
<u>I-10</u>	<u>17,600</u>	C
<u>I-11</u>	<u>14,700</u>	C
<u>I-14</u>	<u>1,200</u>	C"

(9) By amending section 48 to read as follows:

**"SECTION 48.** Any law to the contrary notwithstanding, the appropriations under Act 328, Session Laws of Hawaii 1997, section 140A, as amended and renumbered by Act 116, Session Laws of Hawaii 1998, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-530</u>	<u>2,200</u> C
<u>A-9A</u>	<u>4,400</u> C
<u>C-115</u>	<u>160,101</u> N
<u>C-123</u>	<u>75,476</u> E
<u>C-144</u>	<u>634,081</u> N
<u>C-144</u>	<u>768,035</u> R
<u>C-161</u>	<u>7,746</u> E
<u>H-30</u>	<u>17,000</u> C
<u>H-35A</u>	<u>7,800</u> C
<u>I-18</u>	<u>68,000</u> C"

(10) By adding a new section to read as follows:

**"SECTION 48.1.** Any law to the contrary notwithstanding, the appropriations under Act 91, Session Laws of Hawaii 1999, section 91, as amended and renumbered by Act 281, Session Laws of Hawaii 2000, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-5</u>	<u>189,000</u> C
<u>A-5</u>	<u>64,000</u> N
<u>A-6</u>	<u>29,000</u> C
<u>A-9</u>	<u>111,800</u> C
<u>G-69</u>	<u>449,000</u> C
<u>I-5</u>	<u>115,000</u> C
<u>I-6</u>	<u>456,000</u> C
<u>I-8</u>	<u>1,200,000</u> C
<u>I-9</u>	<u>51,400</u> C"

(11) By adding a new section to read as follows:

**"SECTION 48.2.** Any law to the contrary notwithstanding, the appropriations under Act 259, Session Laws of Hawaii 2001, section 91, as amended and renumbered by Act 177, Session Laws of Hawaii 2002, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-2</u>	<u>919,500</u> C
<u>A-4</u>	<u>558,000</u> C
<u>A-4B</u>	<u>28,200</u> C

<u>A-4C</u>	<u>110,200</u>	C
<u>A-4E</u>	<u>3,000,000</u>	C
<u>G-45</u>	<u>185,200</u>	C
<u>G-54G</u>	<u>177,000</u>	C
<u>H-21</u>	<u>102,100</u>	C
<u>H-21A</u>	<u>800</u>	C
<u>I-5</u>	<u>298,300</u>	C
<u>I-6</u>	<u>187,100</u>	C
<u>I-7A</u>	<u>1,350,000</u>	C
<u>K-22</u>	<u>666,400</u>	C"

(12) By amending section 49 to read as follows:

"SECTION 49. Any law to the contrary notwithstanding, the appropriations under Act 200, Session Laws of Hawaii 2003, section 77, as amended and renumbered by Act 41, Session Laws of Hawaii 2004, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-3.02</u>	<u>954,000</u> C
<u>C-90</u>	<u>9,681,452</u> B
<u>G-62</u>	<u>598,000</u> C
<u>H-3</u>	<u>44,500</u> C
<u>I-2</u>	<u>68,500</u> C"

(13) By adding a new section to read as follows:

"SECTION 49.1. Any law to the contrary notwithstanding, the appropriations under Act 178, Session Laws of Hawaii 2005, section 85, as amended and renumbered by Act 160, Session Laws of Hawaii 2006, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-7</u>	<u>955,000</u> C
<u>C-64</u>	<u>32,100</u> C
<u>H-9</u>	<u>399,500</u> C
<u>H-14.02</u>	<u>16,200</u> C
<u>H-14.03</u>	<u>38,000</u> C
<u>H-14.05</u>	<u>145,800</u> C
<u>I-3</u>	<u>528,000</u> C
<u>I-5</u>	<u>25,100</u> C
<u>I-6.01</u>	<u>280,100</u> C
<u>I-6.02</u>	<u>230,500</u> C
<u>K-11</u>	<u>63,300</u> C"

(14) By amending section 50 to read as follows:

"SECTION 50. Any law to the contrary notwithstanding, the appropriations under Act 213, Session Laws of Hawaii 2007, section 125, as amended and renumbered by Act 158, Session Laws of Hawaii 2008, section 125, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-4</u>	<u>2,370,300</u> C

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<u>A-7.01</u>	<u>57,000</u>	C
G-117.06	2,320,386	C
<u>H-15</u>	<u>2,747,000</u>	C
<u>H-16</u>	<u>3,096,000</u>	C
<u>I-7</u>	<u>7,496,100</u>	C
<u>I-8</u>	<u>1,126,500</u>	C
<u>K-16</u>	<u>459,000</u>	C
<u>K-25.01</u>	<u>3,749,000</u>	C"

(15) By adding a new section to read as follows:

"SECTION 50.1. Any law to the contrary notwithstanding, the appropriations under Act 162, Session Laws of Hawaii 2009, section 62, as amended and renumbered by Act 180, Session Laws of Hawaii 2010, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-6</u>	<u>496,000</u> C
<u>F-3</u>	<u>855,100</u> C"

(16) By amending section 52 to read as follows:

"SECTION 52. Any law to the contrary notwithstanding, the appropriations under Act 164, Session Laws of Hawaii 2011, section 36, as amended and renumbered by Act 106, Session Laws of Hawaii 2012, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
<u>A-1.02</u>	<u>2,000,000</u> C
<u>A-7</u>	<u>1,149,000</u> C
<u>A-11</u>	<u>1,500,000</u> C
<u>A-19.03</u>	<u>2,301,000</u> C
<u>A-22</u>	<u>2,304,000</u> C
C-12	900,000 E
C-12	8,550,000 N
<u>D-3</u>	<u>500,000</u> C
<u>D-3.01</u>	<u>400,000</u> C
<u>G-21</u>	<u>2,300,000</u> B
<u>G-28</u>	<u>150,000</u> B
<u>G-37.02</u>	<u>44,000</u> B
<u>G-38.01</u>	<u>375,000</u> B
<u>G-46.01</u>	<u>700,000</u> B
<u>G-56.02</u>	<u>250,000</u> B
<u>G-66.02</u>	<u>2,450,000</u> B
G-76	300 C
<u>G-79</u>	<u>450,000</u> B
<u>G-80.02</u>	<u>794,000</u> B
<u>G-95.03</u>	<u>450,000</u> E
<u>G-95.04</u>	<u>495,000</u> E
<u>G-102</u>	<u>600,000</u> C
<u>K-2</u>	<u>7,515,000</u> C"

SECTION 7.<sup>11</sup> Act 164, Session Laws of Hawaii 2011, section 36, as amended and renumbered by Act 106, Session Laws of Hawaii 2012, section 5, is amended by amending Item 100.01 to read as follows:

**“B42 KAP, CULINARY INSTITUTE OF THE PACIFIC-DIAMOND HEAD, OAHU**

DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE DEVELOPMENT OF THE CULINARY INSTITUTE OF THE PACIFIC. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF NEW FACILITY, AND ALL PROJECT EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN	9,998
CONSTRUCTION	1
EQUIPMENT	1
TOTAL FUNDING	UOH 10,000C”

SECTION 8.<sup>11</sup> Part VI, Act 134, Session Laws of Hawaii 2013, is amended:

- (1) By amending section 62 to read as follows:

“SECTION 62. RENTAL MOTOR VEHICLE CUSTOMER FACILITY REVENUE BONDS. The department of transportation<sup>12</sup> is authorized to<sup>13</sup> issue rental motor vehicle customer facility revenue bonds for airport capital improvement program projects relating to consolidated rental car facilities authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds with debt service cost to be paid from the rental motor vehicle customer facility charge special funds, as authorized by section 261-5.6, Hawaii Revised Statutes, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, any additional principal amount as may be necessary by the department to pay interest on the rental motor vehicle customer facility revenue bonds during the estimated period of construction of the capital improvements program project for which the rental motor vehicle customer facility revenue bonds are issued, to establish, maintain, or increase reserves for the rental motor vehicle customer facility revenue bonds and to pay the expenses of issuance of the bonds. The rental motor vehicle customer facility revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from the rental motor vehicle surcharge tax and the rental motor vehicle customer facility charge special fund pursuant to section 261-5.6, Hawaii Revised Statutes, as amended, and as determined by the department. The expenses of the issuance of such rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of such bonds<sup>14</sup> shall be paid from the rental motor vehicle customer facility charge special fund as determined by the department[.]; provided that the rental motor vehicle customer facility charge in section 261-7(h), Hawaii Revised Statutes, shall not be amended to supplement any additional or unforeseen costs related to the issuance or debt service of the rental motor vehicle customer facility revenue bonds that are authorized, appropri-

ated, and issued under this section. The governor, in the governor's discretion,<sup>12</sup> is authorized to<sup>13</sup> use the rental motor vehicle customer facility charge special fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by rental motor vehicle customer facility revenue bond funds.<sup>15”</sup>

- (2) By adding a new section to read as follows:

**"SECTION 64.1. HAWAII HEALTH SYSTEMS CORPORATION REVENUE BONDS.** The department of health, Hawaii health systems corporation, with the approval of the governor, is authorized to issue revenue bonds pursuant to part III of chapter 39, Hawaii Revised Statutes, except as provided in chapter 163D, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$31,500,000, for the plans, design and construction of a new parking garage at the Maui Memorial Medical Center on the island of Maui."

SECTION 9.<sup>11</sup> Part VII, Act 134, Session Laws of Hawaii 2013, is amended as follows:

- (1) By adding a new section to read:

**"SECTION 88.1. Any provision of this Act to the contrary notwithstanding, the governor may approve the extension of the lapse dates for federal fund or other federal fund appropriations and appropriations of other means of financing, except general funds, deemed necessary to qualify for federal aid financing and/or reimbursement, provided in this Act or authorized by the governor pursuant to section 88 of this Act as necessary to meet the intent of the federal grant awards."**

- (2) By amending section 105 to read:

**"SECTION 105. Except as otherwise provided[.] or limited by this Act, including provisos in parts III and VII, or other law, the appropriation for the office of the governor (GOV100) shall be expended at the discretion of the governor."**

- (3) By amending section 106 to read:

**"SECTION 106. Except as otherwise provided[.] or limited by this Act, including provisos in parts III and VII, or other law, the appropriation for the office of the lieutenant governor (LTG100) shall be expended at the discretion of the lieutenant governor."**

- (4) By adding a new section to read:

**"SECTION 108.1. Provided that if the amount of settlements and judgments approved by the legislature in S.B. No. 2246<sup>16</sup> in the form passed by the legislature, the claims bill, exceeds program allocations for fiscal year 2013-2014 or fiscal year 2014-2015, as applicable, for the purposes of meeting such obligations:**

- (1) A department, with the approval of the governor, may utilize allocated savings determined to be available from any other program within the department; and
- (2) Unless otherwise provided by general law, the governor may transfer funds between allocations of appropriations within a department for the purposes of paying settlements and judgments of a program.”

- (5) By adding a new section to read:

**"SECTION 122.1. (a) For the purpose of this section, "ESEA waiver" means a waiver from any requirement of the federal Elementary and Secondary Education Act of 1965, as amended, under an ESEA flexibility request approved for the state department of education.**

**(b) The state department of education shall notify the legislature prior to executing the ESEA waiver if the ESEA waiver will result in a request for additional general funds beyond the supplemental request for fiscal year 2014-2015.**

**(c) The state department of education shall hold a briefing on the ESEA waiver for the senate standing committee on education, house standing committee on education, senate standing committee on ways and means, and house standing committee on finance."**

**(6) By adding a new section to read:**

**"SECTION 122.2. In carrying out their strategic plan and in the execution of their six priority strategies, the department of education shall consider workload and capacity issues at both the complex area and school level. Before additional districtwide requirements are considered that are not required for federal compliance or negotiated contract purposes, the department of education shall assess whether or not any such mandate can be accomplished given existing school-level resources."**

**(7) By amending section 123 to read:**

**"SECTION 123. Provided that the director of finance shall ensure that non-facility per-pupil general fund amounts allocated for department of education and charter school students are equal on an annualized fiscal year basis; provided further that, notwithstanding any other law to the contrary, for fiscal year 2013-2014 and fiscal year 2014-2015, the director of finance shall:**

- (1) Determine the sum of general fund appropriations made for the department of education and charter school student non-facility costs;**
- (2) Determine the sum of department of education and charter school student enrollment based upon verified actual student enrollment counts;**
- (3) Determine a per-pupil amount by dividing the sum of general fund appropriations determined under paragraph (1) by the sum of student enrollment determined under paragraph (2);**
- (4) Transfer a general fund amount between the department of education and charter schools prior to November 1, 2013, and November 1, 2014, that will provide each with a per-pupil allocation equal to the amount determined on an annualized fiscal year basis under paragraph (3); and**
- (5) Account for all calculations and transfers made pursuant to this section in a report to the legislature, governor, department of education, and charter schools within ten days of any transfer made pursuant to this section;**

and provided further that for the purposes of this section, all general fund appropriations, except grants issued pursuant to chapter 42F, for school-based budgeting (EDN100), instructional support (EDN200), state administration (EDN300), and school support (EDN400),<sup>17</sup> shall be considered non-facility appropriations for the department of education.

**(b)<sup>1</sup> Provided further that:**

- (1) Of the general fund appropriation for charter schools (EDN600), \$800,000 for fiscal year 2014-2015 shall be deemed additional to the**

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- per-pupil allocation for charter schools for that fiscal year as calculated pursuant to subsection (a):
- (2) The \$800,000 shall be expended by the charter school commission for its operating and administrative costs for fiscal year 2014-2015; and
- (3) As additional funding for its operating and administrative costs for fiscal year 2014-2015, the charter school commission may transfer from the per-pupil allocation for charter schools for fiscal year 2014-2015 not more than \$560,000 to the commission for expenditure for such costs.”
- (8) By adding a new section to read:

“SECTION 136.1. (a) In the preparation of the executive budget for the fiscal biennium 2015-2017, the department of budget and finance shall prepare the base budget for each department and attached agency by deleting appropriations identified as “non-recurring” in the executive budget bill worksheets for this Act and Act 134, Session Laws of Hawaii 2013. The department of budget and finance shall submit applicable forms to the legislature itemizing and explaining all deleted non-recurring appropriations. The forms shall be submitted no later than the date of submission by the governor to the legislature of the executive budget for the fiscal biennium 2015-2017.

(b) This section shall not prohibit an executive department or attached agency from requesting the reinstatement of a non-recurring appropriation in the executive budget for the fiscal biennium 2015-2017 if the non-recurring appropriation is first deleted from its base budget as required under subsection (a).”

**SECTION 10.<sup>11</sup> MISCELLANEOUS.** If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, then the legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

**SECTION 11.<sup>11</sup>** In the event manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors.

**SECTION 12.<sup>11</sup>** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the bracketed material or the underscoring.<sup>18</sup>

**SECTION 13.<sup>11</sup>** Nothing in this Act shall affect the validity or continuing effectiveness of any provisions of Act 134, Session Laws of Hawaii 2013, not repealed or modified by this Act.

**SECTION 14.<sup>11</sup> EFFECTIVE DATE.** This Act shall take effect upon its approval.

(Approved June 24, 2014.)

### Notes

1. So in original
2. Governor vetoed, replaced, and initialed item with “NA”.

3. Should be "20".
4. Should be "19".
5. Prior to amendment "county" appeared here.
6. Prior to amendment "land" appeared here.
7. Prior to amendment "P14001" appeared here.
8. Prior to amendment "facilities" appeared here.
9. Prior to amendment "917,188" appeared here.
10. Prior to amendment "148,205" appeared here.
11. Section renumbered.
12. Prior to amendment "may" appeared here.
13. "Is authorized to" should be underscored.
14. Prior to amendment a comma appeared here.
15. Prior to amendment ";" and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions." appeared here.
16. Act 80.
17. The comma should be underscored.
18. Edited pursuant to HRS §23G-16.5.

## ACT 123

H.B. NO. 2293

## A Bill for an Act Relating to the Hospital Sustainability Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 217, Session Laws of Hawaii 2012, as amended by section 1 of Act 141, Session Laws of Hawaii 2013, is amended by amending section 2 as follows:

1. By amending the definitions of "net patient service revenue" and "private hospital" in section -3, Hawaii Revised Statutes, to read:

"Net patient service revenue" means gross revenue from inpatient and outpatient care provided to hospital patients converted to net patient revenue utilizing data from Worksheets G-2 and G-3 of each hospital's medicare cost report for fiscal year [2010-2011] 2011-2012. If the hospital is new or did not file a fiscal year medicare cost report, the department shall obtain the hospital's net patient service revenue from the most recent period available.

"Private hospital" means those non-public hospitals named in attachment A of the medicaid section 1115 demonstration waiver that were in operation in calendar year [2012] 2013 and are currently operating."

2. By amending subsections (c) and (d) of section -5, Hawaii Revised Statutes, to read:

(c) The hospital sustainability fee for inpatient care services may differ from the fee for outpatient care services but the fees shall not in the aggregate exceed three per cent of net patient service revenue as derived from the hospital's medicare cost report ending during state fiscal year [2010-2011] 2011-2012. The inpatient hospital sustainability fee shall be [2.365] 2.175 per cent of net inpatient hospital service revenue. The outpatient hospital sustainability fee shall be three per cent of net outpatient hospital service revenue. Each fee shall be the same percentage for all affected hospitals, subject to subsection (d).

(d) The department shall exempt children's hospitals, federal hospitals, public hospitals, rehabilitation hospitals, psychiatric hospitals, and any hospital that was not in operation during any part of calendar year [2012] 2013 from the hospital sustainability fees on inpatient services. In addition, the department shall exempt hospitals with net outpatient revenue of less than [\$42,500,000] \$45,000,000 per year (based on fiscal year [2010-2011] 2011-2012 reports), public

## ACT 123

hospitals, and any hospital that was not in operation during any part of calendar year [2012] 2013 from the hospital sustainability fee on outpatient care services."

3. By amending subsection (a) of section -10, Hawaii Revised Statutes, to read:

"(a) The department shall use moneys from the hospital sustainability program special fund to make direct payments to private hospitals in an amount equal to [\$81,309,367] \$85,000,000 to cover the uncompensated care costs incurred by private hospitals for serving medicaid and uninsured individuals during state fiscal year [2013-2014.] 2014-2015."

4. By amending subsection (c) of section -10, Hawaii Revised Statutes, to read:

"(c) Each eligible hospital's quarterly payment shall be equal to one-quarter of its uncompensated care costs for the fiscal year in which payment is made, as derived from the uncompensated care costs reported by all private hospitals for fiscal year [2010-2011.] 2011-2012."

SECTION 2. Act 217, Session Laws of Hawaii 2012, as amended by section 2 of Act 141, Session Laws of Hawaii 2013, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, [2014;] 2015; provided that section [4-(e),] 4, Hawaii Revised Statutes, in section 2 of this Act shall be repealed on December 31, [2014.] 2015."

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;

- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136; [and]
- [¶(28)¶] Deposit beverage container deposit special fund under section 342G-104[.]; and
- (29) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013.

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under section 431P-2;
- (10) Convention center enterprise special fund established under section 201B-8;
- (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (12) Tourism special fund established under section 201B-11;
- (13) Universal service fund established under section 269-42;
- (14) Emergency and budget reserve fund under section 328L-3;
- (15) Public schools special fees and charges fund under section 302A-1130;
- (16) Sport fish special fund under section 187A-9.5;
- (17) Center for nursing special fund under section 304A-2163;
- (18) Passenger facility charge special fund established by section 261-5.5;
- (19) Court interpreting services revolving fund under section 607-1.5;
- (20) Hawaii cancer research special fund;

## **ACT 124**

- (21) Community health centers special fund;
- (22) Emergency medical services special fund;
- (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (24) Shared services technology special fund under section 27-43;
- (25) Nursing facility sustainability program special fund, under Act 156, Session Laws of Hawaii 2012;
- (26) Automated victim information and notification system special fund established under section 353-136; and
- (27) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013.

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

**SECTION 5.** There is appropriated out of the hospital sustainability program special fund the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to be used for the purposes of the hospital sustainability program special fund.

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

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

**SECTION 7.** This Act shall take effect on June 29, 2014; provided that section 5 shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## **ACT 124**

S.B. NO. 2057

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 156, Session Laws of Hawaii 2012, section 2, as amended by section 2 of Act 142, Session Laws of Hawaii 2013, is amended as follows:

1. By amending subsection (c) of § -4 to read:

“(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

(1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities;

(2) Twelve per cent of the revenue from the nursing facility sustainability fee may be used by the department for other departmental purposes; and

(3) All moneys remaining in the special fund on December 30, [2014,] 2015, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.”

2. By amending § -10 to read:

**“§ -10 Enhanced rates to medicaid managed care health plans.** In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for the state fiscal year [2013-2014] 2014-2015 consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade associations located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation; and
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in pre-existing facility-specific rates.”

3. By amending subsection (a) of § -13 to read:

- “(a) Collection of the nursing facility sustainability fee under section -5 shall be discontinued if:
- (1) The waiver in section -7 or the enhanced capitation rates in section -10 have not been approved by the Centers for Medicare and Medicaid Services;
  - (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, [2013] 2014;
  - (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or
  - (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change.”

SECTION 2. Act 156, Session Laws of Hawaii 2012, section 5, as amended by section 3 of Act 142, Session Laws of Hawaii 2013, is amended to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, [2014;] 2015; provided that section [-4(e),] -4, Hawaii Revised Statutes, established by section 2 of this Act, shall be repealed on December 31, [2014.] 2015.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose

## ACT 124

of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136; [and]
- (28) Deposit beverage container deposit special fund under section 342G-104;]; and
- (29) Nursing facility sustainability program special fund under Act 156, Session Laws of Hawaii 2012,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;

- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under section 431P-2;
- (10) Convention center enterprise special fund established under section 201B-8;
- (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (12) Tourism special fund established under section 201B-11;
- (13) Universal service fund established under section 269-42;
- (14) Emergency and budget reserve fund under section 328L-3;
- (15) Public schools special fees and charges fund under section 302A-1130;
- (16) Sport fish special fund under section 187A-9.5;
- (17) Center for nursing special fund under section 304A-2163;
- (18) Passenger facility charge special fund established by section 261-5.5;
- (19) Court interpreting services revolving fund under section 607-1.5;
- (20) Hawaii cancer research special fund;
- (21) Community health centers special fund;
- (22) Emergency medical services special fund;
- (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (24) Shared services technology special fund under section 27-43;
- (25) Nursing facility sustainability program special fund [~~, under~~ established pursuant to Act 156, Session Laws of Hawaii 2012];
- (26) Automated victim information and notification system special fund established under section 353-136; and
- (27) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

**SECTION 5.** There is appropriated out of the nursing facility sustainability program special fund the sum of \$12,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for uses consistent with the nursing facility sustainability program special fund.

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

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

**SECTION 7.** This Act shall take effect on June 29, 2014; provided that:

- (1) Section 5 shall take effect on July 1, 2014;
- (2) The amendments made in sections 3 and 4 shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reen-

## **ACT 125**

acted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and

- (3) The amendments made in sections 3 and 4 shall be repealed on December 31, 2015, and sections 36-27 and 36-30, Hawaii Revised Statutes, shall be reenacted in the form provided in section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 24, 2014.)

## **ACT 125**

H.B. NO. 2094

### A Bill for an Act Relating to Home Care Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that home care is a quickly expanding component of elderly care, largely because the overwhelming majority of the growing elderly population prefers to age in their homes in spite of disabilities they may have. Home care enables the aging population to remain in their homes by providing assistance with daily living activities and by providing other related in-home care. The public must be assured that home care agencies are meeting minimum standards when delivering care. Because many elderly live alone and are facing declining mental functions, the State must ensure that Hawaii's elderly population is receiving the highest quality care from home care providers.

In the special session of 2009, the legislature passed S.B. No. 415, S.D. 2, H.D. 1, C.D. 1, which was enacted as Act 21, Special Session Laws of Hawaii 2009. The purpose of Act 21 was to protect consumers of home care services by requiring home care agencies to be licensed. Act 21 designates the department of health as the home care licensing agency. The department of health has collaborated with home care agencies, consumer advocates, and other stakeholders to draft the administrative rules needed to implement licensing. The drafted rules are in the last stage of the approval process.

The purpose of this Act is to:

- (1) Extend by five years the repeal date of Act 21, Special Session Laws of Hawaii 2009, which requires home care agencies to be licensed by the department of health; and
- (2) Appropriate funds to establish one full-time equivalent, permanent position in the department of health to facilitate the licensing of home care agencies; provided that it is not the intent of the legislature that the position be funded by moneys in the office of health care assurance special fund established by section 321-1.4, Hawaii Revised Statutes.

**SECTION 2.** Act 21, Special Session Laws of Hawaii 2009, is amended by amending section 8 to read as follows:

“**SECTION 8.** This Act shall take effect on July 1, 2009, and shall be repealed on June 30, [2014:] 2019; provided that sections 321-11 and 321-11.5(b), Hawaii Revised Statutes, and the definition of “healthcare facility” in section 321-15.2, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2009.”

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary

for fiscal year 2014-2015 for the establishment of one full-time equivalent (1.00 FTE) permanent position in the department of health to facilitate the licensing of home care agencies.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

**SECTION 4.** Beginning with fiscal year 2015-2016 and each fiscal year thereafter, the department of health shall request funding for the permanent position that facilitates the licensing of home care agencies as part of its annual budget request to the director of finance.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 6.** This Act shall take effect on June 29, 2014; provided that section 3 shall take effect on July 1, 2014.

(Approved June 24, 2014.)

**ACT 126**

H.B. NO. 1811

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 46, Session Laws of Hawaii 2012, provides the department of transportation with the authority and discretion to reach an agreement with an airport concessionaire to extend the term of the concession and to modify and amend terms of any concession contract, lease, or permit in exchange for revenue-enhancing improvements that are made or paid for by the concessionaire. Act 46 expires on July 1, 2014.

The legislature finds that modernization and improvements at Hawaii's airport concessions have not kept pace with passenger needs and demands. A recent study by the State indicates that various areas at our public airports are lacking in concession space by as much as forty per cent, and that Hawaii's public airports are not maximizing concession revenues.

The legislature further finds that it is important that the department of transportation and concessionaires seek to work together in achieving the improvements contemplated in an expeditious but fair and equitable manner, including amendments extending the term of a concession lease or permit at the department of transportation's discretion.

The purpose of this Act is to extend the sunset date of Act 46 to allow the department of transportation more time to negotiate and reach an agreement with concessionaires regarding leases or permits.

**SECTION 2.** Act 46, Session Laws of Hawaii 2012, is amended by amending section 6 to read as follows:

**“SECTION 6.** This Act shall take effect on July 1, 2012, and shall be repealed on [July 1, 2014.] July 1, 2015.”

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

## ACT 127

SECTION 4. This Act shall take effect on June 30, 2014.

(Approved June 24, 2014.)

## ACT 127

H.B. NO. 1638

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 2014.

SECTION 2. Act 133, Session Laws of Hawaii 2013, is amended by amending part II to read as follows:

### "PART II. PROGRAM APPROPRIATIONS

SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 2013, and ending June 30, 2015. The total expenditures and the number of permanent positions established in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

#### PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2013-2014 M O F	FISCAL YEAR 2014-2015 M O F
<b>The Judicial System</b>					
1.	JUD101 - COURTS OF APPEAL			71.00*	71.00*
	OPERATING		JUD	6,155,459 A	[6,155,459 A] <u>6,199,295 A</u>
2.	JUD310 - FIRST [JUDICIAL] CIRCUIT			1,065.50*	1,065.50*
	OPERATING		JUD	75,566,698 A	[75,257,274 A] <u>76,628,510 A</u>
				41.00*	41.00*
		INVESTMENT CAPITAL	JUD	4,002,620 B	4,002,620 B
			JUD	C	<u>170,000 C</u>
3.	JUD320 - SECOND [JUDICIAL] CIRCUIT			207.00*	207.00*
	OPERATING		JUD	15,098,670 A	[15,098,670 A] <u>15,135,506 A</u>
4.	JUD330 - THIRD [JUDICIAL] CIRCUIT			227.00*	227.00*
	OPERATING		JUD	17,958,784 A	[17,958,784 A] <u>18,204,552 A</u>

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
5.	JUD350 - FIFTH [JUDICIAL] CIRCUIT			99.00*	99.00*
	OPERATING	JUD		6,894,905 A	[6,894,905 A] <u>6,911,331 A</u>
6.	JUD501 - JUDICIAL SELECTION COMMISSION			1.00*	1.00*
	OPERATING	JUD		88,857 A	88,857 A
7.	JUD601 - ADMINISTRATION			226.00*	[226.00*] <u>227.00*</u>
	OPERATING	JUD		23,767,504 A	[22,958,656 A] <u>23,813,508 A</u>
		JUD		1.00*	1.00*
		JUD		7,930,290 B	7,930,290 B
		JUD		343,261 W	343,261 W
	INVESTMENT CAPITAL	JUD		3,425,000 C	[11,400,000 C] <u>40,590,000 C</u>

SECTION 3. Act 133, Session Laws of Hawaii 2013, is amended by amending part IV to read as follows:

#### "PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 7. The sum of [\$14,825,000] \$44,185,000 appropriated or authorized in part II of this Act for capital improvement projects shall be expended by the judiciary for the projects listed below; provided that several related or similar projects may be combined into a single project, if a combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sums specified for the projects separately. The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.

#### CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

#### A. ECONOMIC DEVELOPMENT

##### JUD310 - FIRST JUDICIAL CIRCUIT

###### 0.01. DOMESTIC VIOLENCE ACTION CENTER, OAHU

LAND ACQUISITION FOR ADDITIONAL  
OFFICE SPACE. THIS PROJECT QUALIFIES  
AS A GRANT PURSUANT TO CHAPTER 42E.  
HRS.

LAND  
TOTAL FUNDING    JUD

C                      170  
170 C

**ACT 127**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	<b>APPROPRIATIONS</b>				
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F			
JUD601 - ADMINISTRATION								
[+] KONA JUDICIARY COMPLEX, HAWAII								
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW JUDICIARY COMPLEX AT KONA, HAWAII.						
		CONSTRUCTION		9,000				
		TOTAL FUNDING JUD		9,000 C				
1.	<u>KONA JUDICIARY COMPLEX, HAWAII</u>							
		DESIGN AND CONSTRUCTION FOR A NEW JUDICIARY COMPLEX AT KONA, HAWAII.						
		DESIGN		1,000				
		CONSTRUCTION		34,000				
		TOTAL FUNDING JUD		35,000 C				
2.	KA'AHUMANU HALE INTERIOR SPACE UTILIZATION REDEVELOPMENT, O'AHU							
		DESIGN FOR INTERIOR SPACE UTILIZATION AND RELATED FACILITY REDEVELOPMENT AT KA'AHUMANU HALE, OAHU.						
		DESIGN	2,800					
		TOTAL FUNDING	2,800 C		C			
3.	STATUS OFFENDER SHELTER AND JUVENILE SERVICES CENTER, O'AHU							
		PLANS FOR A STATUS OFFENDER SHELTER AND JUVENILE SERVICES CENTER, OAHU.						
		PLANS	250					
		TOTAL FUNDING JUD	250 C		C			
4.	HOAPILI HALE BUILDING EXTERIOR REMEDIAL IMPROVEMENTS, MAUI							
		DESIGN AND CONSTRUCTION FOR EXTERIOR REMEDIAL IMPROVEMENTS AT HOAPILI HALE, MAUI.						
		DESIGN	300	170				
		CONSTRUCTION		1,630				
		TOTAL FUNDING JUD	300 C	1,800 C				
5.	HOAPILI HALE EXHAUST MONITORING AND VENTILATION SYSTEMS UPGRADE, MAUI							
		DESIGN AND CONSTRUCTION FOR EXHAUST MONITORING AND VENTILATION SYSTEMS UPGRADE AT HOAPILI HALE, MAUI.						
		DESIGN	75	50				
		CONSTRUCTION		550				
		TOTAL FUNDING JUD	75 C	600 C				
5.01. LUMP SUM REPAIR AND MAINTENANCE, JUDICIARY FACILITIES, STATEWIDE								
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIR AND MAINTENANCE TO JUDICIARY FACILITIES.						
		PLANS			1			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		<u>DESIGN</u>			<u>1</u>
		<u>CONSTRUCTION</u>			<u>3,187</u>
		<u>EQUIPMENT</u>			<u>1</u>
		<u>TOTAL FUNDING</u>	<u>JUD</u>		<u>3,190 C</u>

SECTION 4. Part V, Act 133, Session Laws of Hawaii 2013, is amended:

(1) By amending section 8 to read as follows:

“SECTION 8. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in part II and listed in part IV of this Act; provided that the sum total of the general obligation bonds so issued shall not exceed [\$14,825,000.] \$44,185,000.”

(2) By adding a new section to read as follows:

“SECTION 8.1. Provided that of the general obligation fund appropriation for lump sum repair and maintenance, judiciary facilities, statewide for the first judicial circuit (JUD 310), the sum of \$1,340,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended as follows:

(1) \$500,000 for the plans for fire alarm system upgrade at Hoapili Hale, Maui;

(2) \$600,000 for the plans for an assessment of the fire, sewer, sprinkler, storm drain and air conditioning systems for the parking structure at Hoapili Hale, Maui; and

(3) \$240,000 for the design of an air conditioning/distribution system upgrade at the Lahaina District Court, Maui.”

SECTION 5. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 6. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice is authorized to correct the error. All changes made pursuant to this section shall be reported to the legislature at its next regular session.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

A Bill for an Act Relating to Election Frauds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in recent elections, attempts may have been made in several states to prevent registered voters from lawfully voting through the provision of false information regarding the time and place voting was to occur. For example, in Virginia, Indiana, and Florida, there were reports of elderly voters receiving phone calls telling them they did not have to go to the polls to vote, but could tell the caller their vote instead. In Delaware and Pennsylvania, voters were reportedly told photo identification was required to vote when Delaware has no such law and litigation has postponed Pennsylvania's law from taking effect until 2013. In addition, a mass mailing of fake letters questioning voters' citizenship was investigated. The letter purportedly written on the falsified letterhead of a local county's supervisor of elections told recipients to fill out a "voter eligibility form," including their social security and driver's license number, and return the form within fifteen days or be purged from voter rolls.

The legislature further finds that such efforts discourage electoral participation and undermine the democratic process. Therefore, the purpose of this Act is to:

- (1) Deem any person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates false information about the time, date, place, or means of voting, guilty of an election fraud; and
- (2) Make conforming amendments to clarify that advertisements shall not contain false information about the time, date, place, or means of voting.

SECTION 2. Section 11-391, Hawaii Revised Statutes, is amended to read as follows:

**"[§11-391] Advertisements.** (a) Any advertisement that is broadcast, televised, circulated, published, distributed, or otherwise communicated, including by electronic means, shall [e]contain:

- (1) [The] Contain the name and address of the candidate, candidate committee, noncandidate committee, or other person paying for the advertisement; [and]
- (2) [A] Contain a notice in a prominent location stating either that:
  - (A) The advertisement [is published, broadcast, televised, or circulated with] has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or
  - (B) The advertisement [is published, broadcast, televised, or circulated without the approval and authority of] has not been approved by the candidate[-]; and
- (3) Not contain false information about the time, date, place, or means of voting.

(b) The fine for violation of this section, if assessed by the commission, shall not exceed \$25 for each advertisement that lacks the information required

by this section or provides prohibited information, and shall not exceed an aggregate amount of \$5,000."

SECTION 3. Section 19-3, Hawaii Revised Statutes, is amended to read as follows:

**"§19-3 Election frauds.** The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;
- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
- (3) Every elector who, before, during, or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;
- (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;
- (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;
- (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
- (7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate

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- who withdraws from being a candidate in pursuance of such inducement or procurement;
- (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;
- (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine;
- (10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system; [and]
- (11) Every person who assists a voter in the completion of a ballot in violation of section 11-139[.]; and
- (12) Every person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates, including by electronic means or advertisement, false information about the time, date, place, or means of voting with the purpose of impeding, preventing, or otherwise interfering with the free exercise of the elective franchise.”

SECTION 4. Act 112, Session Laws of Hawaii 2013, is amended by repealing section 10.

[“SECTION 10. Section 11-391, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any advertisement that is broadcast, televised, circulated, or published, including by electronic means, shall contain:

- (1) The name and address of the candidate, candidate committee, non-candidate committee, or other person paying for the advertisement; and
- (2) A notice in a prominent location stating either that:
- (A) The advertisement has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or
- (B) The advertisement has not been approved by the candidate.”]

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 7. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

## ACT 129

H.B. NO. 2003

## A Bill for an Act Relating to Cybersecurity.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that implementing effective cybersecurity measures is a challenge faced by all states. The legislature also finds that the coordination of resources between the state department of defense, the University of Hawaii, the private and public sector, and the office of information management and technology is needed to define the requirements to improve cybersecurity and cyber resiliency in the State and develop responses to cyber-attacks.

The legislature further finds that cybersecurity and cyber resiliency encompass a broad array of security issues, including natural disasters and acts of terrorism, which can have a substantial impact on the critical infrastructure of the State resulting in a negative impact on the State's economy.

The purpose of this Act is to establish a Hawaii cybersecurity, economic, education, and infrastructure security coordinator to coordinate efforts to recommend improvements to the State's cybersecurity leading to overall cyber resiliency and to define requirements for securing state, federal, and private moneys to fund cybersecurity and cyber resiliency improvements in the sectors of power, water, communications, transportation, and finance.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
CYBERSECURITY”**

**§ -1 Cybersecurity, economic, education, and infrastructure security coordinator; powers and duties.** (a) There is established the full-time Hawaii cybersecurity, economic, education, and infrastructure security coordinator to oversee cybersecurity and cyber resiliency matters, including cybersecurity, economic, education, and infrastructure security for the State. The coordinator shall be placed within the state department of defense.

(b) The coordinator shall be selected by the state adjutant general based on the recommendations of the various agencies, departments, and private entities that will partner with the coordinator.

(c) The coordinator shall partner with representatives from the following entities:

- (1) The Hawaii fusion center;
- (2) The Hawaii state cyber resiliency center;
- (3) Federal government agencies;
- (4) State government agencies;
- (5) The counties of the State;
- (6) Institutions of higher education; and
- (7) Other entities within the power, water, communications, transportation, and finance sectors, including public utilities, private telecommunications companies, airlines, financial institutions, and private information technology companies.

(d) Notwithstanding any law to the contrary, the coordinator, through its various partnerships, shall develop the requirements and methods for:

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- (1) Improving cyber resiliency within the State through the development of a structure that shall include education, cybersecurity, and critical infrastructure protection;
- (2) Improving the State's critical infrastructure network and resiliency, including identifying interdependencies of critical infrastructures, points of connection between critical infrastructures, the most critical nodes, and the cascading effects of a cyber-attack on these points of connection between critical infrastructure;
- (3) Improving the State's cybersecurity by using existing resources within the State;
- (4) Examining specific requirements and actions to accelerate the growth of the cybersecurity industry in the State;
- (5) Defining the requirements and opportunities to secure state, federal, and private moneys for cybersecurity activities and related educational programs;
- (6) Forming partnerships to implement cyber resiliency structures and protocol to identify and share information about possible cyber-attacks and mitigate damage and recover quickly and efficiently from cyber-attacks; and
- (7) Expanding the State's cybersecurity and cyber resiliency understanding and workforce through education.

(e) The coordinator may request the assistance of other departments, agencies, and private companies, both inside and outside of the State to carry out its duties.

(f) For the purposes of this section:

“Coordinator” shall mean the Hawaii cybersecurity, economic, education, and infrastructure security coordinator.

“Cyber resiliency” shall mean the ability to complete vulnerability assessments, identify potential cyber-attacks, mitigate losses from cyber-attacks, and recover quickly and efficiently from cyber-attacks.”

**SECTION 3.** The Hawaii cybersecurity, economic, education, and infrastructure security coordinator shall submit to the legislature a report of its findings, recommendations, and proposed legislation in connection with the conduct of the coordinator’s duties under section -1(d), Hawaii Revised Statutes, no later than twenty days prior to the convening of the regular session of 2015.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the salary of the Hawaii cybersecurity, economic, education, and infrastructure security coordinator and operating expenses associated with the coordinator.

The sum appropriated shall be expended by the state department of defense for the purposes of this Act.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## ACT 130

S.B. NO. 2260

A Bill for an Act Relating to Wages and Hours on Public Works.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 104, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§104- Provisions of law; waiver.** No provision of this chapter may in any way be contravened or set aside by private contract.”

SECTION 2. Section 104-1, Hawaii Revised Statutes, is amended to read as follows:

**“§104-1 Definitions.** As used in this chapter, the following words and phrases shall have the following meanings:

[1] “Basic hourly rate” means the hourly wage paid to a laborer or mechanic for work performed during nonovertime hours, but shall not include the cost to an employer of furnishing fringe benefits, whether paid directly or indirectly to the laborer or mechanic as provided in [paragraph (7);] the definition of “wages”.

[2] “Construction” includes alteration, repair, painting, and decorating[;].

“Contractor” means any person furnishing construction for a public work under a contract with a governmental contracting agency, subcontractor, or any other person under a subcontract arrangement with any person who has a construction contract subject to this chapter.

[3] “Department” means the department of labor and industrial relations[;].

[4] “Director” means the director of labor and industrial relations of the State[;].

[5] “Governmental contracting agency” means the State, any county and any officer, bureau, board, commission, or other agency or instrumentality thereof[;].

[6] “Overtime compensation” means compensation based on one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in [paragraph (7);] the definition of “wages”.

“Public work” means any project, including development of any housing pursuant to section 46-15 or chapter 201H and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, where the funds or resources required to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.

[7] “Wages”, “rate of wages”, “wage rates”, “minimum wages” and “prevailing wages” mean the basic hourly rate and the cost to an employer of furnishing a laborer or mechanic with fringe benefits, including but not limited to health and welfare benefits, vacation benefits, and pension benefits, whether paid directly or indirectly to the laborer or mechanic.”

SECTION 3. Section 104-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

## ACT 130

"(a) This chapter shall apply to every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party; provided that this chapter shall not apply to experimental and demonstration housing developed pursuant to section 46-15 or housing developed pursuant to chapter 201H if the cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

For the purposes of this subsection:

"Contract" includes but is not limited to any agreement, purchase order, or voucher in excess of \$2,000 for construction of a public work project.

"Governmental contracting agency" includes any person or entity that causes either directly or indirectly the building or development of a public work.

"Party" includes eligible bidders for and eligible developers of any public work and any housing under chapter 201H; provided that this subsection shall not apply to any housing developed under section 46-15 or chapter 201H if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

[“Public work” means any project, including development of any housing pursuant to section 46-15 or chapter 201H and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, where the funds or resources required to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.]

SECTION 4. Section 104-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If any contractor interferes with or delays any investigation by the department, the governmental contracting agency, on receipt of written notice from the director of the interference or delay, shall withhold from the contractor all further payments until the director has notified the governmental contracting agency in writing that the interference or delay has ceased. Interference or delay includes failure to provide requested records under section 104-3; failure to allow employees to be interviewed during working hours on the job; and falsification of records required under this chapter. The department shall assess a penalty of [\$1,000] \$10,000 per project for interference or delay. For each day thereafter that the employer fails to cooperate, the director shall assess a penalty of [\$100] \$1,000 per project."

SECTION 5. Section 104-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A notification of violation shall be final and conclusive unless within twenty days after a copy [was mailed to the violator, unless within the twenty-day period the violator] has been sent to the contractor, the contractor files a written notice of appeal with the director."

SECTION 6. Section 104-24, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Where the department finds that a third violation of this chapter has been committed, whether on the same contract or another, within two years of the second notification of violation, the department, after proper notice and opportunity for hearing, shall order the person or firm in violation:

(1) To pay a penalty equal to two times the amount of back wages found due or \$200 for each offense, whichever is greater; and

- (2) To be suspended from doing any new work on any public work of a governmental contracting agency for a period of three years except as provided in section 104-25(a)(2). "New work on any public work" includes any public works project in which the suspended person or firm has not begun work at the job site as of the date of the suspension order. The suspension shall be effective on the later of the twenty-first day after the notification of violation has been sent, or upon the issuance of a decision pursuant to section 104-23(c)."

**SECTION 7.** Section 104-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- "(a) The director shall suspend a person or firm as follows:
- (1) For a first or second violation, if a person or firm fails to pay wages found due, any penalty assessed, or both, the person or firm shall be immediately suspended from doing any work on any public work of a governmental contracting agency until all wages and penalties are paid in full;
  - (2) For a third violation, the suspension shall be as prescribed in section 104-24(c); provided that, if the person or firm continues to violate this chapter or fails to pay wages found due or any penalty assessed, or both, then the [e]ntractor person or firm shall immediately be suspended from doing any work on any public work of a governmental contracting agency for a mandatory three-year period. If after the three-year suspension period the wages found due or penalties assessed are still unpaid, the suspension shall remain in force until payment is made in full; or
  - (3) For falsification of records, or for delay or interference with an investigation pursuant to section 104-22, the [e]ntractor person or firm shall be immediately suspended for a period of three years.
- (b) The director shall immediately notify the governmental contracting agency, comptroller [and], the auditor or director of finance of the county, and in the case of a suspended subcontractor, the general contractor of any suspension order."

**SECTION 8.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 9.** This Act shall take effect on July 1, 2014, and shall apply to all contracts entered into on or after the effective date of this Act.

(Approved June 24, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 131

H.B. NO. 1692

A Bill for an Act Relating to Tourism.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 201B-3, Hawaii Revised Statutes, is amended to read as follows:

**"§201B-3 Powers [~~and duties.~~], generally.** (a) Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Through its president and chief executive officer, make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter; provided that the authority may enter into contracts and agreements for a period of up to five years, subject to the availability of funds; and provided further that the authority may enter into agreements for the use of the convention center facility for a period of up to ten years;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Unless otherwise provided in this chapter, adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;
- (6) Through its president and chief executive officer, represent the authority in communications with the governor and the legislature;
- (7) Through its president and chief executive officer, provide for the appointment of officers, agents, a sports coordinator, and employees, subject to the approval of the board, prescribing their duties and qualifications, and fixing their salaries, without regard to chapters 76 and 78, if there is no anticipated revenue shortfall in the tourism special fund and funds have been appropriated by the legislature and allotted as provided by law;
- (8) Through its president and chief executive officer, purchase supplies, equipment, or furniture;
- (9) Through its president and chief executive officer, allocate the space or spaces that are to be occupied by the authority and appropriate staff;
- (10) Through its president and chief executive officer, engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the authority;
- (11) Through its president and chief executive officer, engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
- (13) Contract for or accept revenues, compensation, proceeds, and gifts or grants in any form from any public agency or any other source[~~; including any revenues or proceeds arising from the operation or use of the convention center~~];
- (14) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State [~~and its natural resources infrastructure; provided that the authority shall support the efforts of other state and county departments or agencies to manage, improve, and protect~~]. Hawaii's natural environment, and areas frequented by visitors;
- (15) Have a permanent, strong focus on [~~marketing and promotion;~~] Hawai'i brand management;
- (16) Conduct market development-related research as necessary;

- (17) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
  - (18) Work to eliminate or reduce barriers to travel to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
  - (19) Market and promote sports-related activities and events;
  - (20) Coordinate the development of new products with the counties and other persons in the public sector and private sector, including the development of sports, culture, health and wellness, education, technology, agriculture, and nature tourism;
  - (21) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
  - (22) Encourage the development of tourism educational, training, and career counseling programs;
  - (23) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as necessary;
  - (24) Develop and implement emergency measures to respond to any adverse effects on the tourism industry, pursuant to section 201B-9;
  - (25) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility without regard to chapter 91;
  - (26) Notwithstanding chapter 171, acquire, lease as lessee or lessor, own, rent, hold, and dispose of the convention center facility in the exercise of its powers and the performance of its duties under this chapter; and
  - (27) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, either directly or through developers, a convention center facility.
- [b] The authority shall be responsible for:
- (1) Promoting, marketing, and developing the tourism industry in the State;
  - (2) Arranging for the conduct of research through contractual services with the University of Hawaii or any agency or other qualified persons concerning social, economic, and environmental aspects of tourism development in the State; provided that, where public disclosure of information gathered by the authority may place businesses at a competitive disadvantage and impair or frustrate the authority's ability to obtain information for a legitimate government function, the authority may withhold from public disclosure competitively sensitive information, including:
    - (A) Completed survey and questionnaire forms;
    - (B) Coding sheets; and
    - (C) Database records of the information;
  - (3) Providing technical or other assistance to agencies and private industry upon request;
  - (4) Creating a vision and developing a long range strategic plan for tourism in Hawaii; and
  - (5) Reviewing annually the expenditure of public funds by any visitor industry organization with which the authority contracts to perform tourism promotion, marketing, and development and making recommendations necessary to ensure the effective use of the funds

for the development of tourism. The authority shall also prepare annually a report of expenditures, including descriptions and evaluations of programs funded, together with any recommendations the authority may make and shall submit the report to the governor and the legislature as part of the annual report required under section 201B-16.

- (e)] (b) The authority shall do any and all things necessary to carry out its purposes, to exercise the powers and responsibilities given in this chapter, and to perform other functions required or authorized by law.  
(c) As used in this section, "Hawaii brand" shall have the same meaning as in section 201B-6.

SECTION 2. Section 201B-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority shall be responsible for developing a tourism marketing plan. The plan shall be a single, comprehensive document that shall be updated every year and [includes] include the following:

- (1) Statewide [promotional] Hawaii brand management efforts and programs;
- (2) Targeted markets;
- (3) Efforts to enter into Hawaii brand [marketing] management projects that make effective use of cooperative [advertising] programs;
- (4) Program performance goals and targets that can be monitored as market gauges and used as attributes to evaluate the authority's [promotional] programs; and
- (5) Coordination of marketing plans of all destination marketing organizations receiving state funding prior to finalization of the authority's marketing plan.] The authority's guidance and direction for the development and coordination of promotional and marketing programs that build and promote the Hawaii brand, which are implemented through contracts and agreements with destination marketing organizations or other qualified organizations, including:  
(A) Target markets and the results being sought;  
(B) Key performance indicators; and  
(C) Private sector collaborative or cooperative efforts that may be required.

As used in this section, "Hawaii brand" means the programs that collectively differentiate the Hawaii experience from other destinations."

SECTION 3. Section 201B-7, Hawaii Revised Statutes, is amended to read as follows:

**“§201B-7 Tourism-related activities.** (a) The authority may enter into contracts and agreements that include the following:

- (1) Tourism promotion, marketing, and development;
- (2) Market development-related research;
- (3) Product development and diversification issues focused on visitors;
- (4) Promotion, development, and coordination of sports-related activities and events;
- (5) Promotion of Hawaii, through a coordinated statewide effort, as a place to do business, including high technology business, and as a business destination;
- (6) Reduction of barriers to travel;

- (7) Marketing, management, use, operation, or maintenance of the convention center facility, including the purchase or sale of goods or services, logo items, concessions, sponsorships, and license agreements, or any use of the convention center facility as a commercial enterprise; provided that effective January 1, 2003, and thereafter, the contract for management of the convention center facility shall include marketing for all uses of the facility;
- (8) Tourism research and statistics to:
  - (A) Measure and analyze tourism trends;
  - (B) Provide information and research to assist in the development and implementation of state tourism policy; and
  - (C) Provide tourism information on:
    - (i) Visitor arrivals, visitor characteristics, and expenditures;
    - (ii) The number of transient accommodation units available, occupancy rates, and room rates;
    - (iii) Airline-related data including seat capacity and number of flights;
    - (iv) The economic, social, and physical impacts of tourism on the State; and
    - (v) The effects of the marketing programs of the authority on the measures of effectiveness developed pursuant to section 201B-6(b); and
- (9) Any and all other activities necessary to carry out the intent of this chapter;

provided that the authority shall periodically submit a report of the contracts and agreements entered into by the authority to the governor, the speaker of the house of representatives, and the president of the senate.

- (b) The authority shall be responsible for:
- (1) Creating a vision and developing a long-range strategic plan for tourism in Hawaii;
  - (2) Promoting, marketing, and developing the tourism industry in the State;
  - (3) Arranging for the conduct of research through contractual services with the University of Hawaii or any agency or other qualified persons concerning social, economic, and environmental aspects of tourism development in the State;
  - (4) Providing technical or other assistance to agencies and private industry upon request;
  - (5) Perpetuating the uniqueness of the native Hawaiian culture and community, and their importance to the quality of the visitor experience, by ensuring that:
    - (A) The Hawaiian culture is accurately portrayed by Hawaii's visitor industry;
    - (B) Hawaiian language is supported and normalized as both an official language of the State as well as the foundation of the host culture that draws visitors to Hawaii;
    - (C) Hawaiian cultural practitioners and cultural sites that give value to Hawaii's heritage are supported, nurtured, and engaged in sustaining the visitor industry; and
    - (D) A native Hawaiian cultural education and training program is provided for the visitor industry workforce having direct contact with visitors; and
  - (6) Reviewing annually the expenditure of public funds by any visitor industry organization that contracts with the authority to perform

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tourism promotion, marketing, and development and making recommendations necessary to ensure the effective use of the funds for the development of tourism.

[+] (c) The authority may delegate to staff the responsibility for soliciting, awarding, and executing contracts[,] and for monitoring and facilitating any and all functions developed in accordance with [subsection (a).] this section.

(d) Where public disclosure of information gathered or developed by the authority may place a business at a competitive disadvantage or may impair or frustrate the authority's ability to either compete as a visitor destination or obtain or utilize information for a legitimate government function, the authority may withhold from public disclosure competitively sensitive information including:

- (1) Completed survey forms and questionnaire forms;
- (2) Coding sheets; and
- (3) Database records of the information.”

SECTION 4. Section 201B-16, Hawaii Revised Statutes, is amended to read as follows:

**“[§201B-16] Annual report.** The authority shall submit a complete and detailed report of its activities, expenditures, and results, including the progress of the tourism marketing plan developed pursuant to section 201B-6, toward achieving the authority's strategic plan goals, to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature. The annual report shall include the descriptions and evaluations of programs funded, together with any recommendations the authority may make.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

## ACT 132

H.B. NO. 2188

A Bill for an Act Relating to State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that certain funds and programs are effectively non-functional, having fulfilled their intended purpose. The legislature further finds that any moneys still remaining in these funds or programs would serve the State more effectively if they were deposited into an active fund or to the credit of the general fund.

In 1995, the legislature created the Waialua loan and subsidy program to assist former employees and retirees displaced by the closure of Waialua Sugar Company. However, as noted in the 2012 state auditor's report entitled, "Study of the Transfer of Non-general Funds to the General Fund," the program "is no longer active and there is only one outstanding loan...[accordingly], it is no longer serving the purpose for which it was created." Similarly, in 2001, the Kikala-Keokea infrastructure development fund was created to provide low-interest home construction loans for Kikala-Keokea leaseholders who had been denied loans from traditional financial institutions. However, according to a 2012 state auditor's report, the "fund is no longer active and there are no outstanding

loans...the project is projected to have no revenues, no expenses, and no balance for FY2012...[accordingly] it is no longer serving the purpose for which it was created."

The purpose of this Act is to terminate the Waialua loan and subsidy program, the Kikala-Keokea infrastructure development fund, and the Kikala-Keokea housing revolving fund, and to deposit any residual amounts left in either the program or funds into the rental assistance revolving fund or the general fund.

**SECTION 2.** Section 201H-211, Hawaii Revised Statutes, is amended to read as follows:

**"[§201H-211] Expenditures of revolving funds under the corporation exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from the revolving funds administered by the corporation under subparts I and J of part III, relating to financing programs, or sections 201H-80, [201H-81,] 201H-123, or 516-44 may be made by the corporation without appropriation or allotment by the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of the revolving funds identified in subparts I and J of part III, or sections 201H-80, [201H-81,] 201H-123, or 516-44 to be reappropriated annually."

**SECTION 3.** Section 171-19.5, Hawaii Revised Statutes, is repealed.

**SECTION 4.** Section 201H-81, Hawaii Revised Statutes, is repealed.

**SECTION 5.** Act 30, Special Session Laws of Hawaii 1995, is repealed.

**SECTION 6.** Act 31, Special Session Laws of Hawaii 1995, is repealed.

**SECTION 7.** (a) By July 1, 2014, the director of finance shall transfer any unencumbered balances remaining, as of June 30, 2014, in the infrastructure development fund established by section 171-19.5, Hawaii Revised Statutes, and the Kikala-Keokea housing revolving fund, established by section 201H-81, Hawaii Revised Statutes, to the credit of the general fund. Additionally, any future revenues scheduled to be paid into the infrastructure development fund or Kikala-Keokea housing revolving fund shall be paid to the credit of the general fund.

(b) By July 1, 2014, the director of finance shall transfer any unencumbered balances remaining, as of June 30, 2014, in the grant and loan programs established by Acts 30 and 31, Special Session Laws of Hawaii 1995, to the credit of the rental assistance revolving fund. Additionally, any future revenues scheduled to be paid into the grant and loan programs established by Acts 30 and 31, Special Session Laws of Hawaii 1995, shall be paid to the credit of the rental assistance revolving fund.

**SECTION 8.** This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 9.** Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

**SECTION 10.** This Act shall take effect upon its approval.

(Approved June 24, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Economy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to promote and encourage innovative activity and entrepreneurs by amending the state plan policies, objectives, and priority guidelines concerning the economy and information technology.

SECTION 2. Section 226-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the general economic objectives, it shall be the policy of this State to:

- (1) Promote and encourage entrepreneurship within Hawaii by residents and nonresidents of the State.
- [+] (2) Expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.
- [+] (3) Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.
- (4) Transform and maintain Hawaii as a place that welcomes and facilitates innovative activity that may lead to commercial opportunities.
- (5) Promote innovative activity that may pose initial risks, but ultimately contribute to the economy of Hawaii.
- [+] (6) Seek broader outlets for new or expanded Hawaii business investments.
- [+] (7) Expand existing markets and penetrate new markets for Hawaii's products and services.
- [+] (8) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.
- [+] (9) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.
- [+] (10) Encourage the formation of cooperatives and other favorable marketing arrangements at the local or regional level to assist Hawaii's small scale producers, manufacturers, and distributors.
- [+] (11) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.
- (12) Encourage innovative activities that may not be labor-intensive, but may otherwise contribute to the economy of Hawaii.
- [+] (13) Foster greater cooperation and coordination between the government and private sectors in developing Hawaii's employment and economic growth opportunities.
- [+] (14) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.
- [+] (15) Maintain acceptable working conditions and standards for Hawaii's workers.
- [+] (16) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and nondiscrimination measures.
- [+] (17) Stimulate the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology

assets, particularly on the neighbor islands where employment opportunities may be limited.

- [14] (18) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy, particularly with respect to emerging industries in science and technology.
- [15] (19) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.
- [16] (20) Increase effective communication between the educational community and the private sector to develop relevant curricula and training programs to meet future employment needs in general, and requirements of new[.] or innovative potential growth industries in particular.
- [17] (21) Foster a business climate in Hawaii—including attitudes, tax and regulatory policies, and financial and technical assistance programs—that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.”

SECTION 3. Section 226-10, Hawaii Revised Statutes, is amended to read as follows:

**“§226-10 Objective and policies for the economy—potential growth and innovative activities.** (a) Planning for the State's economy with regard to potential growth and innovative activities shall be directed towards achievement of the objective of development and expansion of potential growth and innovative activities that serve to increase and diversify Hawaii's economic base.

(b) To achieve the potential growth and innovative activity objective, it shall be the policy of this State to:

- (1) Facilitate investment and employment growth in economic activities that have the potential to expand and diversify Hawaii's economy, including but not limited to diversified agriculture, aquaculture, renewable energy development, creative media, health care, and science and technology-based sectors;
- (2) Facilitate investment in innovative activity that may pose risks or be less labor-intensive than other traditional business activity, but if successful, will generate revenue in Hawaii through the export of services or products or substitution of imported services or products;
- (3) Encourage entrepreneurship in innovative activity by academic researchers and instructors who may not have the background, skill, or initial inclination to commercially exploit their discoveries or achievements;
- (4) Recognize that innovative activity is not exclusively dependent upon individuals with advanced formal education, but that many self-taught, motivated individuals are able, willing, sufficiently knowledgeable, and equipped with the attitude necessary to undertake innovative activity;
- (5) Increase the opportunities for investors in innovative activity and talent engaged in innovative activity to personally meet and interact at cultural, art, entertainment, culinary, athletic, or visitor-oriented events without a business focus;
- [2] (6) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people;

- [(3)] (7) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts;
- [(4)] (8) Accelerate research and development of new energy-related industries based on wind, solar, ocean, [and] underground resources, and solid waste;
- [(5)] (9) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new or innovative economic activities into the State;
- [(6)] (10) Provide public incentives and encourage private initiative to attract new or innovative industries that best support Hawaii's social, economic, physical, and environmental objectives;
- [(7)] (11) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research;
- [(8)] (12) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii;
- [(9)] (13) Foster a broader public recognition and understanding of the potential benefits of new[,] or innovative growth-oriented industry in Hawaii;
- [(10)] (14) Encourage the development and implementation of joint federal and state initiatives to attract federal programs and projects that will support Hawaii's social, economic, physical, and environmental objectives;
- [(11)] (15) Increase research and development of businesses and services in the telecommunications and information industries; [and]
- [(12)] (16) Foster the research and development of nonfossil fuel and energy efficient modes of transportation[-]; and
- (17) Recognize and promote health care and health care information technology as growth industries.”

SECTION 4. Section 226-10.5, Hawaii Revised Statutes, is amended to read as follows:

**“§226-10.5 Objectives and policies for the economy—information industry.**

(a) Planning for the State's economy with regard to telecommunications and information technology shall be directed toward recognizing that broadband and wireless communication capability and infrastructure are foundations for an innovative economy and positioning Hawaii as a leader in broadband and wireless communications and applications in the Pacific Region.

(b) To achieve the information industry objective, it shall be the policy of this State to:

- (1) Promote efforts to attain the highest speeds of electronic and wireless communication within Hawaii and between Hawaii and the world, and make high speed communication available to all residents and businesses in Hawaii;
- [(1)] (2) Encourage the continued development and expansion of the telecommunications infrastructure serving Hawaii to accommodate future growth and innovation in [the information industry;] Hawaii's economy;
- [(2)] (3) Facilitate the development of new or innovative business and service ventures in the information industry which will provide employment opportunities for the people of Hawaii;

- (4) Encourage mainland- and foreign-based companies of all sizes, whether information technology-focused or not, to allow their principals, employees, or contractors to live in and work from Hawaii, using technology to communicate with their headquarters, offices, or customers located out-of-state;
- [3] (5) Encourage greater cooperation between the public and private sectors in developing and maintaining a well-designed information industry;
- [4] (6) Ensure that the development of new businesses and services in the industry are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people;
- [5] (7) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the information industry;
- [6] (8) Foster a recognition of the contribution of the information industry to Hawaii's economy; and
- [7] (9) Assist in the promotion of Hawaii as a broker, creator, and processor of information in the Pacific."

SECTION 5. Section 226-103, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable and diversified economy:

- (1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.

(A) Encourage investments which:

- (i) Reflect long term commitments to the State;
- (ii) Rely on economic linkages within the local economy;
- (iii) Diversify the economy;
- (iv) Reinvest in the local economy;
- (v) Are sensitive to community needs and priorities; and
- (vi) Demonstrate a commitment to provide management opportunities to Hawaii residents[-]; and

(B) Encourage investments in innovative activities that have a nexus to the State, such as:

- (i) Present or former residents acting as entrepreneurs or principals;
- (ii) Academic support from an institution of higher education in Hawaii;
- (iii) Investment interest from Hawaii residents;
- (iv) Resources unique to Hawaii that are required for innovative activity; and
- (v) Complementary or supportive industries or government programs or projects.

- (2) Encourage the expansion of technological research to assist industry development and support the development and commercialization of technological advancements.

- (3) Improve the quality, accessibility, and range of services provided by government to business, including data and reference services and assistance in complying with governmental regulations.

- (4) Seek to ensure that state business tax and labor laws and administrative policies are equitable, rational, and predictable.

- (5) Streamline the processes for building and development permit and review [process] and telecommunication infrastructure installation approval and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where scientific evidence indicates that public health, safety, and welfare would not be adversely affected.
  - (6) Encourage the formation of cooperatives and other favorable marketing or distribution arrangements at the regional or local level to assist Hawaii's small-scale producers, manufacturers, and distributors.
  - (7) Continue to seek legislation to protect Hawaii from transportation interruptions between Hawaii and the continental United States.
  - (8) Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:
    - (A) An industry that can take advantage of Hawaii's unique location and available physical and human resources.
    - (B) A clean industry that would have minimal adverse effects on Hawaii's environment.
    - (C) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs at all levels of employment.
    - (D) An industry that would provide reasonable income and steady employment.
  - (9) Support and encourage, through educational and technical assistance programs and other means, expanded opportunities for employee ownership and participation in Hawaii business.
  - (10) Enhance the quality of Hawaii's labor force and develop and maintain career opportunities for Hawaii's people through the following actions:
    - (A) Expand vocational training in diversified agriculture, aquaculture, information industry, and other areas where growth is desired and feasible.
    - (B) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.
    - (C) Allocate educational resources to career areas where high employment is expected and where growth of new industries is desired.
    - (D) Promote career opportunities in all industries for Hawaii's people by encouraging firms doing business in the State to hire residents.
    - (E) Promote greater public and private sector cooperation in determining industrial training needs and in developing relevant curricula and on-the-job training opportunities.
    - (F) Provide retraining programs and other support services to assist entry of displaced workers into alternative employment."
2. By amending subsection (g) to read:
- "(g) Priority guidelines to promote the development of the information industry:
- (1) Establish an information network, with an emphasis on broadband and wireless infrastructure and capability, that will serve as the foundation of and catalyst for [establishing a viable information industry] overall economic growth and diversification in Hawaii.

- (2) Encourage the development of services such as financial data processing, a products and services exchange, foreign language translations, telemarketing, teleconferencing, a twenty-four-hour international stock exchange, international banking, and a Pacific Rim management center.
- (3) Encourage the development of small businesses in the information field such as software development[–the]; the development of new information systems [and], peripherals, and applications; data conversion and data entry services[–]; and home or cottage services such as computer programming, secretarial, and accounting services.
- (4) Encourage the development or expansion of educational and training opportunities for residents in the information and telecommunications fields.
- (5) Encourage research activities, including legal research in the information and telecommunications fields.
- (6) Support promotional activities to market Hawaii's information industry services.
- (7) Encourage the location or co-location of telecommunication or wireless information relay facilities in the community, including public areas, where scientific evidence indicates that the public health, safety, and welfare would not be adversely affected."

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

SECTION 7. This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## ACT 134

H.B. NO. 648

A Bill for an Act Relating to State Finances.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I.

SECTION 1. The purpose of this Act is to address state finances.

More specifically, this Act repeals or reduces certain specific appropriations that were made in acts passed during the regular session of 2013 and that the respective designated expending agencies are not planning to expend in fiscal year 2013-2014.

The legislature finds that this Act enables the savings to be expressly identified as part of the carryover balance for fiscal year 2014-2015 in the state financial plan. The legislature finds that this approach is more efficient than simply allowing the unexpended and unencumbered amounts to lapse. Because lapsed appropriations do not become known until after the fiscal year ends, the legislature is unable to consider lapsed appropriations when making budgetary decisions during the regular session immediately preceding the lapse date.

The legislature emphasizes that the repeal or reduction of the appropriations in this Act does not represent discontinuation of support for the de-funded programs. The intent of this Act is to increase the general fund carryover balance.

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This Act also authorizes the transfer of excess funds from the medicaid investigations recovery fund to the general fund. The legislature finds that the excess funds are not needed for the requirements of the fund.

### PART II.

SECTION 2. The purpose of this part is to repeal the appropriation in Act 222, Session Laws of Hawaii 2013, for the shallow subsidy program for fiscal year 2013-2014.

The legislature finds that the department of human services does not plan to expend the appropriation.

SECTION 3. Act 222, Session Laws of Hawaii 2013, is amended by repealing section 4.

[“~~SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 for a rental assistance program, also known as a shallow subsidy program, for homeless working individuals and their families who are ready to rent permanent housing to obtain and maintain permanent housing; provided that:~~

- (1) ~~The maximum subsidy shall be \$300 per month; provided that in order to qualify for the subsidy, a household shall pay a minimum of forty per cent of their adjusted gross income for rent; and~~
- (2) ~~A household's adjusted gross income shall be calculated in the same manner as calculated by the Hawaii public housing authority to qualify for public housing under the authority's control.~~

~~The sums appropriated for program and administrative costs associated with establishing and operating the shallow subsidy program shall be expended by the department of human services through a contract issued pursuant to chapter 103F, Hawaii Revised Statutes, and sums appropriated for staff within the homeless program's office to administer the program shall be expended by the department of human services for the purposes of this part.”]~~

### PART III.

SECTION 4. The purpose of this part is to repeal the appropriation in Act 222, Session Laws of Hawaii 2013, for the homelessness prevention and rapid re-housing program for fiscal year 2013-2014.

The legislature finds that the department of human services does not plan to expend the appropriation.

SECTION 5. Act 222, Session Laws of Hawaii 2013, is amended by repealing section 9.

[“~~SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the homelessness prevention and rapid re-housing program.~~

~~The sums appropriated shall be expended by the department of human services for the purposes of this part.”]~~

## PART IV.

**SECTION 6.** The purpose of this part is to reduce the appropriation in Act 222, Session Laws of Hawaii 2013, for innovative temporary housing solutions for fiscal year 2013-2014.

The legislature finds that the department of human services does not plan to expend the entire appropriation.

**SECTION 7.** Act 222, Session Laws of Hawaii 2013, is amended by amending section 17 to read as follows:

**"SECTION 17.** There is appropriated out of the general revenues of the State of Hawaii the sum of [\$100,000] \$50,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the construction and demonstration of innovative temporary housing solutions as they relate to the working group's findings and recommendations.

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

## PART V.

**SECTION 8.** The purpose of this part is to repeal the appropriation in Act 268, Session Laws of Hawaii 2013, for the Hawaii employer-union health benefits trust fund task force for fiscal year 2013-2014.

The legislature finds that the department of budget and finance does not plan to expend the appropriation.

**SECTION 9.** Act 268, Session Laws of Hawaii 2013, is amended by repealing section 5.

[**"SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$185,750 or so much thereof as may be necessary for fiscal year 2013-2014 to support the work of the Hawaii employer-union health benefits trust fund task force, including necessary travel expenses for task force members who reside outside of Oahu and consulting services of persons knowledgeable in relevant issues.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.]

## PART VI.

**SECTION 10.** The purpose of this part is to repeal the appropriation in Act 268, Session Laws of Hawaii 2013, for a study on joint investment information and service sharing by the employees' retirement system and Hawaii employer-union health benefits trust fund for fiscal year 2013-2014.

The legislature finds that the department of budget and finance may not be able to expend the appropriation for fiscal year 2013-2014. This part does not repeal the appropriation for the study for fiscal year 2014-2015.

**SECTION 11.** Act 268, Session Laws of Hawaii 2013, is amended by amending section 13 to read as follows:

**"SECTION 13.** There is appropriated out of the general revenues of the State of Hawaii the sum of [\$500,000] \$100,000 or so much thereof as may

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be necessary for fiscal year 2013-2014 and the [same] sum [~~or~~] of \$350,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the department of budget and finance to conduct a study and develop an implementation plan to have both the employer-union health benefits trust fund and the employees' retirement system jointly share investment information and services.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this Act."

### **PART VII.**

**SECTION 12.** The purpose of this part is to authorize the transfer of the excess funds contained in the medicaid investigations recovery fund, established under section 28-91.5, Hawaii Revised Statutes, to the general fund.

**SECTION 13.** The legislature finds that there is in the medicaid investigations recovery fund, established under section 28-91.5, Hawaii Revised Statutes, at least \$1,000,000 in excess of the requirements of the fund. Until June 30, 2014, the director of finance may transfer from the medicaid investigations recovery fund to the general fund the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2013-2014.

### **PART VIII.**

**SECTION 14.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 15.** This Act shall take effect upon its approval.

(Approved June 24, 2014.)

#### **Note**

1. Prior to amendment "programs" appeared here.

## **ACT 135**

S.B. NO. 2410

A Bill for an Act Relating to Capital Improvement Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that capital improvement projects cover a wide range of projects in the State, including the construction of new facilities and improvements. Currently, agencies that submit a proposal for a capital improvement project are not required to include an estimate of operational costs relating to the maintenance and continued operation of a facility or project. However, operational costs are often significant and can even be greater than the cost of development and construction.

The legislature finds that if agencies submit an estimate of operational costs for capital improvement projects, the legislature, prior to approving projects, would have a clearer view of the total cost of the project as opposed to the cost of only planning and construction. This knowledge will permit the State to make more fiscally sound decisions and better prioritize spending on capital improvement projects.

The purpose of this Act is to require that agencies include estimated operational costs in their capital improvement project cost estimates.

SECTION 2. Section 37-43, Hawaii Revised Statutes, is amended to read as follows:

**[H]§37-43[H]** **Capital improvement project allotment process.** The department of budget and finance shall carry out the capital improvement project allotment process, which shall consist of reviewing, prioritizing, and evaluating capital improvement project appropriation proposals submitted by state and county agencies to [assure] ensure conformity with statewide planning goals and objectives and executive priorities, and report its findings and recommendations and an estimate of the operational costs for each proposed capital improvement project to the governor in order that [such] the proposals may be considered for possible inclusion in the executive capital improvement project budget that is to be presented to the legislature. The department shall also review, analyze, and report on state and county capital improvement project appropriation proposals that extend over wide geographical areas of the State and that have significant impacts upon economic development, land use, environmental quality, construction employment, and executive policy directions."

SECTION 3. Section 37-68, Hawaii Revised Statutes, is amended to read as follows:

**"§37-68 Responsibilities of agencies.** Under [such] rules as may be prescribed by the director of finance with the approval of the governor:

- (1) [Every] Each agency assigned the task of developing programs and preparing program and financial plans, budgetary requests, and program performance reports shall develop [such] the programs and prepare [such] the plans, requests, and reports and submit the same to the director of finance at [such] times, on [such] forms, and in [such] a manner as the director may prescribe. For informational purposes, the University of Hawaii shall submit its program and financial plans, budgetary requests, and program performance reports to the legislature at the same time the university submits them to the director of finance. Where new programs are being proposed, [every] each agency shall demonstrate that the program:
  - (A) Is an appropriate function of state government; and, as applicable
  - (B) Can be implemented by the public sector as cost-effectively as the private sector while meeting the same plans, goals, objectives, standards, measures of effectiveness, wage, salary, conditions of employment, and employee benefit programs of the State;
- (2) [Every] Each agency administering state programs and [every] each agency responsible for the formulation of programs and the preparation of program and financial plans, budgetary requests, and program performance reports, shall furnish the department of budget and finance all [such] documents and information as the department may from time to time require. Each agency shall make available all documents and information, as may be requested, to the legislature and any member or committee of either house of the legislature[, all documents and information as may be requested; and].

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- (3) The director of finance or any employee of the department of budget and finance, when duly authorized, for the purpose of securing information, shall have access to and may examine any books, documents, papers, or records of any agency[.]; and
- (4) Each agency submitting a capital improvement project proposal shall furnish the department of budget and finance with an estimate of operational costs for the proposed capital improvement project and all documents that support the estimate of operational costs. Each agency shall make available all documents and related information, as may be requested, to the legislature and any member or committee of either house."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

## ACT 136

S.B. NO. 2779

A Bill for an Act Relating to Financial Audit of the State of Hawaii by the Legislative Auditor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to specifically authorize the department of taxation to release certain otherwise confidential information to the auditor or the auditor's authorized agents, for the purpose of conducting the annual certified financial audit pursuant to section 23-5, Hawaii Revised Statutes. This measure also ensures that the auditor and its authorized agents keep the disclosed information confidential by increasing the class of offense for unlawful disclosure from a misdemeanor to a class C felony.

SECTION 2. Section 23-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The auditor may examine and inspect all accounts, books, records, files, papers, and documents and all financial affairs of every department, office, agency, and political subdivision[.]; provided that:

- (1) Upon written request by the auditor, the department of taxation shall provide to the auditor access to tax returns but only to the extent necessary and relevant to the scope of the comprehensive annual financial report audit of the State; and
- (2) Tax return information provided to the auditor by the department of taxation pursuant to paragraph (1) shall be considered working papers of the auditor pursuant to section 23-9.5."

SECTION 3. Section 231-18, Hawaii Revised Statutes, is amended to read as follows:

**"§231-18 [Federal or other tax officials] Tax and other officials permitted to inspect returns; reciprocal provisions.** Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the State to make

known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to [permit]:

- (1) Permit a duly accredited tax official of the United States, any state or territory, any county of this State, or the Multistate Tax Commission to inspect any tax return of any taxpayer[; or to furnish];
- (2) Furnish to an official, commission, or the authorized representative thereof an abstract of the return or supply the official, commission, or the authorized representative thereof with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only[;]; or
- (3) Provide tax return information to the auditor pursuant to section 23-5(a).

The Multistate Tax Commission may make the information available to a duly accredited tax official of the United States, any state or territory, or the authorized representative thereof, for tax purposes only."

SECTION 4. Section 235-116, Hawaii Revised Statutes, is amended to read as follows:

**"§235-116 Disclosure of returns unlawful; penalty.** All tax returns and return information required to be filed under this chapter shall be confidential, including any copy of any portion of a federal return [which] that may be attached to a state tax return, or any information reflected in the copy of [such] the federal return. It shall be unlawful for any person, or any officer or employee of the State, including the auditor or the auditor's agent with regard to tax return information obtained pursuant to section 23-5(a), to make known intentionally information imparted by any income tax return or estimate made under sections 235-92, 235-94, 235-95, and 235-97 or wilfully to permit any income tax return or estimate so made or copy thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized agent, persons duly authorized by the State in connection with their official duties, the Multistate Tax Commission or the authorized representative thereof, except as otherwise provided by law[, and any]. Any offense against the foregoing provisions shall be [punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.] punishable as a class C felony."

SECTION 5. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State, including the auditor or the auditor's agent with regard to tax return information obtained pursuant to section 23-5(a), to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any [such] return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only, the taxpayer, the taxpayer's authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;

- (2) Partners;
  - (3) Persons named in a board resolution or a one per cent shareholder in the case of a corporate return;
  - (4) The person authorized to act for a corporation in dissolution;
  - (5) The shareholder of an S corporation;
  - (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in the case of the estate's or decedent's return;
  - (7) The committee, trustee, or guardian of any person in paragraphs (1) [to] through (6) who is incompetent;
  - (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) [to] through (7);
  - (9) Persons duly authorized by the State in connection with their official duties;
  - (10) Any duly accredited tax official of the United States or of any state or territory;
  - (11) The Multistate Tax Commission or its authorized representative;
  - (12) Members of a limited liability company; and
  - (13) A person contractually obligated to pay the taxes assessed against another when the latter person is under audit by the department.
- Any violation of this subsection shall be a [~~misdemeanor~~] Class C felony."

SECTION 6. Section 237D-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State, including the auditor or the auditor's agent with regard to tax return information obtained pursuant to section 23-5(a), to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer's authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
- (2) Partners;
- (3) Persons named in a board resolution or a one per cent shareholder in the case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) The shareholder of an S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in the case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) [to] through (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) [to] through (7);
- (9) Persons duly authorized by the State in connection with their official duties;
- (10) Any duly accredited tax official of the United States, or of any state or territory, or of any county of this State;
- (11) The Multistate Tax Commission or its authorized representative; and

## (12) Members of a limited liability company.

Any violation of this subsection shall be a [misdemeanor] class C felony. Nothing in this subsection shall prohibit the publication of statistics [so] that are classified [as] to prevent the identification of particular reports or returns and the items of the reports or returns."

**SECTION 7.** Section 251-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State, including the auditor or the auditor's agent with regard to tax return information obtained pursuant to section 23-5(a), to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any [su h] tax return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for surcharge tax purposes only the lessor or tour vehicle operator, the lessor's or tour vehicle operator's authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
- (2) Partners;
- (3) Persons named in a board resolution or a one per cent shareholder in the case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) The shareholder of an S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in the case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) [~~to~~] through (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) [~~to~~] through (7);
- (9) Persons duly authorized by the State in connection with their official duties;
- (10) Any duly accredited tax official of the United States or of any state or territory;
- (11) The Multistate Tax Commission or its authorized representative; and
- (12) Members of a limited liability company.

Any violation of this subsection shall be a [misdemeanor] class C felony. Nothing in this subsection shall prohibit the publication of statistics [so] that are classified [as] to prevent the identification of particular reports or returns and the items of the reports or returns."

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

**SECTION 9.** This Act shall take effect upon its approval.

(Approved June 24, 2014.)

A Bill for an Act Relating to Public Works of Art.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 281, Session Laws of Hawaii 2013, section 2, is amended as follows:

1. By amending subsection (a) to read:

“(a) The comptroller and the state foundation on culture and the arts shall commission a permanent[~~, three-dimensional~~] work of art to portray the life, vision, accomplishments, impact, and legacy of the late United States Senator Daniel K. Inouye [so-as] to properly honor his memory and to utilize his example as an inspiration for current and future generations.”

2. By amending subsection (b) to read:

“(b) The state foundation on culture and the arts, at the earliest opportunity, shall issue a call for design entries; provided that the design [shall include but] is not limited to a likeness of Daniel K. Inouye [~~at some stage of his life~~].”

3. By repealing subsection (e):

[“(e) ~~The state foundation on culture and the arts and the department of accounting and general services shall permanently install the work of art commemorating Daniel K. Inouye in time for unveiling on December 17, 2014, the second anniversary of his death.~~”]

**SECTION 2.** Act 281, Session Laws of Hawaii 2013, section 3, is amended by amending subsection (b) to read as follows:

“(b) The state foundation on culture and the arts, at the earliest opportunity, shall issue a call for design entries; provided that the design [shall include but] is not limited to a likeness of Patsy T. Mink [~~at some stage of her life~~].”

**SECTION 3.** Act 281, Session Laws of Hawaii 2013, is amended by amending section 4 to read as follows:

“**SECTION 4.** There is appropriated out of the works of art special fund the sum of \$250,000 or so much thereof as may be necessary [~~for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary~~] for fiscal year 2014-2015 for the comptroller and state foundation on culture and the arts to commission art pursuant to sections 2 and 3 of this Act.

The sums appropriated shall be expended by the [~~department of accounting and general services~~] state foundation on culture and the arts for the purposes of this Act.”

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## ACT 138

S.B. NO. 3125

A Bill for an Act Relating to the State Foundation on Culture and the Arts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The auditor shall conduct a financial and management audit of the state foundation on culture and the arts that shall include but not be limited to determining:

- (1) The remaining balance within the works of art special fund;
- (2) The amount and source of funds transferred into the works of art special fund;
- (3) The total annual expenditures incurred for the acquisition of works of art;
- (4) The total annual operating costs, along with a detailed breakdown of these costs, for the state foundation on culture and the arts;
- (5) Costs associated with site modifications, display, and interpretive work for the exhibition of works of art;
- (6) Costs associated with upkeep services, including maintenance, repair, and restoration of works of art;
- (7) The methodology used for obtaining works of art;
- (8) The current inventory of acquired works of art under the control of and maintained by the state foundation on culture and the arts;
- (9) The methodology and systems currently used to monitor and secure the inventory of acquired works of art;
- (10) Best management practices for the state foundation on culture and the arts;
- (11) Whether the current, independent financial audit performed annually for the state foundation on culture and the arts, its affiliates, or pass through entities, is substandard; and
- (12) The specific amounts of money:
  - (A) Spent by the department of transportation on capital improvement construction for the enhancement of airport facilities;
  - (B) Being deposited into the works of art special fund as required by law; and
  - (C) Being used from the works of art special fund solely to purchase works of art for these airport facilities.

SECTION 2. The auditor shall submit a report of the auditor's findings and any recommendations regarding the financial and management audit of the state foundation on culture and the arts, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-156, Hawaii Revised Statutes, is amended to read as follows:

**"§11-156 Certificate of election and certificate of results, form.** The chief election officer or county clerk shall deliver certificates of election to the persons elected as determined under section 11-155. The chief election officer or county clerk in county elections shall issue certificates of results where a question has been voted upon. Certificates of election shall be delivered only after the [filing]:

(1) Filing of [expense statements] reports in accordance with sections 11-331 and 11-333; and

(2) Payment of any fine assessed by the campaign spending commission, by the person elected in accordance with part XIII and after the expiration of time for bringing an election contest. The certificate of election shall be substantially in the following form:

**CERTIFICATE OF ELECTION**

I,....., chief election officer (county clerk) of Hawaii (county), do hereby certify that ..... was on the .... day of ..... 20...., duly elected a ..... (name of office) for the ..... district for a term expiring on the .... day of ....., A.D. 20....

Witness my hand this .... day of ....., A.D. 20....

.....  
Chief Election Officer (County Clerk)

The certificate of results shall be substantially in the following form:

**CERTIFICATE OF RESULTS**

I, ....., chief election officer (county clerk) of Hawaii (county), do hereby certify that ..... (question) was on the .... day of ..... 20...., duly adopted (rejected) by a majority of the votes cast.

.....  
Chief Election Officer (County Clerk)

If there is an election contest these certificates shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

## ACT 140

S.B. NO. 2118

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-426, Hawaii Revised Statutes, is amended to read as follows:

**"[§11-426] Candidate exceeds voluntary expenditure limit.** A candidate who files the affidavit agreeing to limit expenditures and who exceeds the expenditure limit for that election shall:

- (1) Notify all opponents, the [chief election officer,] office of elections, and the commission by telephone and writing on the day the expenditure limit is exceeded;
- (2) Pay the balance of the full filing fee; and
- (3) Provide reasonable notice to all contributors within thirty days of exceeding the limit that the expenditure limit was exceeded [~~and contributions to the candidate no longer qualify for a state income tax deduction~~.]

SECTION 2. Section 11-424, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 141

H.B. NO. 2147

A Bill for an Act Relating to Concessions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the rapid development of technology has altered the way in which advertising and sales are rendered. Similarly, communications technology evolves quickly to accommodate changing needs for connectivity and compatibility with personal hardware. Thus, flexible procedures are needed for government contracting to ensure efficiency and best economic results.

The purpose of this Act is to provide government agencies with flexibility in the negotiation of concession contracts, specifically those that involve various evolving media communication technology and advertising.

SECTION 2. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

## ACT 141

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; [and]
- (11) For any of the operations of the Hawaii health systems corporation and its regional system boards[.];
- (12) For airport operation of concessions providing electronic communication services;
- (13) For airport operation of concessions consisting solely of advertising;
- (14) For the stadium authority operation of concessions providing electronic communication services; and
- (15) For the stadium authority operation of concessions consisting solely of advertising.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 2021, section 2 of this Act shall be repealed and section 102-2(b), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved June 24, 2014.)

## ACT 142

S.B. NO. 2901

A Bill for an Act Relating to Motor Carrier Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend or delete any statutes or provisions containing federal requirements that are currently addressed in Hawaii Administrative Rules or otherwise deemed unnecessary.

SECTION 2. Section 286-202.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Notwithstanding] In addition to the requirements in title<sup>1</sup> 49 Code of Federal Regulations[–Part] part 390.21, every motor carrier vehicle shall be marked as specified in subsections (b), (c), and (d).”

SECTION 3. Section 286-207, Hawaii Revised Statutes, is amended to read as follows:

**“§286-207 Exemptions, certain vehicles.** This part shall not apply to the following vehicles, if such vehicles are in compliance with safety ordinances and rules of the county in which they operate and other applicable state safety laws and rules:

- [1] The type of passenger carrying vehicle known as a “sampan bus” within a radius of twenty miles from the city of Hilo, Hawaii;
- [2] Station wagons for the carriage of property;
- [3] (1) Trucks, truck-trailers, trailers, or other nonpassenger carrying equipment having a gross vehicle weight rating of 10,000 pounds or less, except vehicles used in transporting material found by the United States Secretary of Transportation to be hazardous under 49 U.S.C. section 5103 and transported in a quantity requiring placarding under 49 C.F.R., Subtitle B, Chapter I, Subchapter C;
- [4] (2) Taxicabs as described in section 271-5(3)(B);
- [5] Passenger carrying vehicles with a seating capacity of nine or less used for the transportation of employees to and from the jobsite;
- [6] (3) Passenger carrying vehicles used by employees solely for their own transportation to, from, and during work;
- [7] (4) Passenger carrying vehicles with a gross vehicle weight of 10,000 pounds or less used in car or van pools to transport less than sixteen individuals for the movement of passengers to and from work;
- [8] (5) A passenger carrying vehicle used for the transportation, without compensation, of persons for [private,] personal, recreational, or entertainment purposes;
- [9] (6) A passenger carrying vehicle with a gross vehicle weight rating of 10,000 pounds or less used solely for the transportation, without compensation, of the vehicle owner, the vehicle owner's family or guests; and
- [10] (7) A passenger carrying vehicle with a gross vehicle weight rating of 10,000 pounds or less used for the transportation, without compensation, of persons for the furtherance of their physical or mental rehabilitation or for social welfare activities.”

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SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 24, 2014.)

### **Note**

1. Should be underscored.

## **ACT 143**

H.B. NO. 1772

A Bill for an Act Relating to the General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that pursuant to the authority granted by Congress under title 38 United States Code section 8153, the United States Department of Veterans Affairs (VA) established a new initiative in September 2013 titled Patient-Centered Community Care. Under this program, VA medical centers will have the ability to purchase non-VA medical care for veterans through contracted medical providers when they cannot readily provide the needed care due to geographic inaccessibility or limited capacity.

The legislature further finds that the Patient-Centered Community Care program will augment the health care services provided at VA medical center facilities and under the VA fee basis program. It will provide a vehicle for VA medical centers to work with local health care service providers to give expanded access to health care to 8.6 million veterans of the United States uniformed services, including one hundred twelve thousand who reside in Hawaii.

The purpose and mission of the Patient-Centered Community Care program is to ensure access to high-quality, low-cost health care services for veterans, which is crucial to ensuring military readiness, national defense, and the health and welfare of the residents of the State. The program will also help provide VA medical centers with standardized health care quality metrics, timely return of medical documentation, cost avoidance with fixed rates for services across the board, guaranteed access to care, and enhanced tracking and reporting of non-VA medical care expenditures over traditional non-VA medical care services.

The VA contractors will establish and maintain regional networks of health care providers in various regions of the United States by spring of 2014. On behalf of the VA, the contractor will make advances to health care providers, including doctors, hospitals, and other providers, for costs of health care services provided to veterans under the Patient-Centered Community Care program. Using the medicare payment schedule established by the Centers for Medicare and Medicaid Services, the VA will reimburse the contractor for the costs or advancements made to third party health care providers.

The legislature understands that some uncertainty may exist about whether the amounts received by a contractor of the Patient-Centered Community Care program for the costs or advancements to third party health care

providers, on behalf of the federal government, are subject to the state general excise tax. The legislature finds that, to avoid increasing the costs of health care services delivered through the Patient-Centered Community Care program and any adverse consequences to veterans from the increased costs, it is desirable to clarify that the amounts received by a contractor of the Patient-Centered Community Care program are not subject to the state general excise tax.

The purpose of this Act is to clarify that the amounts received by a contractor of the Patient-Centered Community Care program for the costs or advancements to third party health care providers, pursuant to a contract with the United States Department of Veterans Affairs for the administration of the Patient-Centered Community Care program, are excluded from the state general excise tax.

SECTION 2. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24 Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any Act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on cigarettes and tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale;

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- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State; a corporation all of whose outstanding shares are owned by an individual or individuals who are blind, deaf, or totally disabled; a general, limited, or limited liability partnership, all of whose partners are blind, deaf, or totally disabled; or a limited liability company, all of whose members are blind, deaf, or totally disabled;
- (14) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where:
  - (A) The producer is an independent cane farmer, so classed by the Secretary of Agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented;
  - (B) The value or gross proceeds of the sale of the sugar, and other products manufactured from the sugarcane, are included in the measure of the tax levied on the manufacturer under section 237-13(1) or (2);
  - (C) The producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer; and
  - (D) The producer's gross proceeds of sales are reduced by reason of the tax on the value or sale of the manufactured products;
- (15) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (16) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by the corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements; provided that the cooperative corporation is a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation; and
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation; [and]
- (17) Amounts received by a managed care support contractor of the TRICARE program that is established under title 10 United States Code chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States[.]; and
- (18) Amounts received by a contractor of the Patient-Centered Community Care program that is established by the United States Department of Veterans Affairs pursuant to title 38 United States Code

section 8153, as amended, for the actual costs or advancements to third party health care providers pursuant to a contract with the United States.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014; provided that the amendments made to section 237-24, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when that section is reenacted on December 31, 2018, pursuant to section 4 of Act 70, Session Laws of Hawaii 2009, as amended by section 2 of Act 164, Session Laws of Hawaii 2013.

(Approved June 24, 2014.)

## ACT 144

S.B. NO. 2634

A Bill for an Act Relating to Lobbyists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) The statement shall contain the following information:
- (1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day was made by the person filing the statement during the statement period and the amount or value of such expenditure;
  - (2) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more was made by the person filing the statement during the statement period and the amount or value of such expenditures;
  - (3) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement period in excess of \$750 during the statement period; provided that the sum or value of each expenditure is itemized in the following categories, as applicable:
    - (A) Preparation and distribution of lobbying materials;
    - (B) Media advertising;
    - (C) Compensation paid to lobbyists;
    - (D) Fees paid to consultants or services;
    - (E) Entertainment and events;
    - (F) Receptions, meals, food, and beverages;
    - (G) Gifts;
    - (H) Loans; and
    - (I) Other disbursements;
  - (4) The name and address of each person making contributions to the person filing the statement for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of such contributions; and
  - (5) The subject area of the legislative and administrative action which was supported or opposed by the person filing the statement during the statement period.”

## **ACT 145**

**SECTION 2.** New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 24, 2014.)

## **ACT 145**

S.B. NO. 2391

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that more than eight million people visited Hawaii in 2013, and the Hawaii tourism authority has projected that there will be nearly nine million visitors in 2014. The United Nations World Tourism Organization further projects a fifty per cent increase in global tourism by 2020. Moreover, a more active visitor population combined with the use of social media by visitors and the tourism industry will likely result in greater numbers of people exploring a wider variety of the State's public lands for recreational purposes.

The legislature further finds that as Hawaii's population and visitor base have grown, there have been more conflicts over public recreational resources. The informal agreements that were used in the past to resolve these conflicts are no longer working. In many places across the islands, these conflicts have existed for years without resolution. Shared jurisdiction over these public lands often stymies solutions. Conflicts in a small coastal area may span a county park, state unencumbered beach land, aquatic resources, a historic site, and a county road accessed off a state highway. No single agency, or division of an agency, is able to resolve such conflicts on its own.

The legislature believes that establishing a working group comprising state, county, and community representatives on the island of Oahu would facilitate identifying recreational land management solutions that are better suited for the unique challenges faced in the various sites that are currently the subject of user conflicts.

The purpose of this Act is to establish a two-year pilot project to convene one working group on the island of Oahu to identify and implement management strategies for the resolution of user conflicts on public recreational lands.

**SECTION 2.** (a) The department of land and natural resources shall:

- (1) Convene a working group on the island of Oahu to identify and implement management strategies for the resolution of user conflicts on public recreational lands; and
  - (2) Select one public recreational area to be the focus of the working group. The recreational area chosen shall have a history of user conflicts.
- (b) The working group shall comprise:
- (1) One representative from each appropriate state and county agency that has partial jurisdiction over the subject site and users involved in the conflict, as determined by the chairperson of the board of land and natural resources;
  - (2) Two representatives of the community at large, as invited by the governor; and
  - (3) One representative from the Hawaii tourism authority.
- (c) During the first year of the pilot project, the working group shall:

- (1) Identify cost-effective management strategies to resolve user conflicts within the public recreational area selected by the department of land and natural resources;
- (2) Identify funding sources and operational costs for each management strategy identified in paragraph (2); and
- (3) Facilitate the execution, if practicable, of a written agreement among agencies and other interested parties that includes all necessary terms and conditions for the shared use and maintenance of the public recreational area.
- (d) If a written agreement among interested parties is not executed in the first year of the pilot project, during the second year of the pilot project, the working group, if practicable, shall facilitate the execution of a written agreement pursuant to subsection (c); provided that if a written agreement cannot be executed, then the working group shall include in its final report the reasons for not completing its assigned tasks.
- (e) The department of land and natural resources and the attorney general shall assist the working group in facilitating the execution of the written agreements required under subsections (c)(3) and (d), including the drafting and review of the written agreement documents.
- (f) The working group convened pursuant to this section shall cease to exist on June 30, 2016.

**SECTION 3.** The working group convened pursuant to this Act shall submit a:

- (1) Preliminary report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2015; and
- (2) Final report to the legislature no later than twenty days prior to the convening of the regular session of 2016.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## ACT 146

S.B. NO. 3121

A Bill for an Act Relating to Public Land.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 171-50, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Legislative [disapproval] approval. Any exchange of public land for private land shall be subject to [disapproval by the legislature by two-thirds vote of either the senate or the house of representatives or] approval by majority vote of both houses of the legislature in any regular or special session following the date of the board of land and natural resources' approval in principle of the exchange. The state department or agency shall submit for introduction to the legislature a resolution for review of action on any exchange to be consummated by the board wherein exchange deeds will be executed by the parties together with the following information:

- (1) The specific location and size in square feet or in other precise measure of the parcels of land to be exchanged;

## ACT 147

- (2) The value of the lands to be conveyed by the State and the private party;
- (3) The name or names of the appraiser or appraisers;
- (4) The date of the appraisal valuation;
- (5) The purpose for which the lands are being exchanged;
- (6) A detailed summary of any development plans for the land to be exchanged; and
- (7) A statement of whether the land is, or is not, land that was classed as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands, and a detailed explanation of how the state department or agency made this determination.

A copy of the draft resolution shall also be submitted to the office of Hawaiian affairs at least three months prior to the convening of a regular or special session of the legislature to allow the office to determine whether the land was classed as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands."

SECTION 2. Section 171-50.2, Hawaii Revised Statutes, is amended to read as follows:

**"§171-50.2 Exchanges for conversion of leasehold lands to fee simple ownership.** The board may exchange public lands for private lands to be condemned or involuntarily sold pursuant to chapter 516. [Such] An exchange shall be requested by the executive director of the Hawaii housing finance and development corporation[,] and shall be effected in conformity with section 171-50; provided that [such] an exchange shall be subject to legislative [disapproval;] approval; provided further that the private lands conveyed to the State shall be disposed of pursuant to chapter 516; and provided further that lands exchanged need not be of like-kind or comparable use; provided further that no lands classified as conservation shall be exchanged for private lands."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

## ACT 147

S.B. NO. 2315

A Bill for an Act Making an Appropriation for the Department of Public Safety to Provide Substance Abuse Treatment Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a substantial number of inmates incarcerated at Halawa correctional facility have significant substance abuse problems. However, the State's largest correctional facility lacks the resources to provide substance abuse treatment services to inmates who need them.

The purpose of this Act is to provide substance abuse treatment services needed by inmates of the Halawa correctional facility.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$110,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the department of public safety to provide substance abuse treatment services for inmates of the Halawa correctional facility.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

**ACT 148**

S.B. NO. 2308

A Bill for an Act Relating to Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that a growing prison population has raised serious concerns regarding the collateral effects of incarceration on the children and families of incarcerated persons and the communities from which they came. According to the federal Bureau of Justice Statistics' most recent study on incarcerated parents in the United States, more than 1,700,000 minors, representing 2.3 per cent of the population, have at least one incarcerated parent.

The legislature further finds that the incarceration of a parent is a traumatic event for children. Studies show that a substantial number of incarcerated parents were deeply involved in their children's lives before imprisonment by providing daily care, as well as financial and emotional support. Studies also show that the incarceration of a parent is likely to result in unstable family relationships, poor academic performance, financial instability, material hardship, and social stigma.

Providing social services and programs for children who have a parent in the prison system supports the children's emotional and behavioral well-being. Furthermore, providing support to incarcerated parents and their children preserves and strengthens family connections, which yield positive societal benefits in the form of reduced recidivism, less intergenerational criminal justice system involvement, and improved healthy child development.

The purpose of this Act is to appropriate funds for programs and services for children of incarcerated parents and to assist with family reunification.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$125,000 or so much thereof as may be necessary for fiscal year 2014-2015 for funding programs and services for children of incarcerated parents and assisting with family reunification.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved June 24, 2014.)

A Bill for an Act Relating to Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Research has demonstrated that nonviolent, low-risk drug offenders can be effectively and safely transitioned from jail or prison to community status through the availability of a comprehensive and coordinated continuum of evidence-based treatment services. Strong empirical evidence has consistently demonstrated that substance abuse treatment reduces crime and is cost-effective, with research studies documenting savings of \$10 to \$18 for every \$1 spent. Through the use of evidence-based practices, community drug treatment programs can effectively break the costly cycle of offender drug use, crime, and incarceration by significantly reducing recidivism. The goals and benefits of such a comprehensive and coordinated continuum of treatment services include:

- (1) Reducing the prison population and the cost of incarceration by decreasing recidivism among nonviolent, low-risk drug offenders;
- (2) Identifying a network of key resources necessary for success; and
- (3) Preserving public safety through careful initial screening and continued monitoring of participants in the project as they live in the community.

The purpose of this Act is to plan and implement a two-year pilot project to demonstrate the cost-effectiveness of providing a coordinated system of reentry treatment and support services to help nonviolent, low-risk drug offenders transition from jail or prison back into the community.

**SECTION 2.** (a) There is established within the department of public safety a pilot project to be known as the reentry pilot project for nonviolent, low-risk drug offenders.

(b) There shall be up to one hundred participants in the pilot project annually, from among male and female nonviolent, low-risk drug offenders who are eligible for early release or parole.

(c) The effectiveness of the pilot project shall be evaluated. The evaluation shall include project participants' status with respect to the following criteria:

- (1) Record of arrest;
- (2) Reincarceration;
- (3) Substance abuse;
- (4) Employment status;
- (5) Compliance with the terms and conditions of release;
- (6) Housing status; and
- (7) The availability of a positive support group.

(d) The pilot project shall be based on evidence-based principles.

(e) Data shall be collected by service providers and shall be submitted to the department of public safety every six months for evaluation purposes.

(f) The department of public safety shall submit an annual report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular sessions of 2015 and 2016.

(g) The department of public safety shall:

- (1) Provide general oversight over the pilot project; and
- (2) Be the purchaser and contractor of necessary services to support the pilot project.

(h) Project participants shall be provided community-based treatment including residential care for one and one-half months to two months; outpatient care for two months to three months; and continuing care for up to six months that is coordinated with other agencies and support groups depending on a participant's needs.

(i) As used in this Act:

"Community-based treatment" means residential care, outpatient care, and continuing care that is coordinated with other agencies and support groups depending on a participant's needs. "Community-based treatment" includes services such as vocational rehabilitation, sober housing, psychiatric care, medical care, family reunification, and support from faith-based organizations, cultural groups, and recovery support groups.

"Nonviolent, low-risk drug offender" means a person incarcerated for drug offenses who is not a violent threat to the community based on the person's current status and previous history.

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the pilot project known as the reentry pilot project for nonviolent, low-risk drug offenders established by this Act.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

**SECTION 4.** This Act shall take effect on July 1, 2014, and shall be repealed on June 30, 2016.

(Approved June 24, 2014.)

**ACT 150**

H.B. NO. 1951

A Bill for an Act Relating to Special Purpose Revenue Bonds to Assist Seawater Air Conditioning Projects on Oahu.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to extend the special purpose revenue bond authorization under Act 113, Session Laws of Hawaii 2009, to Honolulu Seawater Air Conditioning, LLC, for the purpose of design and construction of a seawater air conditioning district cooling system in downtown Honolulu to June 28, 2019.

**SECTION 2.** Act 113, Session Laws of Hawaii 2009, is amended by amending sections 4 and 5 to read as follows:

"**SECTION 4.** The department of budget and finance is authorized, from time to time, including times subsequent to ~~June 30, 2014,~~ June 28, 2019, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relat-

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ing to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on [June 30, 2014.] June 28, 2019."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2014.

(Approved June 27, 2014.)

## **ACT 151**

S.B. NO. 2346

A Bill for an Act Relating to Aging.

*Be It Enacted by the Legislature of the State of Hawaii:*

### **PART I**

SECTION 1. The legislature finds that Hawaii's aging population, similar to the rest of the United States, is rapidly increasing as more and more residents born during the baby-boom era of 1946-1964 turn sixty years of age. Between 1980 and 2010, the number of adults in Hawaii over the age of sixty grew by 139.8 per cent, eclipsing the growth of the general population, which increased by 34.2 per cent during the same period. The increase in the number of adults in Hawaii over the age of eighty-five during this period is even more extreme at 431.5 per cent. In addition, it is projected that Hawaii's adult population over the age of sixty will comprise 29.7 per cent of the total population by 2035.

This significant increase in Hawaii's elder population and the concomitant increase in demand for services, particularly those that allow for aging in place, will require an ongoing commitment to ensure that Hawaii's kupuna are adequately cared for.

The legislature finds that the kupuna care program was enacted in 1999 to help "frail and vulnerable older persons in leading independent, meaningful and dignified lives in their own homes and communities." One of the principles of the program is that long-term care should be available to everyone, regardless of government or private insurance coverage or eligibility for other assistance programs.

The legislature further finds that the kupuna care program was created to provide key services and support for all older persons in the State, without regard to medicaid eligibility or receipt and without regard to eligibility for supportive and nutrition services under Title III of the federal Older Americans Act. Access to the kupuna care program for all seniors is necessary to maintain a consistent continuum of care for vulnerable older persons, particularly as individuals' access to resources, support systems, and capacity change over time. The most successful programs for aging-in-place recognize and build upon integrated health and social services.

The purpose of this part is to provide funding to support community-based programs that incorporate collaborations among health care and social service agencies to provide services necessary for the health and well-being of Hawaii's kupuna.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,200,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the kupuna care program; provided that the sum appropriated shall be in addition to the base budget of the executive office on aging.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,900,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the aging and disability resource center.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$476,772 or so much thereof as may be necessary for fiscal year 2014-2015 for the healthy aging partnership program of the department of health's executive office on aging.

SECTION 5. The sums appropriated in sections 2, 3, and 4 shall be expended by the department of health for the purposes of this part.

## PART II

SECTION 6. The legislature finds that more of Hawaii's elderly population is living with multiple, chronic health conditions. This, combined with the fact that this population is growing at a steady rate, indicates an increased need for long-term care in the State.

The legislature further finds that many people in Hawaii are not familiar with long-term care issues and that popularly circulated information may, in fact, be incorrect. For example, although long-term care is not covered by medicare or regular private health insurance, a 2011 survey of Hawaii members of the Association of American Retired Persons found that twenty-nine per cent of respondents said they expected medicare to pay for their long-term care, if needed.

Hawaii residents require basic information about long-term care, including the different types of long-term care and long-term care providers, the statistical risk of requiring long-term care, and the associated costs, to be motivated to provide for their own or family members' long-term care needs. The legislature finds that a long-term care education and awareness campaign will help provide this information to better prepare Hawaii residents to plan for future long-term care needs.

Accordingly, the purpose of this part is to require the executive office on aging to conduct a public education and awareness campaign on long-term care and to appropriate funds to administer and evaluate the program.

SECTION 7. (a) The department of health's executive office on aging shall conduct a public education and awareness campaign on long-term care. Campaign goals shall include:

- (1) Informing the public of the likelihood of needing long-term care;
- (2) Educating the public on maximizing the length of time independent living is possible and the risks presented by a lack of planning for long-term care needs;
- (3) Educating the public about the costs of long-term care, including information about:
  - (A) Long-term care not being covered by medicare or regular private health insurance;
  - (B) The limits of medicaid eligibility and benefits; and

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- (C) The value and availability of current financing and delivery options to obtain long-term care; and
  - (4) Providing the public with resources to navigate the complexities of planning for long-term care and informing the public of the agencies that provide such services.
- (b) The executive office on aging may develop public-private partnerships to fund and administer the campaign and may invite broad participation from multiple interested stakeholders in the State.
- (c) The director of the executive office on aging shall obtain an independent evaluation of the effectiveness of the campaign.
- (d) The director of the executive office on aging shall submit a report to the legislature, including the independent evaluation's findings and recommendations on the status of the campaign, no later than twenty days prior to the convening of the regular session of 2017.

**SECTION 8.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the executive office on aging to conduct a public education and awareness campaign on long-term care and to obtain an independent evaluation of the campaign's effectiveness.

The sum appropriated shall be expended by the department of health for the purposes of this part.

### **PART III**

**SECTION 9.** This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

## **ACT 152**

S.B. NO. 2345

A Bill for an Act Relating to the Investor Education Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that national and local news accounts report that elderly citizens are often victimized when it comes to sophisticated investment frauds. Some of the most recognizable and fastest growing segments of investment fraud against the elderly are in the areas of indexed annuities, life-settlement annuities, variable annuities, and Ponzi schemes. The securities commissioner has presented a white paper to a national group highlighting the spike in cases filed in the area of sophisticated investment frauds.

The legislature further finds that fighting fraud and abuse against the elderly presents unique challenges in Hawaii. The State's population is aging much faster than the national average, and the cultural and ethnic diversity that characterizes Hawaii's kupuna population is unlike that of any other state in the country.

The legislature additionally finds that the department of commerce and consumer affairs has taken a proactive approach to preventing fraud against the State's citizens through investment education. The investor education program within the department of commerce and consumer affairs, office of the securities commissioner, offers free educational presentations and materials for all investors, including seniors. The program provides education and outreach to the State's kupuna, including information on how to make wise choices when

investing and how to detect financial fraud, and is an important way the State supports and protects Hawaii's kupuna.

Accordingly, the purpose of this Act is to support and protect Hawaii's kupuna by appropriating funds to the office of the securities commissioner for educational outreach targeted at kupuna, based on a model similar to the department's existing investor education programs, particularly in the areas of indexed annuities, life-settlement annuities, variable annuities, and Ponzi schemes.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2014-2015 to the office of the securities commissioner of the department of commerce and consumer affairs for educational outreach targeted at kupuna, based on a model similar to the department's existing investor education programs, particularly in the areas of indexed annuities, life-settlement annuities, variable annuities, and Ponzi schemes.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

**ACT 153**

H.B. NO. 2053

A Bill for an Act Relating to Aging.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that falls and fall-related injuries among the elderly impact individuals, families, the community, and the State's health care system. Fall prevention is a major concern for the safety and well-being of the State's elderly residents, the fastest-growing segment of Hawaii's population.

Among the elderly in Hawaii, falls are the leading cause of fatal injuries (an average of forty-four per cent) and injury-related hospitalizations (an average of eighty-three per cent). On average, every five hours in Hawaii an elderly person is injured so severely in a fall that hospitalization is necessary. Falls among Hawaii's elderly also result in a yearly average of eighty-two deaths and nearly one thousand eight hundred hospitalizations.

The legislature further finds that hospital costs associated with fall-related injuries average over \$65,000,000 a year. This total does not include the additional significant costs associated with skilled nursing care and rehabilitation. Among Hawaii seniors hospitalized for a fall, forty-three per cent are discharged to skilled nursing facilities for additional care, and twelve per cent are moved to rehabilitation facilities.

The legislature additionally finds that access to fall prevention services and programs would significantly reduce these costs. In addition, the early detection of fall occurrences would reduce both costs and suffering by expediting treatment, minimizing serious long-term consequences, reducing the extent of the injury, and in some instances, avoiding death.

Falls among the elderly are a significant public health issue. Yet, currently, there are insufficient resources to develop a coordinated statewide approach to reduce and promptly detect falls among the elderly. The legislature therefore finds that the department of health's emergency medical services and injury pre-

## **ACT 154**

vention system branch should be permitted to establish and maintain a program dedicated to fall prevention and early detection for the elderly. This program shall serve as a focal point for statewide injury prevention and detection efforts to ensure multidisciplinary support, coordination of prevention and detection efforts, and continuity of implementation and accountability.

The purpose of this Act is to establish a fall prevention and early detection coordinator within the emergency medical services and injury prevention system branch of the department of health to coordinate the provision of public and private fall prevention and early detection services for the elderly.

**SECTION 2.** Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§321- Fall prevention and early detection coordinator.** There is established within the emergency medical services and injury prevention system branch a fall prevention and early detection coordinator to coordinate the provision of public and private fall prevention and early detection services for the elderly.”

**SECTION 3.** There is appropriated out of the trauma system special fund the sum of \$81,985 or so much thereof as may be necessary for fiscal year 2014-2015 to establish and fill one full-time equivalent fall prevention and early detection coordinator position.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

**SECTION 4.** New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 154**

H.B. NO. 2052

A Bill for an Act Relating to Provider Orders for Life-Sustaining Treatment.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that Act 186, Session Laws of Hawaii 2009, established the Hawaii physician orders for life-sustaining treatment (POLST) law. Act 186, codified as chapter 327K, Hawaii Revised Statutes, enables patients or their surrogates to create a POLST. POLST is a holistic method of planning for end-of-life care and a specific set of medical orders that ensure patients' wishes are honored.

The legislature further finds that completing a POLST form encourages communication and conversations between patients and health care providers. Patients may elect to create a POLST based on conversations with their health care providers, enabling patients to make informed decisions and translating patients' wishes into actionable medical orders. POLST is beneficial to people with serious illnesses, including dementia, as it specifies the types of treatment that a

patient wishes to receive toward the end of life. A POLST form documents patients' wishes in a clear manner and can be quickly understood by all health care providers, including first responders and emergency medical services personnel. A POLST form, which is portable and recognized statewide, also ensures that a patient's wishes can be honored across all settings of care. If a patient no longer has the capacity to make decisions, the patient's legally authorized representative may complete a POLST form on the patient's behalf.

The legislature additionally finds that the national standard for authorized health care provider signatories includes licensed physicians and advanced practice registered nurses, both of whom are recognized in Hawaii as primary care providers. However, chapter 327K, Hawaii Revised Statutes, limits POLST to licensed physicians. This creates a barrier to timely completion of POLST, especially in rural areas or on the neighbor islands, where an advanced practice registered nurse may be the only primary care provider a patient sees. Limiting POLST to licensed physicians also affects long-term care settings where an advanced practice registered nurse is the primary care provider and visits from a licensed physician may be several weeks apart. Although advanced practice registered nurses are able to practice independently in Hawaii, bottlenecks occur in certain health care settings, as advanced practice registered nurses are currently unable to complete a POLST directly with patients and families.

The legislature also finds that references within chapter 327K, Hawaii Revised Statutes, need to be amended from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment", to accurately reflect that physicians are not the only primary care providers who may sign a POLST form on behalf of a patient.

The legislature further finds that chapter 327K, Hawaii Revised Statutes, uses the term "surrogate" to describe a legally authorized health care decision maker, which is inconsistent with terminology in chapter 327E, Hawaii Revised Statutes, the Uniform Health-Care Decisions Act. Amendments are therefore necessary to correct these inconsistencies.

Accordingly, the purpose of this Act is to increase access to POLST by:

- (1) Updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, Hawaii Revised Statutes;
- (2) Expanding health care provider signatory authority to include advanced practice registered nurses; and
- (3) Correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient.

**SECTION 2.** Chapter 327K, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"[PHYSICIAN] PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT"**

**SECTION 3.** Section 327K-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:  
"Legally authorized representative" means an agent, guardian, or surrogate, as those terms are defined in section 327E-2, or agent designated through a power of attorney for health care, as defined in section 327E-2."

2. By amending the definitions of "form", "patient's physician", and "physician orders for life-sustaining treatment form" to read:

"Form" means a [physician] provider orders for life-sustaining treatment form adopted by the department.

"Patient's [physician]" provider" means a physician licensed pursuant to chapter 453 or an advanced practice registered nurse recognized pursuant to chapter 457 who has examined the patient.

"[Physician] Provider orders for life-sustaining treatment form" means a form signed by a patient, or if incapacitated, by the patient's [surrogate] legally authorized representative and the patient's [physician,] provider, that records the patient's wishes and that directs a health care provider regarding the provision of resuscitative and life-sustaining measures. A [physician] provider orders for life-sustaining treatment form is not an advance health<sup>1</sup> care directive."

3. By deleting the definition of "surrogate".

[“Surrogate” shall have the same meaning as in section 327E-2.]

SECTION 4. Section 327K-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The following may execute a form:

(1) The patient;

(2) The patient's [physician,] provider; and

(3) The [surrogate,] legally authorized representative, but only if the patient:

(A) Lacks capacity; or

(B) Has designated that the [surrogate] legally authorized representative is authorized to execute the form.

The patient's [physician] provider may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the individual's health status and goals of care. The patient's [physician] provider shall consult with the patient or the patient's [surrogate] legally authorized representative before issuing any new orders on a form. The patient or the patient's [surrogate] legally authorized representative may choose to execute or not execute any new form. If a patient is incapacitated, the patient's [surrogate] legally authorized representative shall consult with the patient's [physician] provider before requesting the patient's [physician] provider to modify treatment orders on the form. To be valid, a form shall be signed by the patient's [physician] provider and the patient, or the patient's [physician] provider and the patient's [surrogate,] legally authorized representative. At any time, a patient, or, if incapacitated, the patient's [surrogate,] legally authorized representative, may request alternative treatment that differs from the treatment indicated on the form."

2. By amending subsection (d) to read:

"(d) A patient having capacity, or, if the patient is incapacitated, the patient's [surrogate,] legally authorized representative, may revoke a form at any time and in any manner that communicates intent to revoke."

SECTION 5. Section 327K-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No physician, advanced practice registered nurse, health care professional, nurse's aide, hospice provider, home care provider, including private duty and medicare home health providers, emergency medical services provider, adult residential care home operator, skilled nursing facility operator, hospital, or person employed by or under contract with a hospital shall be subject to criminal prosecution, civil liability, or be deemed to have engaged in unprofessional conduct for:

(1) Carrying out in good faith, a decision regarding treatment orders, including cardiopulmonary resuscitation by or on behalf of a pa-

- tient pursuant to orders in a form and in compliance with the standards and procedures set forth in this chapter; or
- (2) Providing cardiopulmonary resuscitation to a patient for whom an order not to resuscitate has been issued on a form; provided the person reasonably and in good faith:
- (A) Was unaware of the issuance of an order not to resuscitate; or
- (B) Believed that any consent to treatment orders, including the order not to resuscitate, had been revoked or canceled."

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

SECTION 7. This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

**Note**

1. Prior to amendment a hyphen appeared here.

**ACT 155**

H.B. NO. 1616

A Bill for an Act Relating to Health Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the World Health Organization, the United States Department of Health and Human Services's Healthy People 2020 Initiative, and the Centers for Disease Control and Prevention all recognize social determinants of health as the single most important factor in individual and population health outcomes, more so than genetic disposition or medical care. The legislature further finds that the Hawaii State Planning Act does not explicitly recognize social determinants of health as an important component of health planning.

The legislature also notes that the October 2013 report, "Assessment and Priorities for Health & Well-Being in Native Hawaiians & Other Pacific Peoples," by the John A. Burns school of medicine, identifies a number of social and other determinants of health for Native Hawaiians, other Pacific Islanders, and Filipinos, who collectively continue to have disparate health outcomes compared to the rest of the state population. The legislature finds that in recognition of the special responsibilities and legal obligations to the indigenous people of Hawaii, the federal government codified a commitment to addressing the health status of Native Hawaiians and providing Native Hawaiian health care programs with necessary resources in title 42 United States Code section 11702. The legislature further finds that the State has not made a similar commitment.

The legislature finds that codifying a commitment to reducing health disparities for Native Hawaiian and other groups through a social determinants of health approach may directly and indirectly improve health outcomes and the quality of life for all residents of the State.

The purpose of this Act is to update the Hawaii State Planning Act's objectives for health to include a dual commitment to addressing Native Hawaiian health and eliminating health disparities.

## **ACT 156**

SECTION 2. Section 226-20, Hawaii Revised Statutes, is amended to read as follows:

**"§226-20 Objectives and policies for socio-cultural advancement—health.**

(a) Planning for the State's socio-cultural advancement with regard to health shall be directed towards achievement of the following objectives:

- (1) Fulfillment of basic individual health needs of the general public.
- (2) Maintenance of sanitary and environmentally healthful conditions in Hawaii's communities.
- (3) Elimination of health disparities by identifying and addressing social determinants of health.
- (b) To achieve the health objectives, it shall be the policy of this State to:
  - (1) Provide adequate and accessible services and facilities for prevention and treatment of physical and mental health problems, including substance abuse.
  - (2) Encourage improved cooperation among public and private sectors in the provision of health care to accommodate the total health needs of individuals throughout the State.
  - (3) Encourage public and private efforts to develop and promote state-wide and local strategies to reduce health care and related insurance costs.
  - (4) Foster an awareness of the need for personal health maintenance and preventive health care through education and other measures.
  - (5) Provide programs, services, and activities that ensure environmentally healthful and sanitary conditions.
  - (6) Improve the State's capabilities in preventing contamination by pesticides and other potentially hazardous substances through increased coordination, education, monitoring, and enforcement.
  - (7) Prioritize programs, services, interventions, and activities that address identified social determinants of health to improve Native Hawaiian health and well-being consistent with the United States Congress's declaration of policy as codified in title 42 United States Code section 11702, and to reduce health disparities of disproportionately affected demographics, including Native Hawaiians, other Pacific Islanders, and Filipinos. The prioritization of affected demographic groups other than Native Hawaiians may be reviewed every ten years and revised based on the best available epidemiological and public health data."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 2014.)

## **ACT 156**

H.B. NO. 1723

A Bill for an Act Relating to Psychiatric Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-60.7, Hawaii Revised Statutes, is amended to read as follows:

**"§334-60.7 Notice of intent to discharge.** [When] (a) For civil commitments that result directly from legal proceedings under chapters 704 and 706, when the administrator or attending physician of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334-60.2, the administrator or attending physician shall provide notice of intent to discharge, or if the patient voluntarily agrees to further hospitalization, the administrator shall provide notice of the patient's admission to voluntary inpatient treatment. The following requirements and procedures shall apply:

- (1) The notice and a certificate of service shall be filed with the family court and served [personally or by certified mail] on those persons whom the order of commitment specifies as entitled to receive notice[-], by mail at the person's last known address. Notice shall also be sent to the prosecuting attorney of the county from which the person was originally committed, by facsimile or electronically, for the sole purpose of victim notification;
  - (2) Any person specified as entitled to receive notice may waive this right in writing with the psychiatric facility;
  - (3) If no objection is filed within [three] five calendar days of [service, mailing the notice, the administrator or attending physician of the psychiatric facility shall discharge the patient or accept the patient for voluntary inpatient treatment[-];]
  - (4) If any person specified as entitled to receive notice files a written objection, with a certificate of service, to the discharge or to the patient's admission to voluntary inpatient treatment on the grounds that the patient is a proper subject for commitment, the family court shall conduct a hearing as soon as possible, prior to the termination of the current commitment order, to determine if the patient still meets the criteria for involuntary hospitalization in section 334-60.2. The person filing the objection shall also notify the psychiatric facility by telephone on the date the objection is filed;
  - (5) If the family court finds that the patient does not meet the criteria for involuntary hospitalization in section 334-60.2, the court shall issue an order of discharge from the commitment[-]; and
  - (6) If the family court finds that the patient does meet the criteria for involuntary hospitalization in section 334-60.2, the court shall issue an order denying discharge from the commitment.
- (b) For civil commitments that do not result directly from legal proceedings under chapters 704 and 706, when the administrator or attending physician of a psychiatric facility contemplates discharge of an involuntary patient, the administrator or attending physician may assess whether an assisted community treatment plan is indicated pursuant to section 334-123 and, if so indicated, may communicate with an aftercare provider as part of discharge planning, as appropriate."

SECTION 2. Section 334-76, Hawaii Revised Statutes, is amended to read as follows:

**"§334-76 Discharge from custody.** (a) Subject to any special requirements of law as provided in sections 704-406, 704-411, and 706-607 or elsewhere, with respect to patients committed on court order[;] from a criminal proceeding, the administrator of a psychiatric facility, pursuant to section 334-60.7, shall [send]:

## ACT 157

- (1) Send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to those persons specified in the order of commitment as entitled to receive notice of intent to discharge, by mail at their last known address; and [the]
  - (2) Send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to the prosecuting attorney of the county from which the person was originally committed, by facsimile or electronically.
- (b) The administrator or the deputy or the physician assuming medical responsibility for the patient shall discharge an involuntary patient when the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334-60.2.
- (c) Nothing in this section shall preclude a facility from accepting for voluntary inpatient treatment, in accordance with the procedures in section 334-60.1, a patient for whom the facility contemplates discharge pursuant to section 334-60.7 and who voluntarily agrees to further hospitalization after the period of commitment has expired or where the patient is no longer a proper subject for commitment.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 2014.)

## ACT 157

H.B. NO. 2320

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that disparities in health outcomes between populations are increasingly costly to the State, both financially and socially. These disparities often have less to do with family medical history, such as a cancer gene passed on through generations, than with the social determinants of health, or the conditions in the environments in which people are born, live, learn, work, play, and age. Because these circumstances are shaped in turn by a wider set of forces, including economics, social policies, and politics, disparities in health outcomes are in large part preventable.

Social determinants of health are created and influenced by factors such as education, child care, housing, health care access, law, justice, media, community planning, transportation, and agriculture. Addressing these determinants is the key to achieving greater equity of opportunity for Hawaii's residents. Additionally, codifying health equity as a goal is a first step toward a more unified and comprehensive approach to public health policy.

The purpose of this Act is to establish health equity as a goal of the department of health.

SECTION 2. Section 321-1, Hawaii Revised Statutes, is amended to read as follows:

**“§321-1 General powers and duties of the department.** (a) The department of health shall have general charge, oversight, and care of the health and lives of

the people of the State[;], and shall pursue as a goal, the achievement of health equity. The department shall consider social determinants of health in the assessment of state needs for health.

(b) The department may conduct epidemiologic investigations of diseases and injuries that threaten or are deemed by the department to threaten the public health and safety.

(c) The department shall have authority in matters of quarantine and other health matters and may declare and enforce quarantine when none exists and modify or release quarantine when it is established.

(d) When it is determined that there is imminent danger of epidemic or serious outbreak of communicable disease, the department may refuse, modify, or limit attendance at any school in the State.

(e) When in the judgment of the director, there is deemed to be a potential health hazard, the department may take precautionary measures to protect the public through the imposition of an embargo, the detention of products regulated by the department, the removal of products regulated by the department from the market, the declaration of quarantine, or by sequestering items suspected to be contaminated by toxic or infectious substances; provided that the director shall find evidence of a health hazard within seven days of the action taken or rescind the action. The director shall make public the findings.

(f) All county health authorities, sheriffs, police officers, and all other officers and employees of the State, and every county thereof, shall enforce the rules of the department. All such powers in health matters as have been or may be conferred upon any county shall be concurrent with those of the department.

(g) The department may establish charges and collect fees for any of its services; provided that the department shall not refuse to provide services to any person due to the person's inability to pay the fee for the service. The department, through the director, shall make an annual report to the governor, showing in detail all its expenditures and transactions, and such other information regarding the public health as the department may deem of special interest.

(h) The department, during the prevalence of any severe pestilence or epidemic, shall publish a weekly report of the public health.

(i) The department shall establish and administer programs, and adopt rules as deemed necessary, for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence.

(j) As used in this section:

"Health equity" means assuring equal opportunity for all people in the State to attain their full health potential.

"Social determinants of health" means the complex, integrated, and overlapping social structures and economic systems that contribute to health inequities. These social structures and economic systems include the social environment, physical environment, health services, and structural and societal factors."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

**A Bill for an Act Relating to Insurance.***Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) encourages states to develop innovative approaches to insuring their populations by authorizing states to apply for waivers from certain requirements of the Affordable Care Act. To be eligible, a state must demonstrate that its proposed health insurance reforms are as comprehensive and affordable as the federal requirements for insurance sold in its state health insurance exchange. In addition, proposed reforms must be budget neutral for the federal government. States that are granted innovation waivers may receive federal assistance to operate their reform programs in an amount that is equivalent to the aggregate amount of tax credits and cost-sharing subsidies that the federal government would have paid for individuals enrolled in state health insurance exchanges.

The legislature also finds that Hawaii has a bold history as an innovator in ensuring that its residents have access to health care. The Hawaii Prepaid Health Care Act has ensured the availability of employer-sponsored health insurance for workers and their families, and the State's medicaid program has provided access to comprehensive managed care for low-income families. The legislature believes that, while Hawaii has taken great steps in implementing the health insurance exchange and other insurance reforms required by the Affordable Care Act, the State may be able to create a more effective alternative solution for providing affordable health coverage to individuals.

The purpose of this Act is to establish a state innovation waiver task force to develop a health care reform plan that meets requirements for obtaining a state innovation waiver.

**SECTION 2.** (a) There is created the state innovation waiver task force, to be temporarily attached to the office of the governor for administrative purposes.

(b) The task force shall consist of the following members, or their respective designees:

- (1) The healthcare transformation coordinator, who shall serve as chair;
- (2) The director of health;
- (3) The director of labor and industrial relations;
- (4) The administrator of the MedQUEST division of the department of human services;
- (5) The insurance commissioner;
- (6) The attorney general;
- (7) The chief information officer of the office of information management and technology;
- (8) The administrator of the Hawaii employer-union health benefits trust fund;
- (9) The executive director of the Hawaii Health Connector;
- (10) The executive director of the Hawaii Health Information Exchange;
- (11) A representative of The Chamber of Commerce of Hawaii;
- (12) A representative of the Healthcare Association of Hawaii;
- (13) A representative of the Hawaii Primary Care Association;

- (14) Two persons with expertise in health care delivery, one of whom shall be designated by the president of the senate and one of whom shall be designated by the speaker of the house of representatives;
  - (15) A person with expertise in health insurance, to be designated by the president of the senate; and
  - (16) A person representing small businesses in Hawaii, to be designated by the speaker of the house of representatives.
- (c) The task force shall:
- (1) Examine the feasibility of alternative approaches to the health reform requirements described under Section 1332(a)(2) of the federal act;
  - (2) Examine alternatives to and possible exemptions or waivers from requirements relating to allowable premium rate variations based upon age, as described in Section 1201 of the federal act;
  - (3) Examine the feasibility of options for providing affordable insurance coverage for uninsured and underinsured individuals in Hawaii through brokers and professional employer organizations that include innovations to the State's existing medicaid program; and
  - (4) Develop a plan for applying for a state innovation waiver that meets the requirements of Section 1332 of the federal act, including:
    - (A) Developing a strategy for health care reform that:
      - (i) Provides coverage that is at least as comprehensive as required by the federal act;
      - (ii) Provides coverage and cost-sharing protections that are at least as affordable as under the federal act;
      - (iii) Makes health insurance coverage available to as many residents of Hawaii as under the federal act; and
      - (iv) Is budget neutral for the federal government;
    - (B) Examining the feasibility of options for providing affordable insurance coverage for uninsured and underinsured individuals in Hawaii that include innovations to the State's existing medicaid program; and
    - (C) Ensuring compliance with all applicable public notice requirements of title 31 Code of Federal Regulations part 33 and title 45 Code of Federal Regulations part 155, as amended.
  - (d) The task force shall prepare a draft application for a state innovation waiver, to take effect for plan years beginning on or after January 1, 2017.
  - (e) The members of the task force shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.
  - (f) The task force shall submit an initial interim report to the legislature no later than twenty days prior to the convening of the regular session of 2015. The task force shall submit a second interim report to the legislature no later than twenty days prior to the convening of the regular session of 2016. The interim reports shall include:
    - (1) Identification of opportunities for state agencies to collaborate on new information technology that will advance the goals of the federal act and state innovation; and
    - (2) Recommendations on the allocation of existing moneys available for health reform and innovation, including any proposed legislation.
  - (g) The task force shall submit a final report of its findings and recommendations to the legislature, including any proposed legislation and the draft application, no later than twenty days prior to the convening of the regular session of 2017.

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(h) The task force shall be dissolved on June 30, 2017.

(i) For the purposes of this section, "federal act" means the Patient Protection and Affordable Care Act (Public Law 111-148), as amended, and any regulations adopted thereunder.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 30, 2014.)

## **ACT 159**

S.B. NO. 2469

A Bill for an Act Relating to Telehealth.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that one of the challenges faced by the country's health care system is providing quality care to segments of the population who do not have access to essential services because of geographic limitations. Using telehealth to deliver health care from a distance is an effective way of overcoming certain barriers to accessing care, particularly for communities located in rural and remote areas. This is especially important in Hawaii, where residents on the neighbor islands and in rural areas do not have the same level of access to care as residents in urban areas of Oahu.

The legislature further finds that telehealth services are used extensively across the country with no compromise in quality of care when the services are within the scope of practice of a provider. However, reimbursement policies vary between health plans, leading to confusion among health care providers and restrictions on patient access to quality health care.

The legislature additionally finds that requiring parity for telehealth services will empower consumer choice, reduce disparities in access to care, enhance health care provider availability, and improve quality of care.

The legislature also finds that various sections of the Hawaii Revised Statutes contain different definitions for or references to "telemedicine" and "telehealth" and notes that these definitions and references should be harmonized for consistency.

Accordingly, the purpose of this Act is to:

- (1) Require equivalent insurance reimbursement for services, including behavioral health services, provided by a health care provider to a patient regardless of whether the service is provided through telehealth or via face-to-face contact between health care provider and patient;
- (2) Clarify that health care providers for purposes of telehealth include primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians, advanced practice registered nurses, psychologists, and dentists; and
- (3) Change references to "telemedicine" in the Hawaii Revised Statutes to "telehealth" for consistency.

**SECTION 2.** Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of "medical and health care services" to read as follows:

"Medical and health care services" means medical research, clinical trials, and [telemedicine,] telehealth, but not routine medical treatment or services."

SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction[.] and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient."

For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business[.], including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448."

SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction[.] and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient."

For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business[.], including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448."

SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. There shall be no reimbursement for a telehealth consultation between health care providers unless an existing health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction[.] and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when

behavioral health services are provided, a second health care provider shall not be required to accompany the patient.

For the purposes of this section, “health care provider” means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business[.], including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.”

**SECTION 6.** Section 440G-11.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“[§(a)] In conjunction with broadband services, the director shall:

- (1) Promote and encourage use of telework alternatives for public and private employees, including appropriate policy and legislative initiatives;
- (2) Advise and assist state agencies, and upon request of the counties, advise and assist the counties, in planning, developing, and administering programs, projects, plans, policies, and other activities to promote telecommuting by employees of state and county agencies;
- (3) Support the efforts of both public and private entities in Hawaii to enhance or facilitate the deployment of, and access to, competitively priced, advanced electronic communications services, including broadband and its products and services and internet access services of general application throughout Hawaii;
- (4) Make recommendations to establish affordable, accessible broadband services to unserved and underserved areas of Hawaii and monitor advancements in communications that will facilitate this goal;
- (5) Advocate for, and facilitate the development and deployment of, expanded broadband applications, programs, and services, including telework, [telemedicine] telehealth, and e-learning, that will bolster the usage of and demand for broadband level telecommunications;
- (6) Serve as a broadband information and applications clearinghouse for the State and a coordination point for federal American Recovery and Reinvestment Act of 2009 broadband-related services and programs; and
- (7) Promote, advocate, and facilitate the implementation of the findings and recommendations of the Hawaii broadband task force established by Act 2, First Special Session Laws of Hawaii 2007.”

**SECTION 7.** Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

**“§453-1.3 Practice of [telemedicine] telehealth.** (a) Subject to section 453-2(b), nothing in this section shall preclude any physician acting within the scope of the physician’s license to practice from practicing [telemedicine] telehealth as defined in this section.

(b) For the purposes of this section, “[telemedicine] telehealth” means the use of telecommunications [services] as that term is defined in section 269-1, including but not limited to real-time video [or web conferencing] conferencing-based communication [or], secure interactive and non-interactive

web-based communication [to establish], and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information to parties separated by distance, establishing a physician-patient relationship, [to evaluate] evaluating a patient, or [to treat] treating a patient. [“Telehealth” as used in chapters 431, 432, and 432D, includes “telemedicine” as defined in this section.]

(c) [Telemedicine] Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided.

(d) Treatment recommendations made via [telemedicine] telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329.

(e) All medical reports resulting from [telemedicine] telehealth services are part of a patient’s health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.

(f) A physician shall not use [telemedicine] telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii. Once a provider-patient relationship is established, a patient or physician licensed in this State may use [telemedicine] telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section[,] or as otherwise provided by law.

(g) Reimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.”

SECTION 8. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one’s official duty, including a commissioned medical officer employed by the United States Department of Defense, while providing direct [telemedicine] telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, elec-

- tronic, telephonic, fiber-optic, or other [telemedicine] telehealth consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:
- (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;
  - (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
  - (C) The laws and rules relating to contagious diseases are not violated;
- (5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;
- (6) Prohibit automated external defibrillation by:
- (A) Any first responder personnel certified by the department of health to provide automated external defibrillation when it is rendered under the medical oversight of a physician or osteopathic physician licensed in this State; or
  - (B) Any person acting in accordance with section 663-1.5(e); or
- (7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using [telemedicine] telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:

“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

[“Telemedicine”] “Telehealth” means the use of telecommunications [services], as that term is defined in section 269-1, including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, [such as] including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, [and deliver] for the purpose of delivering enhanced health care services and information to parties separated by distance. Standard telephone contacts, facsimile transmissions, or email texts, in

combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph.”

SECTION 9. Section 455-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“[§455-1.5] Exceptions; scope of chapter.** Nothing in this chapter shall be construed to prohibit or restrict:

- (1) The practice of a profession by individuals who are licensed, certified, or registered under the laws of this State who are performing services within their authorized scope of practice;
- (2) The practice of naturopathic medicine by an individual employed by the government of the United States while the individual is engaged in the performance of duties required of the individual by the laws and regulations of the United States;
- (3) The practice of naturopathic medicine by students enrolled in a school that meets the requirements of section 455-3. The performance of naturopathic medicine by students shall be pursuant to a course of instruction or assignments from an instructor and under the supervision of an instructor who is a naturopathic physician licensed pursuant to this chapter; and
- (4) The practice by a doctor of naturopathic medicine duly registered or licensed in another state, territory, or the District of Columbia who is called into this State for consultation with a licensed naturopathic physician, including in-person, mail, electronic, telephonic, fiber-optic, or other [telemedicine] telehealth consultation; provided that:
  - (A) The naturopathic physician from another state shall not open an office, appoint a place to meet patients, or receive calls within this State for the provision of care for a patient who is located in this State; and
  - (B) The licensed naturopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State.”

SECTION 10. Section 457-2.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Practice as an advanced practice registered nurse means the scope of nursing in a category approved by the board, regardless of compensation or personal profit, and includes the registered nurse scope of practice. The scope of an advanced practice registered nurse includes but is not limited to advanced assessment; telehealth; and the diagnosis, prescription, selection, and administration of therapeutic measures including over the counter drugs, legend drugs, and controlled substances within the advanced practice registered nurse’s role and specialty-appropriate education and certification.”

SECTION 11. Section 466J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for:

- (1) A licensed medical practitioner in radiology;
- (2) A licensed practitioner of nuclear medicine;
- (3) A licensed physician assistant;
- (4) A licensed doctor of dentistry;

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- (5) A licensed dental technician;
- (6) A licensed dental hygienist;
- (7) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, or in a school of medicine, podiatry, dentistry, or a chiropractic school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter; and
- (8) A radiologist duly licensed to practice medicine and radiology services in another state who uses [telemedicine] telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:

“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

[“Telemedicine”] “Telehealth” means the use of telecommunications [services], as that term is defined in section 269-1, including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, [such as] including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, [and deliver] for the purpose of delivering enhanced health care services and information to parties separated by distance. Standard telephone contacts, facsimile transmissions, or email texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph.”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 30, 2014.)

## **ACT 160**

H.B. NO. 2400

A Bill for an Act Relating to Temporary Disability Benefits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 392-3, Hawaii Revised Statutes, is amended by amending the definition of “disability” to read as follows:

“Disability” means total inability of an employee to perform the duties of the employee’s employment caused by sickness, pregnancy, termination of pregnancy, organ donation, or accident other than a work injury as defined in section 386-3.”

SECTION 2. Section 392-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any individual in current employment who suffers disability resulting from accident, sickness, pregnancy, [or] termination of pregnancy, or organ

donation, except accident or disease connected with or resulting from employment as defined in section 386-3 or any other applicable workers' compensation law, shall be entitled to receive temporary disability benefits in the amount and manner provided in this chapter."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

## ACT 161

S.B. NO. 1233

A Bill for an Act Relating to Leaves of Absence.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to title 21 to be appropriately designated and to read as follows:

### “CHAPTER LEAVE OF ABSENCE FOR ORGAN, BONE MARROW, OR PERIPHERAL BLOOD STEM CELL DONATION”

#### § -1 Definitions. As used in this chapter:

“Employee” means a person who may be permitted, required, or directed by an employer for wages or pay to engage in any employment and who has been employed by that employer for at least one year immediately preceding the commencement of leave provided under this chapter.

“Employee benefits” means all benefits, other than salary and wages, provided or made available to an employee by an employer and includes group life insurance, health insurance, disability insurance, and pensions, regardless of whether benefits are provided by a policy or practice of an employer.

“Employer” means any private:

- (1) Person;
- (2) Partnership;
- (3) Corporation;
- (4) Association; or
- (5) Other business entity,

that employs fifty or more employees.

§ -2 Inapplicability. This chapter shall not apply to any leave of absence provided to any public employee serving as an organ or bone marrow donor pursuant to section 78-23.6.

§ -3 Leave requirement. (a) Subject to subsection (d), an employer shall provide to an employee leave of absence not exceeding:

(1) Seven days each calendar year to serve as a bone marrow donor or peripheral blood stem cell donor; and

(2) Thirty days each calendar year to serve as an organ donor; provided that the employee shall submit written verification to the employer that the employee is an organ donor, bone marrow donor, or peripheral blood stem

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cell donor and that there is a medical necessity for the donation of the organ, bone marrow, or peripheral blood stem cells.

(b) Any period of time during which an employee is required to be absent from work to serve as an organ donor, bone marrow donor, or peripheral blood stem cell donor shall not constitute a break in the employee's continuous service for the purpose of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any period that an employee takes leave pursuant to subsection (a), the employer shall maintain and pay for coverage under a group health plan, as defined in section 5000(b) of the Internal Revenue Code of 1986, as amended, for the full duration of the leave, in the same manner as the coverage would have been maintained if the employee had been actively at work during the leave period.

(c) This chapter shall not affect the obligation of an employer to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than the rights provided under this chapter.

(d) An employer may require as a condition of an employee's initial receipt of leave provided pursuant to this section that the employee take up to three days of earned but unused sick leave, vacation, or paid time off, or unpaid time off, for bone marrow or peripheral blood stem cell donation and up to two weeks of earned but unused sick leave, vacation, or paid time off, or unpaid time off, for organ donation, unless doing so would violate the provisions of any applicable collective bargaining agreement.

(e) Notwithstanding any other provision to the contrary, leave provided pursuant to this section shall not be taken concurrently with any leave taken pursuant to the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or chapter 398.

(f) Leave provided pursuant to this section may be taken in one or more periods, but in no event shall exceed the amount of leave prescribed in subsection (a).

**§ -4 Restoration of employment.** An employer, upon expiration of a leave authorized by this chapter, shall restore an employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. An employer may decline to restore an employee as required in this section because of conditions unrelated to the employee's exercise of rights under this chapter.

**§ -5 Employee rights.** (a) An employer shall not interfere with, restrain, or deny the exercise of, or an attempt to exercise, a right established by this chapter.

(b) An employer shall not discharge, fine, suspend, expel, discipline, or in any other manner discriminate against an employee who:

- (1) Exercises a right provided under this chapter; or
- (2) Opposes a practice made unlawful by this chapter.

**§ -6 Civil action.** An employee may bring a civil action to enforce this chapter. The court may enjoin any act or practice that violates this chapter and may order any equitable relief necessary and appropriate to redress the violation or to enforce this chapter."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 30, 2014.)

**ACT 162**

H.B. NO. 2251

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the affordable housing crisis continues to be one of the State's most significant and challenging social problems and is a critical issue for many Hawaii residents. As the cost of housing increases, the State must continue to assist residents in obtaining affordable housing.

The legislature further finds that the housing loan and mortgage program, familiarly known as the hula mae multifamily revenue bond program, is an effective and widely used financing tool for the development and preservation of affordable rental housing. Since its inception, twenty series of bonds, including one refunding series, totaling \$418,244,699 have been issued to assist in the financing of 3,172 units statewide. In 2013, additional requests for another \$236,284,974 in hula mae multifamily bonds authorization were submitted.

The purpose of this Act is to ensure that the hula mae multifamily revenue bond program can continue to finance the development and preservation of affordable rental housing in future years by increasing the hula mae multifamily revenue bond authorization from \$750,000,000 to \$1,000,000,000.

**SECTION 2.** Act 291, Session Laws of Hawaii 1980, as amended by Act 304, Session Laws of Hawaii 1996, Act 185, Session Laws of Hawaii 2004, Acts 231 and 249, Session Laws of Hawaii 2007, Act 121, Session Laws of Hawaii 2008, and Act 138, Session Laws of Hawaii 2012, is amended by amending section 11 to read as follows:

**"SECTION 11. Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the Hawaii housing finance and development corporation pursuant to part III, chapter 39 and subpart A of part III of chapter 201H, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [~~\$750,000,000~~] \$1,000,000,000 at such times and in such amounts as the Hawaii housing finance and development corporation deems advisable for the purpose of undertaking and maintaining any of the housing loan programs under subpart A of part III of chapter 201H, Hawaii Revised Statutes, relating to the funding or purchasing of eligible project loans."

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

**ACT 163**

S.B. NO. 2542

A Bill for an Act Relating to the Disposition of the Conveyance Tax Collections to the Rental Housing Trust Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Recognizing the need to address the shortfall in affordable rental housing units, the legislature raised the allocation of the conveyance tax

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to the rental housing trust fund to fifty per cent in 2006. However, due to the economic crisis and recession of 2008 through 2010 the allocation to the rental housing trust fund has been reduced to thirty per cent to address the State's budget crisis.

The legislature finds that the State continues to face unique challenges related to affordable housing. The lack of available land, low wage positions coupled with the high cost of living, the high cost of construction, and shortage of public funds are only some of the factors that have contributed to one of the lowest rates of home ownership in the country and a strong need for affordable rental housing.

The legislature further finds that renters in Hawaii face many challenges. A 2011 Center for Housing Policy report noted that Honolulu was tied for being the least affordable city for renters nationwide. Honolulu was also ranked the third most expensive city for rentals. The need for affordable housing in Hawaii also affects moderate-income families. Individuals falling into this gap group of average wage earners face challenges, as they earn too much to qualify for low-income housing programs, yet earn too little to afford market rate housing.

The legislature also finds that according to the 2011 Hawaii Housing Planning Study, the number of new housing units that will have to be built between 2012 and 2016 to meet new demand generated by changing demographic and economic conditions might be as high as fifty thousand. Units that are not built represent the shortage of units needed to fill the total demand for housing units. This shortage, known as needed units, is the difference between total housing demand and expected supply. The projected number of needed units in the State through 2016 includes over six thousand ownership units and thirteen thousand rental units for households with less than eighty per cent of the area median income. During this same five-year period, about two thousand six hundred affordable for-sale units and over two thousand one hundred rental units will be needed to meet the housing requirements of households earning between eighty per cent and one hundred forty per cent of the area median income; these are households that fall into the gap group of wage earners.

The legislature additionally finds that rising housing costs are associated with increased homelessness or families at risk of becoming homeless. According to the 2012 Homeless Service Utilization Report developed by the Center on the Family at the University of Hawaii at Manoa, a total of 13,980 individuals statewide experienced homelessness and received shelter or outreach services during the 2012 fiscal year. This figure includes those individuals who are at risk of losing their housing.

The legislature finds that Hawaii has a definite, immediate need for affordable housing. Addressing these needs will be a challenge because of the sheer number of units needed to meet demand and the various barriers that can prevent development and preservation of affordable housing. Therefore, the public sector, the private sector, and other interested stakeholders in the community must work together to ensure that Hawaii's residents have access to affordable housing.

The purpose of this Act is to support Hawaii's goal of meeting the projected number of needed affordable housing units in the State by restoring the allocation of the conveyance tax to the rental housing trust fund to fifty per cent.

SECTION 2. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

**“§247-7 Disposition of taxes.** All taxes collected under this chapter shall be paid into the state treasury to the credit of the general fund of the State, to be

used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year:

- (1) Ten per cent shall be paid into the land conservation fund established pursuant to section 173A-5;
- (2) Twenty-five per cent from July 1, 2009, until June 30, 2012[~~, and~~]; thirty per cent from July 1, 2012, until June 30, 2014; and fifty per cent in each fiscal year thereafter shall be paid into the rental housing trust fund established by section 201H-202; and
- (3) Twenty per cent from July 1, 2009, until June 30, 2012, and twenty-five per cent in each fiscal year thereafter shall be paid into the natural area reserve fund established by section 195-9; provided that the funds paid into the natural area reserve fund shall be annually disbursed by the department of land and natural resources in the following priority:
  - (A) To natural area partnership and forest stewardship programs after joint consultation with the forest stewardship committee and the natural area reserves system commission;
  - (B) Projects undertaken in accordance with watershed management plans pursuant to section 171-58 or watershed management plans negotiated with private landowners, and management of the natural area reserves system pursuant to section 195-3; and
  - (C) The youth conservation corps established under chapter 193.”

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** If H.B. No. 2059<sup>1</sup> or H.B. No. 2101<sup>1</sup>, regular session of 2014, is passed in any form by the legislature during the regular session of 2014, whether before, on, or after the effective date of this Act, the provisions in this Act shall supersede any amendments made to section 247-7, Hawaii Revised Statutes, by those measures.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

#### Note

1. Did not pass legislature.

## ACT 164

S.B. NO. 2581

A Bill for an Act Relating to the State Building Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the state building code council was created in 2007 to review and adopt current, nationally recognized building codes and standards for the State. However, the staff and operating expenses of the council have never been funded, thereby limiting the effectiveness of the work of the voting members.

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The purpose of this Act is to refine and clarify provisions relating to the state building code council and the adoption of Hawaii state building codes and standards, by among other things, adding building industry and trade representatives to the council membership, allowing staggering of the code adoption, defining and clarifying terminology, ensuring that no code provisions that conflict with the laws governing contractors are adopted, and appropriating funds to the department of accounting and general services for the council's operating costs.

SECTION 2. Section 107-21, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Codes and standards" means nationally recognized minimum requirements that shall be met for design and construction to safeguard life, property, and the general welfare.

"Hawaii state building codes" means the building codes and standards that the state building code council adopts under section 107-24.

2. By amending the definition of "hurricane resistive criteria" to read:

"Hurricane [resistive] resistant criteria" means the design criteria for enhanced hurricane protection areas that are capable of withstanding a five hundred-year hurricane event, as developed by the state department of defense for public shelter and residential safe room design criteria."

SECTION 3. Section 107-22, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

(a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of [nine] eleven voting members and one nonvoting member, who shall be the comptroller or the comptroller's designee. The council members shall serve four-year terms [as defined in paragraphs (1) to (6)]. The voting members shall include:

- (1) One county building official from each of the four counties appointed by the mayor;
- (2) One member representing the state fire council;
- [3] One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;
- [4] (3) One member representing the department of labor and industrial relations who has significant experience in elevator [or fire] safety;
- (4) One member representing the state energy office of the department of business, economic development, and tourism;
- (5) One member representing the Structural Engineers Association of Hawaii; [and]
- (6) One member representing the American Institute of Architects, Hawaii State Council[-];
- [7] One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii, who has significant experience with building codes, with alternating four-year terms between the two organizations and the first four-year term to be served by the Building Industry Association of Hawaii; and
- (8) One member representing the Subcontractors' Association of Hawaii who has significant experience with building codes.

(b) [Six] Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council."

SECTION 4. Section 107-23, Hawaii Revised Statutes, is amended to read as follows:

**"[§107-23] Executive director and executive assistant[-]; council budget.**

(a) The council shall appoint, exempt from chapters 76 and 89, an executive director, who shall serve at the pleasure of the council, and who shall have administrative abilities and ~~expertise in engineering or architecture~~ experience with the building industry. The council shall also appoint, exempt from chapters 76 and 89, an executive assistant, who shall have experience in statutory and administrative rulemaking processes[-] to assist in carrying out the duties of the council under section 107-24. The council may appoint other staff who shall be subject to chapters 76 and 89.

(b) The budgetary requirements for conducting meetings, training, travel, and other related responsibilities of the council, including salaries of the executive director, executive assistant, and other staff, shall be included in the budget of the department of accounting and general services."

SECTION 5. Section 107-24, Hawaii Revised Statutes, is amended to read as follows:

**"[§107-24] Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish ~~a comprehensive~~ the Hawaii state building [eode.] codes.

(b) The council shall appoint a subcommittee ~~comprised of~~ comprising the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the ~~model~~ codes[-] and standards identified in section 107-25. Any recommended state amendments shall require the unanimous agreement of the subcommittee.

(c) The council shall adopt, amend, or update codes and standards identified in section 107-25 on a staggered basis, as established by the council; provided that the adoption, amendment, or update of any code or standard shall be:

- (1) At least once every six years; and
- (2) Based upon a review and evaluation of the utility of the code or standard at the time each respective edition is published.

[e] (d) The council may appoint other investigative, technical expertise committees, which may include council members.

[f] (e) The council shall consult with general building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

[g] (f) The council shall review and adopt, as appropriate, new model building codes within eighteen months of the official publication date.

[h] (g) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

[i] (h) The council ~~shall~~ may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the Hawaii state building ~~eode~~ codes adopted pursuant to this part.

(i) At the end of each fiscal year, the council shall submit a written report to the governor on the council's activities, including the codes and standards adopted, amended, or updated by the council."

SECTION 6. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

"[§107-25]—State] Hawaii state building [code;] codes; requirements.

There is established [a] the Hawaii state building [code] codes applicable to all construction in the State of Hawaii. The Hawaii state building [code] codes shall [include:] be based upon:

- (1) The [latest edition of the] state fire code as adopted by the state fire council;
- (2) The [latest edition of the] Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The [latest edition of the] International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;
- (4) The National Electrical Code, as published by the National Fire Protection Association;
- [4] (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
  - (A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred-year hurricane event as well as other storms and natural hazards; and
  - (B) Essential government facilities requiring continuity of operations; and
- [5] (6) Code provisions based on nationally published codes or standards that include[;] but are not limited to[;] residential and hurricane [resistive] resistant standards [for residential construction, fire,] related to loss mitigation standards in accordance with section 431P-12, elevator, [electrical, plumbing,] mechanical, flood and tsunami, existing buildings, [and energy conservation standards for building design and construction,] and onsite sewage disposal."

SECTION 7. Section 107-26, Hawaii Revised Statutes, is amended to read as follows:

"[§107-26]—State] Hawaii state building [code;] codes; prohibitions. In adopting [a] the Hawaii state building [code;] codes, the council shall not adopt provisions that:

- (1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or
- (2) Conflict with [chapter] chapters 444 and 464."

SECTION 8. Section 107-27, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

"[§107-27]—Exemptions.] Design of state buildings. (a) [Upon] No later than one year after the adoption of rules under this chapter, the design of all state building construction shall be in compliance with the Hawaii state build-

ing [eode within one year of its effective date, and] codes, except state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the Hawaii state building [eode;] codes;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building [eode] codes or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county."

SECTION 9. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

**"[§107-28] County [building code] authority to amend and adopt the Hawaii state [model] building [eode] codes without [state] council approval.** (a) The governing body of each county shall amend, adopt, and update the Hawaii state building [eode] codes as [it applies] they apply within [its] their respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall [use] amend and adopt the [model] Hawaii state building codes and standards listed in section 107-25, as the referenced [model] Hawaii state building codes and standards for its respective county building code ordinance, no later than two years after the adoption of the Hawaii state building [eode.] codes.

(b) If a county does not amend the [statewide model eode] Hawaii state building codes within the two-year time frame, the Hawaii state building [code] codes shall become applicable as an interim county building code [until the county adopts the amendments]."

SECTION 10. Section 132-3, Hawaii Revised Statutes, is amended to read as follows:

**"§132-3 Adoption of state fire code.** The state fire council shall, after public hearings pursuant to chapter 91, adopt a state fire code setting forth minimum requirements relative to the protection of persons and property from fire loss including without limitation: (1) the storage, handling and use of hazardous substances, materials and devices; and (2) the control of conditions hazardous to life or property in the design, use or occupancy of buildings and premises. The state fire code shall become part of the Hawaii state building [eode] codes as provided in section 107-25. The state fire council shall meet annually to review and amend the state fire code."

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$136,676 or so much thereof as may be necessary for fiscal year 2014-2015 for the state building code council and staff to carry out their duties and functions, including operating costs and staff salaries.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)

A Bill for an Act Relating to Fire Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a need to set minimum qualification standards in testing and certification of individuals, operators, and contractors who perform maintenance and testing of portable fire extinguishers, fire protection systems, and fire alarm systems. The legislature further finds that these certifications should be recognized throughout the State of Hawaii and be based on the currently adopted state fire code and standards.

The purpose of this Act is to authorize the state fire council to establish statewide qualifications and procedures for testing, certifying, and credentialing individuals who perform maintenance and testing of portable fire extinguishers, fire protection systems, and fire alarm systems to be administered by county fire departments; provided that the county fire departments may establish and charge reasonable certification fees.

SECTION 2. Section 132-16, Hawaii Revised Statutes, is amended to read as follows:

**“§132-16 State fire council; composition; functions.** (a) There is established a state fire council which shall be placed within the department of labor and industrial relations for administrative purposes. The state fire council shall consist of the fire chiefs of the counties. The state fire council may appoint an advisory committee to assist it in carrying out its functions under this chapter. The advisory committee may include the heads of the various county building departments, a licensed architect recommended by the Hawaii Society of the American Institute of Architects, a licensed electrical engineer and a licensed mechanical engineer recommended by the Consulting Engineers Council of Hawaii, a representative of the Hawaii Rating Bureau, a representative of the Hawaii firefighters association, representatives of the county fire departments, and such other members of the public as the state fire council may determine can best assist it. The state fire council shall elect a chairperson from among its members.

(b) In addition to adopting a state fire code pursuant to section 132-3, the state fire council shall:

- (1) Administer the requirements for reduced ignition propensity cigarettes, in accordance with chapter 132C; and
  - (2) Serve as a focal point through which all applications to the federal government for federal grant assistance for fire-related projects shall be made. Upon the receipt of any such federal grants, the state fire council shall administer those federal grants.
- (c) The state fire council may also:
- (1) Appoint advisory committees comprised of representatives from each county fire department to assist in drafting the state fire code and coordinating statewide training, data collection, and contingency planning needs for firefighters; [and]
  - (2) Advise and assist the county fire departments where appropriate, may prescribe standard procedures and forms relating to inspections, investigations, and reporting of fires, may approve plans for cooperation among the county fire departments, and may advise the governor and the legislature with respect to fire prevention and pro-

tection, life safety, and any other functions or activities for which the various county fire departments are generally responsible[-]; and

- (3) Establish, in conformance with the adopted state fire code and nationally recognized standards, statewide qualifications and procedures, to be administered by the county fire departments, for testing, certifying, and credentialing individuals who perform maintenance and testing of portable fire extinguishers, fire protection systems, and fire alarm systems; provided that the county fire departments may establish and charge reasonable certification fees.

- (d) The state fire council may adopt rules pursuant to chapter 91 for purposes of this section."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 2014.)

## ACT 166

H.B. NO. 2590

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§11- Late registration.** (a) Notwithstanding the closing of the general county register pursuant to section 11-24, a person who is eligible to vote but is not registered to vote may register by appearing in person:

- (1) Prior to the day of the election, at any absentee polling place established pursuant to section 15-7 in the county associated with the person's residence; or
- (2) On the day of the election, at the polling place in the precinct associated with the person's residence.

(b) The county clerk shall designate a registration clerk, who may be an election official, at each of the absentee polling places in the county established pursuant to section 15-7, prior to the day of the election and at each of the polling places in the county on the day of the election.

(c) The registration clerk shall process applications for any person not registered to vote who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation:

- (1) Of the person's qualification to vote;
- (2) Acknowledging that the person has not voted and will not vote at any other polling place for that election and has not cast and will not cast any absentee ballot pursuant to chapter 15 for that election; and
- (3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding \$1,000 or imprisonment not exceeding five years, or both.

(d) The registration clerk may accept, as prima facie evidence, the allegation of the person in the application regarding the person's residence in accordance with section 11-15(b), unless the allegation is contested by a qualified voter. The registration clerk may demand that the person furnish substantiating evidence to the other allegations of the person's application in accordance with section 11-15(b).

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(e) Registration may be challenged in accordance with section 11-25.

(f) Notwithstanding subsection (a), registration pursuant to this section may also be used by a person who is registered to vote but whose name cannot be found on the precinct list for the polling place associated with the person's residence.

(g) The clerk of each county shall add persons who properly register under this section to the respective general county register. Within thirty days of registration at the polling place, the county clerk shall mail to the person a notice including the person's name, current street address, district and precinct, and date of registration. A notice mailed pursuant to this subsection shall serve as *prima facie* evidence that the person is a registered voter as of the date of registration."

SECTION 2. Section 11-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) [Challenging prior to election day.] Any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct for any cause not previously decided by the board of registration or the supreme court in respect to the same person; provided that in an election of members of the board of trustees of the office of Hawaiian affairs the voter making the challenge must be registered to vote in that election. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge.

(b) [Challenging on election day.] Any voter rightfully in the polling place, including absentee polling places established pursuant to section 15-7, may challenge the right to vote of any person who comes to the precinct officials for voting purposes. The challenge shall be on the grounds that the voter is not the person the voter alleges to be, or that the voter is not entitled to vote in that precinct; provided that only in an election of members of the board of trustees of the office of Hawaiian affairs, a person registered to vote in that election may also challenge on the grounds that the voter is not Hawaiian. No other or further challenge shall be allowed. Any person thus challenged shall first be given the opportunity to make the relevant correction pursuant to section 11-21. The challenge shall be considered and decided immediately by the precinct officials and the ruling shall be announced."

SECTION 3. Section 15-7, Hawaii Revised Statutes, is amended to read as follows:

**“§15-7 Absentee polling place[.]; registration at absentee polling place.** (a) Absentee polling places shall be established at the office of the respective clerks, and may be established at [such] other sites as may be designated by the clerk under the provisions prescribed in the rules adopted by the chief election officer. Section 11-21 relating to changes and transfers of registration shall apply to the absentee polling place as though it were the precinct at which a person's name properly appears on the list of registered voters.

(b) The absentee polling places shall be open no later than ten working days before election day, and all Saturdays falling within that time period, or as soon thereafter as ballots are available; provided that all absentee polling places shall be open on the same date statewide, as determined by the chief election officer.

(c) A person who is eligible to vote but is not registered to vote may register by appearing in person at the absentee polling place for the county in which the person maintains residence.

(d) The county clerk shall designate a registration clerk, who may be an election official, at each of the absentee polling places established in the county.

(e) The registration clerk shall process applications for any person not registered to vote who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation:

(1) Of the person's qualification to vote;

(2) Acknowledging that the person has not voted and will not vote at any other polling place for that election and has not cast and will not cast any absentee ballot pursuant to chapter 15 for that election; and

(3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding \$1,000 or imprisonment not exceeding five years, or both.

(f) The registration clerk may accept, as *prima facie* evidence, the allegation of the person in the application regarding the person's residence in accordance with section 11-15(b), unless the allegation is contested by a qualified voter. The registration clerk may demand that the person furnish substantiating evidence to the other allegations of the person's application in accordance with section 11-15(b).

(g) Registration may be challenged in accordance with section 11-25.

(h) Notwithstanding subsection (c), registration pursuant to this section may be used by a person who is registered to vote but whose name cannot be found on the precinct list for the polling place associated with the person's residence.

(i) The clerk of each county shall add persons who properly register at an absentee polling place to the respective general county register. Within thirty days of registration at an absentee polling place, the county clerk shall mail to the person a notice including the person's name, current street address, district and precinct, and date of registration. A notice mailed pursuant to this subsection shall serve as *prima facie* evidence that the person is a registered voter as of the date of registration."

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the counties to implement this Act, which may include upgrading the registration process by purchasing electronic poll books.

The sum appropriated shall be expended by the office of elections for the purposes of this Act.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 6.** This Act shall take effect on July 1, 2014; provided that:

- (1) Section 3 of this Act shall take effect on January 1, 2016; and
- (2) Section 1 of this Act shall take effect on January 1, 2018.

(Approved June 30, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 167****ACT 167**

S.B. NO. 3093

A Bill for an Act Relating to the University of Hawaii at Hilo.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that pursuant to S.C.R. No. 132, S.D. 1, regular session of 2013, the University of Hawaii at Hilo, through its 'Imiloa astronomy center and division of academic affairs, has entered into a memorandum of understanding with the RISE 21st Century After School Program, a program that assists underprivileged children of Hawaiian ancestry in developing life skills, achieving academic success, and career planning. Pursuant to the memorandum of understanding:

- (1) The University of Hawaii at Hilo will provide individual mentoring to assist RISE 21st Century After School Program participants with academic and career planning and success;
- (2) The University of Hawaii at Hilo and the RISE 21st Century After School Program will collaborate to develop and offer project-based activities that foster and encourage peer mentoring while addressing relevant community initiatives; and
- (3) The University of Hawaii at Hilo and the RISE 21st Century After School Program will collaborate on funding initiatives to support collaborative goals and objectives.

The purpose of this Act is to appropriate funds to the University of Hawaii at Hilo to support the University of Hawaii at Hilo's memorandum of understanding with the RISE 21st Century After School Program.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2014-2015 to the University of Hawaii at Hilo to support the University of Hawaii at Hilo's memorandum of understanding with the RISE 21st Century After School Program.

The sum appropriated shall be expended by the University of Hawaii at Hilo for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**ACT 168**

H.B. NO. 1823

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that mediation is an effective method of resolving disputes that should be made available to resolve disputes regarding the fair market value or fair market rental of public lands in transactions involving the board of land and natural resources and private purchasers, owners, or leaseholders. The legislature further finds that the present statutory framework for the arbitration of such disputes is cumbersome and does not provide the parties an opportunity to work collaboratively toward mutual solutions to disputes.

The purpose of this Act is to authorize the board of land and natural resources to provide for nonbinding mediation of disputes regarding the fair

market value of public lands in transactions involving the purchase, lease, or repurchase of the public lands and the fair market rental of public lands under lease when rentals are reopened. This Act also preserves the option of binding arbitration to resolve disputes when the mediation process fails to do so.

**SECTION 2.** Section 171-17, Hawaii Revised Statutes, is amended by amending subsections (b) through (e) to read as follows:

"(b) The sale price or lease rental of lands to be disposed of by drawing or by negotiation shall be no less than the value determined by:

- (1) An employee of the board qualified to appraise lands; or
- (2) A disinterested appraiser or appraisers whose services shall be contracted for by the board, and [such] the appraisal, and any further appraisal with the approval of the board, shall be at the cost of the purchaser;

provided that the sale price or lease rental shall be determined by disinterested appraisal whenever prudent management so dictates; provided further that [should] if the purchaser [fail to] does not agree upon the sale price or lease rental, the purchaser may appoint an appraiser who shall conduct an appraisal on behalf of the purchaser. If, after the purchaser's appraisal, the board and the purchaser do not agree on the sale price or lease rental, the parties shall make a good faith effort to resolve the dispute through nonbinding mediation by a single mediator appointed by mutual agreement of the parties. The cost of mediation shall be borne equally by the parties. If mediation does not resolve the dispute, the purchaser's appraiser together with the board's appraiser shall appoint a third appraiser, and the sale price or lease rental shall be determined by arbitration as provided for in chapter 658A, which shall be final and binding. The purchaser shall pay for all appraisal costs, except that the cost of the third appraiser shall be borne equally by the purchaser and the board.

(c) In the repurchase of any land by the board, the board shall have the option to repurchase the land for the original sale price or the fair market value at the time of repurchase, whichever is the lower. Any improvements affixed to the realty shall be purchased at their fair market value. At the time of the repurchase, the fair market value of the land, and the improvements, if any, shall be determined by a qualified appraiser whose services shall be contracted for by the board; provided [should] that if the owner [fail to] does not agree upon the value, the owner may appoint the owner's own appraiser who shall conduct an appraisal on behalf of the owner. If, after the owner's appraisal, the board and the owner do not agree on the sale price, the parties shall make a good faith effort to resolve the dispute through nonbinding mediation by a single mediator appointed by mutual agreement of the parties. The cost of mediation shall be borne equally by the parties. If mediation does not resolve the dispute, the owner's appraiser together with the board's appraiser shall appoint a third appraiser, and the value shall be determined by arbitration as provided in chapter 658A. The owner shall pay for all appraisal costs, except that the cost of the third appraiser shall be borne equally by the [purchaser] owner and the board.

(d) [In the event of] If a reopening of the rental to be paid on a lease[,] occurs, the rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental shall be determined by:

- (1) An employee of the department qualified to appraise lands; or
- (2) A disinterested appraiser whose services shall be contracted for by the board;

and the lessee shall be promptly notified of the determination[;] and provided with the complete appraisal prepared by the board or the board's appraiser; pro-

## ACT 169

vided that [should] if the lessee [fail to] does not agree upon the fair market rental, the lessee may appoint the lessee's own appraiser [who together with the board's appraiser shall appoint a third appraiser] and the lessee shall provide the board with the complete appraisal prepared by the lessee's appraiser. Each party shall pay for its own appraiser. If the board's and the lessee's appraisers do not agree upon the lease rental, the lessee and the board shall in good faith attempt to resolve the dispute by nonbinding mediation by a single mediator mutually agreed upon by the parties. If the dispute is not resolved by the mediation, the fair market rental shall be determined by arbitration as provided in chapter 658A[. The lessee shall pay for the lessee's own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser], which shall be final and binding. Either the board or the lessee may initiate arbitration by a written demand to the other party. The arbitration shall be conducted by a single arbitrator, who shall be an attorney licensed in the State, a person with experience in contracts and real estate valuation, or another qualified person, who shall be mutually agreed upon by the parties. If an arbitrator is not selected within fifteen days of the demand for arbitration, appointment of an arbitrator may be requested by either party by motion made to the circuit court in the circuit in which the land is located. The cost of mediation or arbitration shall be borne equally by the lessee and the board. Any language in present leases to the contrary notwithstanding, the provisions of this subsection, when possible and notwithstanding the six-month notice required, shall apply to leases with original lease rental reopening dates effective before and after July 1, 1996.

(e) [Whenever more than one appraiser is appointed each shall prepare and submit an independent appraisal. All] Complete appraisal reports, including all comparables relied upon in the appraisal reports, shall be available for study by the public. All complete appraisal reports shall be provided to the opposing party prior to the commencement of mediation or arbitration, if applicable, of the valuation dispute."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 169

H.B. NO. 2152

A Bill for an Act Relating to the Pacific International Space Center for Exploration Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Pacific international space center for exploration systems stimulates economic growth for the State, promoting the establishment and growth of new sustainable and green industries, associated jobs, workforce development, internships, and science, technology, engineering, and mathematics education programs. The Pacific international space center for exploration systems has generated significant interest in applied research and development for planetary surface systems technologies, with participation from the public and private sectors, as well as international organizations. The Pacific international space center for exploration systems is advancing

these technologies using the world-class, basaltic planetary analog test sites uniquely found in the State.

The legislature further finds that research and development in areas of planetary sustainability and resource utilization continue to demonstrate considerable potential for advancing dual-use technologies that can assist the State in becoming increasingly self-sufficient in renewable energy, broadband communications, advanced manufacturing, and other critical areas for development, as well as provide multiple opportunities for economic and workforce development through strategic partnerships with public and private research and development groups worldwide. Accordingly, the Pacific international space center for exploration systems will continue to explore and pursue research and development programs for planetary surface system technologies in five strategic areas.

The first area to be developed is the fabrication of basaltic-based construction materials as an alternative to cement. Three-dimensional printing is being developed and utilized to support a broad range of applications in architecture, civil engineering, robotics, and aerospace. The Pacific international space center for exploration systems' research in basaltic concrete and construction has the potential for advancing multiple technologies in additive manufacturing for rapid prototyping, parts production, and construction using three-dimensional printing with novel materials.

For example, cement is the traditional "glue" that holds aggregates together to form concrete. Cement production is an energy-intensive process that accounts for approximately five to seven per cent of global carbon dioxide. Production generates high environmental and economic costs, as the State pays a premium for cement and imports over three hundred thousand metric tons per year to meet demand.

The Pacific international space center for exploration systems can help reduce cement imports and costs by conducting applied research that can characterize and advance alternative binder technologies, using indigenous and "waste" byproducts of the State, to produce basalt-based construction materials for building homes, highways, and other structures statewide, in partnership with the University of Hawaii, National Aeronautics and Space Administration, and industry. Funding allocated through this Act will be used to perform applied research in three-dimensional printing of fabricated parts using the State's basalt fines, as well as researching the use of basalt material for construction.

The second area to be developed is in-situ resource use and integrated resource extraction technologies. A key requirement for space exploration is the ability to "live off the land" using indigenous resources found on planetary surfaces. The Pacific international space center for exploration systems has acquired a planetary rover on long-term loan from Ontario Drive and Gear in Canada to enable the development, testing, and validation of integrated resource extraction technologies. The goal is to develop and demonstrate end-to-end technologies associated with "dust to thrust" capabilities of extracting oxygen from Hawaii basalts, filtering the water, separating the water into hydrogen and oxygen, pumping gases into a hydrogen fueling station, and transferring gases from the refueling station into gas cylinders on the rover. This will expand the State's role as a premier site for the development, testing, and validation of planetary surface system technologies. Funding allocated through this Act will be used to design, develop, and test an integrated Pacific international space center for exploration systems in-situ resource utilization test facility with robotics, fuel cells, oxygen extraction, hydrogen storage, and aerial and hopper technologies. Funds will also support modification of equipment from the National Aeronautics and Space Administration, as well as the transportation of equipment and selected industry partners to the State for program integration.

The third area to be developed is the planetary analog test site. The island of Hawaii's unique geology enables the Pacific international space center for exploration systems to provide a world-class test site with terrain that closely simulates the surface of the moon and Mars. Since 2007, this site has been used to support robotic and other technology testing and validation by the National Aeronautics and Space Administration, private industry, and international space agencies. Funding allocated through this Act will be used to provide the additional power, mechanical systems, and communications infrastructure required to enable technology testing and validation requirements for future robotic and human missions to the moon and Mars, which in turn will secure the State's role as a global leader in the development of planetary surface system technologies.

The fourth area to be developed is the secondary school lunar surface flight experiment. The moon and Mars present difficult challenges to exploration, chief among them being dust. Surface dust consists mostly of a powder that is abrasive and clings stubbornly to surfaces including solar arrays, radiators, viewports, and spacesuits. During the Apollo missions, three days of exposure to the lunar environment rendered some parts of the spacesuit unusable. There also is evidence suggesting this dust may be electrostatically charged.

The National Aeronautics and Space Administration's Kennedy Space Center has made remarkable breakthroughs in technologies to counter the dust issue. The technique employed, through an electric grid, has been shown to lift and transport particles using electrostatic forces. This technology, while working well in the laboratory, has never been applied to space applications on the moon.

The Pacific international space center for exploration systems, in partnership with the National Aeronautics and Space Administration's Kennedy Space Center, NanoRacks, and three Hawaii high schools, will plan, design, develop, and test a dust-removal experiment to be flown on a 2015 Google Lunar XPrize mission to the lunar surface. The Pacific international space center for exploration systems has secured a grant from a Google Lunar XPrize team to cover the transportation cost to the lunar surface, valued at \$3,200,000. Funding allocated through this Act will be used to design, develop, test, and evaluate flight hardware.

The fifth and final area to be developed is the international robotics mining competition. The National Aeronautics and Space Administration lunabotics challenge has been among the most successful college robotics competitions. Attracting the best and brightest from around the world, this event is held annually at the Kennedy Space Center and combines all the hallmarks of science, technology, education, and mathematics education, space exploration, and teamwork, embracing a "failure is not an option" attitude.

The National Aeronautics and Space Administration has refocused this event as a national competition for college teams targeting Mars. There is a demand for a global competition with college engineers and space science students. The Pacific international space center for exploration systems is working with international aerospace contacts to foster regional competitions modeled on the National Aeronautics and Space Administration lunabotics challenge. Funding allocated through this Act will be used to facilitate and coordinate an international robotics competition in the State during the summer of 2014.

The purpose of this Act is to appropriate funds to the Pacific international space center for exploration systems for general and administrative tasks and to assist in the execution of the five planetary surface systems initiatives that will advance the State's leadership in aerospace and for general and administrative tasks.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of executing the Pacific international space center for exploration systems' five planetary surface systems initiatives described in section 1 of this Act and for the center's general and administrative tasks.

The sum appropriated shall be expended by the Pacific international space center for exploration systems for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 170

S.B. NO. 2953

A Bill for an Act Relating to State Resources on Hawaiian Home Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 182-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The payments to the State as fixed by the board shall be specified; provided that:

- (1) In the case of bauxite, bauxitic clay, gibbsite, diaspore, boehmite, and all ores of aluminum, the amount of royalties for each long dry ton of ore as beneficiated shall not be less than twenty-five cents or the equivalent of the price of one pound of virgin pig aluminum, whichever is higher, nor shall it exceed the equivalent of the price of three pounds of virgin pig aluminum;
- (2) The rate of royalty for ore processed into aluminous oxide in the State shall be set at eighty per cent of the rate of royalty for ore not processed to aluminous oxide in the State; and
- (3) The royalty shall be fixed at a rate [which] that will tend to encourage the establishment and continuation of the mining industry in the State.

The prices of virgin pig aluminum for the purpose of determining the royalties under this section shall be the basic price on the mainland United States market for virgin pig, not refined, f.o.b. factory. The royalties shall be in lieu of any severance or other similar tax on the extracting, producing, winning, beneficiating, handling, storing, treating, or transporting of the mineral or any product into which it may be processed in the State, and shall not be subject to reopening or renegotiating for and during the first twenty years of the lease term.

[In the event] If the lessee desires to mine other minerals, the lessee, before mining the minerals, shall [so] notify the board in writing, and the board and the lessee shall negotiate and fix the royalties for the minerals.

Any other law to the contrary notwithstanding, thirty per cent of all royalties received by the State from geothermal resources shall be paid to the county in which mining operations covered under a state geothermal resource mining lease are situated[.]; provided that if the geothermal resources are located on lands under the jurisdiction of the department of Hawaiian home lands, one hundred per cent of royalties received by the State shall be paid to the department of Hawaiian home lands."

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SECTION 2. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## **ACT 171**

S.B. NO. 2583

### **A Bill for an Act Relating to the Pacific International Space Center for Exploration Systems and National Aeronautics and Space Administration Laser Communications Ground Station Initiative.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Pacific international space center for exploration systems stimulates economic growth for the State, promoting the establishment and growth of new sustainable and green industries, associated jobs, workforce development, internships, and science, technology, engineering, and mathematics education programs.

The legislature further finds that the National Aeronautics and Space Administration is working to develop advanced technologies involving laser optical telecommunications. Since the beginning of the space age, the National Aeronautics and Space Administration has communicated with their spacecraft through the use of radio frequency ground antennas. However, the ever increasing data rate requirements from more sophisticated instruments on spacecraft will soon surpass the National Aeronautics and Space Administration's ability to support spacecraft with radio frequency communications. As such, the National Aeronautics and Space Administration has embarked on the development of innovative technology to support laser communications between spacecraft and earth. This new technology was successfully demonstrated in late 2013 with the lunar laser communications demonstration experiment aboard the Lunar Atmosphere and Dust Environment Explorer spacecraft, which is now orbiting the moon. Space laser communications technology has the potential to provide ten to one hundred times higher data rates than traditional radio frequency systems with the same mass and power. This technology also aligns with the State's interests in broadband communication technologies.

The legislature additionally finds that the National Aeronautics and Space Administration plans to introduce laser communications with its spacecraft at the beginning of the next decade. In order to implement this laser communications network, the National Aeronautics and Space Administration has begun planning for a global network of laser communication ground stations. Since clouds present a major obstacle for laser communications in space, the National Aeronautics and Space Administration recently conducted a detailed statistical analysis of weather patterns that resulted in a set of potential locations in the United States for their anchor ground station. This analysis indicated that of all possible sites, Hawaii would be the best location for their first operational laser communications station.

As a result, the National Aeronautics and Space Administration and the Pacific international space center for exploration systems have begun to explore possible locations for the National Aeronautics and Space Administration's first operational laser communication ground station, to be established in approximately 2020. This new technology will require a base of technical experts that will not only support the National Aeronautics and Space Administration's first

laser communications station, but also serve as a technical resource for the entire network of laser communication ground stations worldwide. It is envisioned that the University of Hawaii will provide the needed technical expertise, beginning with support for an atmospheric characterization effort in 2014 and maturing to a center of excellence in ground to space laser communications in the future. As such, the laser communications ground station initiative will provide multiple opportunities for high-tech jobs in the State, as well as substantial improvements in broadband and optical fiber infrastructure statewide.

The purpose of this Act is to provide funding for an engineering assessment of the proposal to establish a laser optical communications ground station in the State. This study will be conducted in partnership with the National Aeronautics and Space Administration. Matching funds will be appropriated by the National Aeronautics and Space Administration and used to conduct an engineering study to include completion of site surveillance and selection, an analysis of power and cooling requirements, environmental assessments and permits, an assessment of structural pads, and an analysis of roadways and clearances for transportation of communications equipment.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of supporting a joint National Aeronautics and Space Administration and Pacific international space center for exploration systems engineering assessment and study, leading to infrastructure construction beginning in 2016; provided that no funds shall be made available under this Act unless the National Aeronautics and Space Administration provides a dollar-for-dollar match of funds for the purposes for which this sum is appropriated.

The sum appropriated shall be expended by the Pacific international space center for exploration systems for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 172

H.B. NO. 1712

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, Section 13 of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in Article VII, Section 13 of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal

to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, Section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, Section 13.

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 2013-2014 and estimated for each fiscal year from 2014-2015 to 2016-2017, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
2010-2011	\$5,102,646,283	
2011-2012	5,648,800,650	
2012-2013	6,226,008,766	
2013-2014	6,125,951,000	\$ 1,046,943,101
2014-2015	6,352,585,000	1,110,046,892
2015-2016	6,637,692,000	1,153,446,927
2016-2017 (not applicable)		1,178,834,060

For fiscal years 2013-2014, 2014-2015, 2015-2016, and 2016-2017, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 2010-2011, 2011-2012, and 2012-2013 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 2013, dated October 8, 2013. The net general fund revenues for fiscal years 2013-2014 to 2015-2016 are estimates, based on general fund revenue estimates made as of March 11, 2014, by the council on revenues, the body assigned by Article VII, Section 7 of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit.
- (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, Section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the

debt limit as of April 1, 2014, is as follows for fiscal year 2014-2015 to fiscal year 2020-2021:

<u>Fiscal Year</u>	<u>Principal and Interest</u>
2014-2015	\$686,297,481
2015-2016	655,213,279
2016-2017	655,551,824
2017-2018	616,921,125
2018-2019	605,999,091
2019-2020	536,314,722
2020-2021	472,330,572

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2021-2022 to fiscal year 2033-2034 when the final installment of \$60,880,505 shall be due and payable.

- (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, Section 13 of the State Constitution.
- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties.
  - (A) As calculated from the state comptroller's bond fund report as of February 28, 2014, adjusted for:
    - (i) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in Act 134, Session Laws of Hawaii 2013 (the General Appropriations Act of 2013), to be expended in fiscal year 2014-2015, adjusted for additional appropriations provided in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2014);
    - (ii) Lapses as provided in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2014);
    - (iii) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in Act 133, Session Laws of Hawaii 2013 (the Judiciary Appropriations Act of 2013) to be expended in fiscal year 2014-2015, adjusted for additional appropriations provided in House Bill No. 1638, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Supplemental Appropriations Act of 2014); and
    - (iv) Lapses as provided in House Bill No. 1638, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Supplemental Appropriations Act of 2014);

the total amount of authorized but unissued general obligation bonds is \$2,127,989,184. The total amount of general obligation bonds authorized in this Act is \$962,996,000. The total amount of general obligation bonds previously autho-

- rized and unissued, as adjusted, and the general obligation bonds authorized in this Act is \$3,090,985,184.
- (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, Section 13 of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported therein for the fiscal years 2014-2015, 2015-2016, and 2016-2017, the State proposed to issue \$400,000,000 in general obligation bonds during the first half of fiscal year 2014-2015, \$600,000,000 in general obligation bonds during the second half of fiscal year 2014-2015, \$500,000,000 in general obligation bonds during the first half of fiscal year 2015-2016, \$500,000,000 in general obligation bonds during the second half of fiscal year 2015-2016, \$550,000,000 in general obligation bonds during the first half of fiscal year 2016-2017, and \$550,000,000 in general obligation bonds during the second half of fiscal year 2016-2017. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning in the fifth year, the bonds payable in substantially equal annual installments of principal and interest payment with interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds that are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds that the State proposes to issue during the fiscal years 2014-2015 to 2015-2016 is \$2,000,000,000. An additional \$1,100,000,000 is proposed to be issued in fiscal year 2016-2017. The total amount of \$2,000,000,000 which is proposed to be issued through fiscal year 2015-2016 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, the total amount of which is \$3,090,985,184 reported in paragraph (4), except for \$1,090,985,184. It is assumed that the appropriations to which an additional \$1,090,985,184 in bond issuance needs to be applied will have been encumbered as of June 30, 2016. The \$1,100,000,000 which is proposed to be issued in fiscal year 2016-2017 will be sufficient to meet the requirements of the June 30, 2016 encumbrances in the amount of \$1,090,985,184. The amount of assumed encumbrances as of June 30, 2016 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds proposed to be issued by June 30, 2016, and the amount of June 30, 2016 encumbrances versus the amount of bonds proposed to be issued in fiscal year 2016-2017, the legislature finds that in the aggregate, the amount of bonds proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds.
- (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 0.76 per cent for approximately ten years from fiscal year 2013-2014 to fiscal year 2022-2023. For the purpose of this declaration, the assumption is made that 0.75 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guarantees does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, Section 13 of the State Constitution for the fiscal years 2013-2014, 2014-2015, 2015-2016, and 2016-2017 are as follows:

<u>Fiscal year</u>	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution
2013-2014	5,900,545,000
2014-2015	6,893,045,000
2015-2016	7,885,545,000
2016-2017	8,977,295,000

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an

actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, Section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties can be excluded.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at a net average interest rate, after giving effect to federal subsidy payments, if any, received by the State under and pursuant to the American Recovery and Reinvestment Act of 2009, as may be amended from time to time, not to exceed 5.25 percent in fiscal year 2015, and 6.00 per cent in fiscal years 2016 through 2017, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds, and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>
1st half FY 2014-2015 \$397,000,000	1,110,046,892	693,676,775 (2014-2015)
2nd half FY 2014-2015 \$595,500,000	1,110,046,892	713,230,293 (2016-2017)
1st half FY 2015-2016 \$496,250,000	1,153,446,927	728,117,793 (2016-2017)
2nd half FY 2015-2016 \$496,250,000	1,153,446,927	732,963,106 (2017-2018)
1st half FY 2016-2017 \$545,875,000	1,178,834,060	753,791,471 (2018-2019)
2nd half FY 2016-2017 \$545,875,000	1,178,834,060	786,543,971 (2018-2019)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all

bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

**SECTION 2.** The legislature finds the bases for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

**SECTION 3.** Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2014) and House Bill No. 1638, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Supplemental Appropriations Act of 2014), passed by the legislature during this regular session of 2014 and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds so issued shall not exceed \$962,996,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with Section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

**SECTION 4.** The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

**SECTION 5.** In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

**SECTION 6.** This Act shall take effect upon its approval.

(Approved July 1, 2014.)

**Notes**

1. Act 122.
2. Act 127.

**ACT 173**

H.B. NO. 2288

A Bill for an Act Relating to the Department of Hawaiian Home Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 204, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:

- (1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in section 73(d) of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department gives notice to the board that the department is of the opinion that the lands are required by it for the purposes of this Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in section 73(d) of the Hawaiian Organic Act.
- (2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, not leased as authorized by section 207(a) of this Act, may be returned to the board of land and natural resources as provided under section 212 of this Act, or may be retained for management by the department. Any Hawaiian home lands general lease issued by the department after June 30, 1985, shall contain a withdrawal clause allowing the department to withdraw the land leased at any time during the term of the lease for the purposes of this Act.

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of those lands or any improvements thereon to the public, including native Hawaiians, on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171, Hawaii Revised Statutes; provided that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial, or other business purposes, in accordance with the procedures set forth in chapter 171, Hawaii Revised Statutes[.], provided further that in addition to dispositions made pursuant to chapter 171, Hawaii Revised Statutes, the department may lease by direct negotiation and at fair market rents, and for a term not to exceed five years, any improvements on Hawaiian home lands, or portions thereof, that are owned or controlled by the department.

- (3) The department, with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may exchange the title to available lands for land, privately or publicly owned, of an equal value. All lands so acquired by the department shall assume the status of available lands as though the land were originally designated as available lands under section 203 of this Act, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73(l) of the Hawaiian Organic Act

and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this paragraph, lands "publicly owned" means land owned by a county or the State or the United States."

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 174

H.B. NO. 1671

A Bill for an Act Relating to Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) \$33,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (2) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
  - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
  - (B) Of the \$82,000,000 allocated:
    - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
    - (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and
  - (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;
- (3) [\$93,000,000] \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, and \$93,000,000 for each fiscal year thereafter shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and coun-

ty of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; and

- (4) Of the excess revenues deposited into the general fund pursuant to this subsection, \$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan for:
  - (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
  - (B) Planning, construction, and repair of facilities; and
  - (C) Operation and maintenance costs of public lands connected with enhancing the visitor experience.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

**SECTION 2.** (a) There is established a state-county functions working group that shall:

- (1) Evaluate the division of duties and responsibilities between the state and counties relating to the provision of public services; and
  - (2) Submit a recommendation to the legislature on the appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services.
- (b) The working group shall be composed of thirteen members appointed, without regard to section 26-34, Hawaii Revised Statutes, as follows:
- (1) Four members, each of whom shall be appointed by a different county mayor;
  - (2) Four members appointed by the governor;
  - (3) Two members appointed by the president of the senate;
  - (4) Two members appointed by the speaker of the house of representatives; and
  - (5) One member appointed by the chief justice, who shall serve as the chair of the working group.

The members appointed under paragraphs (3), (4), and (5) shall not be currently employed by the State or any county.

(c) The working group shall be administratively placed in the office of the auditor. The auditor shall initiate the organization of and provide staff support for the working group.

(d) Members of the working group shall serve without compensation, but shall be reimbursed for necessary expenses incurred during the performance

of their duties. The reimbursements shall be made by the auditor, who shall submit a request to the legislature for an appropriation equal to the reimbursements made and expected to be made. The auditor shall submit the requests for inclusion in the legislative budget acts of 2015 and 2016.

(e) The working group shall submit an interim report to the legislature, governor, and each county mayor and council not later than twenty days prior to the convening of the regular session of 2015.

The working group shall submit a final report with its findings and recommendations to the same parties not later than twenty days prior to the convening of the regular session of 2016.

(f) The working group shall cease to exist upon the adjournment sine die of the regular session of 2016.

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 175

S.B. NO. 2729

### A Bill for an Act Relating to Mobile Electronic Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that questions and issues have arisen regarding section 291C-137, Hawaii Revised Statutes, relating to the use of mobile electronic devices while driving.

**SECTION 2.** Section 291C-137, Hawaii Revised Statutes, is amended by amending subsections (d) to (g) to read as follows:

“(d) The following persons shall be exempt from subsection (a):

(1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;

(2) Drivers using a two-way radio or a private Land Mobile Radio System, within the meaning of title 47 Code of Federal Regulations part 90, while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license; [or]

(3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio[; or]

(4) Drivers of vehicles that are at a complete stop, while the engine is turned off, in a safe location by the side of the road out of the way of traffic.

(e) As used in this section:

“Emergency responders” [include] includes firefighters, emergency medical technicians, mobile intensive care technicians, civil defense workers, police officers, and federal and state law enforcement officers.

“Fleet vehicle” means any vehicle validly registered pursuant to section 286-53.5.

“Mobile electronic device” means any handheld or other portable electronic equipment capable of providing wireless or data communication between

## **ACT 176**

two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate" a motor vehicle means [the same as is defined in section 291E-1.] to drive or assume actual physical control of the vehicle upon a public way, street, road, or highway, including operation while temporarily stationary because of traffic, a traffic light, or a stop sign.

"Use" or "using" means holding a mobile electronic device while operating a motor vehicle.

(f) Every person who violates this section shall be subject to [~~the following penalties:~~

- (1) ~~For a first violation, or any violation not preceded within one year by a prior violation of this section, a fine of not less than \$100 and not more than \$200;~~
- (2) ~~For a violation that occurs within one year of a prior violation of this section, a fine of not less than \$200 and not more than \$300; and~~
- (3) ~~For a violation that occurs within two years of two prior violations of this section, and for the fourth and each subsequent violation of this section, regardless of when committed, a fine of not less than \$300 and not more than \$500. If a fine of \$250 that shall be deposited into the state highway fund; provided that if a person violates this section while operating a motor vehicle in a school zone or construction area, as defined in section 291C-104, the [fines imposed pursuant to this subsection shall be doubled.] fine shall be \$300, which shall be paid to the director of finance pursuant to section 291C-171.~~

(g) Any violation as provided in subsections (a) and (c) shall [~~not~~] be deemed to be a traffic infraction as defined in section 291D-2."

**SECTION 3.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## **ACT 176**

H.B. NO. 2009

A Bill for an Act Relating to the Milk Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the milk industry is of such importance to the economy of the State that it is in the public interest to safeguard and protect this industry. Milk provides an irreplaceable nutritional and dietary

mainstay and is essential for the welfare and long-term benefit of the residents of the State, especially children and senior citizens. While the State's milk industry is privately owned and operated, the role of an impartial governmental agency is necessary to regulate and oversee the interaction between producers, processors, and if necessary, the retailers and distributors. Before the implementation of legislation to protect the State's milk industry, the milk industry struggled through years of turmoil and instability, culminating in a period of hostility between milk processors and producers that is referred to as the "Milk Wars of the 60s".

The purpose of this Act is to strengthen the milk industry in the State by establishing a minimum reserve requirement in the milk control special fund that provides funding to cover all the costs of administering the State's Milk Control Act and specifying audits as a contingency cost covered by the minimum reserve.

**SECTION 2.** Section 157-29, Hawaii Revised Statutes, is amended to read as follows:

**"[§157-29] Milk control special fund.** There is established the milk control special fund to be administered by the board of agriculture. All moneys received by the board of agriculture as application fees and for licenses or otherwise under this chapter, and any state appropriations or other moneys made available to carry out the purposes of this chapter, shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover all costs of administering this chapter including but not limited to the costs of salaries, fringe benefits, operating expenses, equipment, motor vehicles, contracts for services, and promotional expenses. Moneys in the special fund may be transferred to the general fund for salaries and fringe benefits of other state employees assisting in administering this chapter and other related costs. A reserve in an amount of not less than \$300,000 shall be maintained in the special fund to cover contingency costs including but not limited to accrued vacation leave, audits, unemployment insurance, and workers' compensation."

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 177

H.B. NO. 2543

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Biotork Hawaii LLC.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that it is in the State's interest to convert crops, crop residues, dedicated energy crops, and agricultural wastes into economically- and environmentally-sustainable biofuels and value-added co-products. In so doing, the State advances agricultural and energy initiatives that promote sustainability and self-sufficiency. The legislature finds that Bio-Tork Hawaii LLC proposes to build, own, and operate facilities to convert agricultural crops and by-products like albizia, sweet potatoes, papaya, sugarcane bagasse, and molasses to biofuels and high-protein feed. The legislature also finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to

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financially assist industrial enterprises through the issuance of special purpose revenue bonds.

**SECTION 2.** The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

**SECTION 3.** Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$50,000,000, in one or more series, for the purpose of assisting BioTork Hawaii LLC, a Delaware corporation, for the planning, permitting, design, construction, equipping, and operation of a facility capable of converting agricultural crops and by-products to biofuels and high-protein feed. The legislature hereby finds that the activity and facilities of BioTork Hawaii LLC in the development and operation of a facility capable of converting agricultural crops and by-products to biofuels and high-protein feed constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

**SECTION 4.** The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

**SECTION 5.** The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2019, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 3 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 3. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

**SECTION 6.** The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2019.

**SECTION 7.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## **ACT 178**

H.B. NO. 1539

A Bill for an Act Relating to the Hawaii Public Housing Authority's Administration of the Housing Choice Voucher Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to provide fair opportunities for people on the waiting list to receive housing choice voucher program vouchers.

**SECTION 2.** Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§356D- Housing choice voucher program administration.** Any housing choice voucher program voucher issued by the authority shall automatically be returned to the authority upon the death or removal from assistance of the last original household member; provided that, where the original head or co-head of the household is survived by a minor who was subsequently added to the household by birth, adoption, or court order and the family properly reported the birth, adoption, or court order to the authority, the household may retain the voucher until the youngest minor added to the household reaches the age of twenty-one, or reaches the age of twenty-three if the youngest minor is a full-time student at a business school, technical school, college, community college, or university. No legal guardian shall be added to the household to care for the minor or minors unless the legal guardian is also eligible for participation in the housing choice voucher program; provided further that any legal guardian added to the household shall not retain the voucher after the youngest minor has reached the age of twenty-one, or has reached the age of twenty-three if the youngest minor is a full-time student at a business school, technical school, college, community college, or university.”

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 179**

H.B. NO. 1752

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2014-2015 to restore basic adult dental benefits to medicaid enrollees; provided that no funds appropriated under this section shall be expended unless the department of human services obtains federal matching funds for fiscal year 2014-2015 that are available for this expenditure, as provided in Act<sup>1</sup>, Session Laws of Hawaii 2014, the Supplemental Appropriations Act of 2014.

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

**SECTION 2.** The revisor of statutes shall insert the act number of the Supplemental Appropriations Act of 2014 in section 1.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**Note**

1. Act 122.

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 601-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The chief justice, with the approval of the supreme court, shall appoint an administrative director of the courts to assist the chief justice in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to the administrative director’s appointment, and shall be appointed without regard to chapter 76 and shall serve at the pleasure of the chief justice. The administrative director shall hold no other office or employment. [Effective July 1, 2004, the salary of the administrative director shall be as last recommended by the judicial salary commission. Effective July 1, 2007, and every six years thereafter, the salary shall be as last recommended by the commission on salaries pursuant to section 26-56, unless disapproved by the legislature.] Effective July 1, 2014, the salary of the administrative director of the courts shall be equal to the salary of the administrative director of the State as set by the commission on salaries pursuant to section 26-56.”

2. By amending subsection (c) to read:

“(c) The administrative director, with the approval of the chief justice, shall appoint a deputy administrative director of the courts without regard to chapter 76 and such assistants as may be necessary. The assistants shall be appointed without regard to chapter 76. [Effective July 1, 2000, the salary of the deputy administrative director shall be no greater than provided in section 26-52(3) and shall be determined by the chief justice based upon merit and other relevant factors. Effective July 1, 2004, the salary of the deputy administrative director shall be as last recommended by the judicial salary commission.] Effective July 1, 2014, the salary of the deputy administrative director shall be equal to ninety-five per cent of the salary of the administrative director. The administrative director shall be provided with necessary office facilities.”

**SECTION 2.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Act 253, Session Laws of Hawaii 2000, and Act 300, Session Laws of Hawaii 2006, sought to reduce the number of civil service exempt employees in public service within the State. The legislature finds that since the enactment of these Acts, there have been few conversions of civil service exempt positions to civil service positions and conversions are overdue.

The purpose of this Act is to:

- (1) Require, rather than permit, hiring to be done in accordance with civil service laws when the state historic preservation division of the department of land and natural resources hires professional and technical staff; and
- (2) Require any civil service exempt positions created after July 1, 2014, to expire after three years of their enactment unless affirmatively extended by the legislature.

SECTION 2. Section 6E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§6E-3 Historic preservation program.** There is established within the department a division to administer a comprehensive historic preservation program, which shall include but not be limited to the following:

- (1) Development of an ongoing program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, signage, and publications on the State's historical and cultural resources;
- (2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means; preservation, restoration, administration, or transference of the property; and the charging of reasonable admissions to that property;
- (3) Development of a statewide survey and inventory to identify and document historic properties, aviation artifacts, and burial sites, including all those owned by the State and the counties;
- (4) Preparation of information for the Hawaii register of historic places and listing on the national register of historic places;
- (5) Preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations;
- (6) Application for and receipt of gifts, grants, technical assistance, and other funding from public and private sources for the purposes of this chapter;
- (7) Provision of technical and financial assistance to the counties and public and private agencies involved in historic preservation activities;
- (8) Coordination of activities of the counties in accordance with the state plan for historic preservation;
- (9) Stimulation of public interest in historic preservation, including the development and implementation of interpretive programs for historic properties listed on or eligible for the Hawaii register of historic places;
- (10) Coordination of the evaluation and management of burial sites as provided in section 6E-43;
- (11) Acquisition of burial sites in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means, to be held in trust;
- (12) Submittal of an annual report to the governor and legislature detailing the accomplishments of the year, recommendations for changes in the state plan or future programs relating to historic preservation, and an accounting of all income, expenditures, and the fund balance of the Hawaii historic preservation special fund;
- (13) Regulation of archaeological activities throughout the State;

- (14) Employment of sufficient professional and technical staff for the purposes of this chapter which [may] shall be in accordance with chapter 76;
- (15) The charging of fees to be determined by the department that are proportional to the nature and complexity of the projects or services provided, and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this chapter, do not surpass the annual operating costs of the comprehensive historic preservation program;
- (16) Adoption of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter; and
- (17) Development and adoption, in consultation with the office of Hawaiian affairs native historic preservation council, of rules governing permits for access by native Hawaiians and Hawaiians to cultural, historic, and pre-contact sites and monuments.”

SECTION 3. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief

- justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources co-ordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the state constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that [all]:
  - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
  - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that except during the time period specified in paragraph (27), not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii National Guard youth and adult education programs; and
- (27) From July 1, 2012, to June 30, 2015, persons hired or contracted to perform repair, maintenance, or capital improvement projects work

on vacant housing units under the jurisdiction of the Hawaii public housing authority.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014; provided that the amendments made to section 76-16(b), Hawaii Revised Statutes, by this Act shall not be repealed when section 76-16(b), Hawaii Revised Statutes, is reenacted on July 1, 2015, pursuant to section 5 of Act 159, Session Laws of Hawaii 2012.

(Approved July 1, 2014.)

**ACT 182**

H.B. NO. 2213

A Bill for an Act Relating to a West Maui Hospital.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

**SECTION 2.** Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$50,000,000 in one or more series, for the purpose of assisting West Maui Hospital Foundation, Inc., a Hawaii not-for-profit corporation, to finance the establishment of a hospital in west Maui. The legislature hereby finds and determines that a hospital in west Maui constitutes a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a not-for-profit corporation that provides health care facilities to the general public.

**SECTION 3.** The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

**SECTION 4.** The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2019, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from

## **ACT 183**

federal income taxation of the interest on bonds of the nature authorized by this section.

**SECTION 5.** The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2019.

**SECTION 6.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## **ACT 183**

H.B. NO. 1942

**A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist with the Planning, Design, Construction, Equipping, Land Leases, and Other Tangible Assets for a Renewable Energy Project with Energy Storage Technology on the Island of Molokai.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that support for the development of renewable energy projects in Hawaii, which is geographically isolated from sources of oil, continues to be in the public interest. This is especially true given the high cost of electricity in Hawaii, particularly on the island of Molokai.

The legislature further finds that Princeton Energy Group is engaged in the planning, design, and construction process to develop a multi-megawatt renewable energy project with energy storage technology near Kaunakakai to exclusively serve the island of Molokai.

The issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act to assist Princeton Energy Group in the planning, design, and construction of its renewable energy project will make the development of such a project more economically feasible and provide numerous benefits. Among other benefits, it is expected that such a project will:

- (1) Eliminate or greatly reduce the carbon footprint of the island of Molokai;
- (2) Provide substantial energy cost savings to the residents and businesses on the island of Molokai;
- (3) Stabilize the electrical grid on the island of Molokai;
- (4) Extend the life of existing electrical equipment on the island of Molokai;
- (5) Increase the robustness of electrical service on the island of Molokai in the event of an emergency;
- (6) Generate millions of dollars in construction project spending and also create long-term jobs on the island of Molokai; and
- (7) Help the State, counties, and federal government meet their goals to reduce their consumption of fossil fuels and mandates for renewable energy.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

**SECTION 2.** Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$50,000,000 in one or more series, for the purpose of assisting Princeton Energy

Group, a Nevada limited liability company, or Princeton Energy Group's related entity, Ikehu Molokai LLC, in financing and refinancing the costs relating to the planning, designing, construction, equipping, land leases, and other tangible assets for a renewable energy project with energy storage technology. The legislature hereby finds and determines that the construction of a renewable energy project with energy storage technology constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

**SECTION 3.** The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

**SECTION 4.** The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2019, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

**SECTION 5.** The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2019.

**SECTION 6.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 184

S.B. NO. 2321

A Bill for an Act Relating to Unclaimed Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 523A-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [After] Subject to the period of limitation set forth in section 523A-19(c), after property has been paid or delivered to the administrator under this part, another state may recover the property if:

- (1) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

- (2) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted the property has escheated or become subject to a claim of abandonment by that state;
- (3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;
- (4) The property was subjected to custody by this State under section 523A-5(6) and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or
- (5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this State under section 523A-5(7), and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state."

SECTION 2. Section 523A-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [A] Subject to the period of limitation set forth in section 523A-19(c), a person, excluding another state, claiming property paid or delivered to the administrator may file a claim on a form prescribed by the administrator and verified by the claimant."

SECTION 3. Section 523A-19, Hawaii Revised Statutes, is amended to read as follows:

**"[§523A-19][I] Periods of limitation.** (a) The expiration, before or after July 1, 2009, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order, shall not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the administrator as required by this part.

(b) An action or proceeding may not be maintained by the administrator to enforce this part in regard to the reporting, delivery, or payment of property more than ten years after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation shall be tolled. The period of limitation shall also be tolled by the filing of a report that is fraudulent.

(c) Beginning on July 1, 2014, any claim made under this part for funds in the unclaimed property trust fund shall be void if the claim is:

- (1) For funds totaling less than \$100; and
- (2) Filed more than ten years after the date that the full amount of the claim was deposited into the unclaimed property trust fund;

provided that for funds totaling less than \$100 that were deposited into the unclaimed property trust fund on or prior to June 30, 2014, the ten-year time limitation on claiming the funds shall commence on July 1, 2014. Unclaimed funds subject to this subsection, upon the expiration of the ten-year time limitation, shall escheat to the State and be transferred to the general fund."

SECTION 4. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**ACT 185**

S.B. NO. 2054

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to ensure the provision of quality health care for Hawaii residents and support early intervention of autism spectrum disorders by requiring the contracting of an actuarial analysis of the projected costs of providing insurance coverage for the screening, diagnosis, and treatment of autism spectrum disorders.

SECTION 2. (a) The insurance commissioner shall contract for the performance of an actuarial analysis by a licensed actuary who is a member in good standing with the American Academy of Actuaries of the projected costs of providing insurance coverage for screening, diagnosis, and treatment of autism spectrum disorders.

(b) The actuarial analysis shall:

- (1) Include a statement by the actuary certifying that the techniques and methods used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable;
- (2) Provide a financial analysis of the cost of providing insurance coverage for screening, diagnosis, and treatment of autism spectrum disorders, including an estimate of the cost benefits and the cost impact to the Hawaii medicaid market; and
- (3) Specifically consider the following factors and their impact on the cost of providing insurance coverage or medicaid coverage:
  - (A) The prevalence of autism spectrum disorders compared to the prevalence of treated autism spectrum disorders;
  - (B) The intensity and frequency of treatment provided depending on the severity of the diagnosis of autism spectrum disorders; and
  - (C) The tiered service delivery model of applied behavior analysis as a treatment for autism spectrum disorders.

(c) The actuarial analysis shall be completed and submitted to the insurance commissioner in sufficient time for the insurance commissioner to submit a report to the legislature, including findings, recommendations, and proposed legislation, if any, based on the results of the actuarial analysis no later than twenty days prior to the convening of the regular session of 2015.

(d) For the purpose of contracting for the actuarial analysis, the insurance commissioner shall be exempt from compliance with chapter 103D, Hawaii Revised Statutes.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2014-2015 to contract for the performance of the actuarial analysis required under this Act.

## ACT 186

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 186

S.B. NO. 2820

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

**“§431:10A- Prohibition on rescissions of coverage.** (a) Notwithstanding sections 431:10-226.5 and 431:10A-106 to the contrary, a group health plan or health insurance insurer shall not rescind coverage under a health benefit plan with respect to an individual, including a group to which the individual belongs or family coverage in which the individual is included, after the individual is covered under the plan, unless:

- (1) The individual or a person seeking coverage on behalf of the individual performs an act, practice, or omission that constitutes fraud;
- (2) The individual makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage; or
- (3) The individual fails to timely pay required premiums or contributions toward the cost of coverage; provided that the rescission is in compliance with federal regulations.

As used in this subsection, “a person seeking coverage on behalf of the individual” shall not include an insurance producer or employee or authorized representative of the health carrier.

(b) A health carrier shall provide at least thirty days advance written notice to each plan enrollee or, for individual health insurance coverage, to each primary subscriber, who would be affected by the proposed rescission of coverage before coverage under the plan may be rescinded in accordance with subsection (a) regardless of whether, in the case of group health insurance coverage, the rescission applies to the entire group or only to an individual within the group.

(c) This section applies regardless of any applicable contestability period.”

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

**“§432-<sup>1</sup> Prohibition on rescissions of coverage.** (a) Notwithstanding sections 431:10-226.5 and 431:10A-106 to the contrary, a society shall not rescind coverage under a health benefit plan with respect to an individual, including a group to which the individual belongs or family coverage in which the individual is included, after the individual is covered under the plan, unless:

- (1) The individual or a person seeking coverage on behalf of the individual performs an act, practice, or omission that constitutes fraud;

- (2) The individual makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage; or
- (3) The individual fails to timely pay required premiums or contributions toward the cost of coverage; provided that the rescission is in compliance with federal regulations.

As used in this subsection, "a person seeking coverage on behalf of the individual" shall not include an insurance producer or employee or authorized representative of the health carrier.

(b) A society shall provide at least thirty days advance written notice to each plan enrollee or, for individual health insurance coverage, to each primary subscriber, who would be affected by the proposed rescission of coverage before coverage under the plan may be rescinded in accordance with subsection (a) regardless of whether, in the case of group health insurance coverage, the rescission applies to the entire group or only to an individual within the group.

(c) This section applies regardless of any applicable contestability period."

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§432D- Prohibition on rescissions of coverage.** (a) Notwithstanding sections 431:10-226.5 and 431:10A-106 to the contrary, a health maintenance organization shall not rescind coverage under a health benefit plan with respect to an individual, including a group to which the individual belongs or family coverage in which the individual is included, after the individual is covered under the plan, unless:

- (1) The individual or a person seeking coverage on behalf of the individual performs an act, practice, or omission that constitutes fraud;
- (2) The individual makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage; or
- (3) The individual fails to timely pay required premiums or contributions toward the cost of coverage; provided that the rescission is in compliance with federal regulations.

As used in this subsection, "a person seeking coverage on behalf of the individual" shall not include an insurance producer or employee or authorized representative of the health carrier.

(b) A health maintenance organization shall provide at least thirty days advance written notice to each plan enrollee or, for individual health insurance coverage, to each primary subscriber, who would be affected by the proposed rescission of coverage before coverage under the plan may be rescinded in accordance with subsection (a) regardless of whether, in the case of group health insurance coverage, the rescission applies to the entire group or only to an individual within the group.

(c) This section applies regardless of any applicable contestability period."

SECTION 4. Section 431:1-209, Hawaii Revised Statutes, is amended to read as follows:

**"§431:1-209 General casualty insurance defined.** General casualty insurance includes vehicle insurance as defined in section 431:1-208, and accident and health or sickness insurance as defined in section 431:1-205[, and in addition is insurance:] when issued as an incidental coverage with or supplemental to liability insurance. In addition, general casualty insurance is insurance:

- (1) Against legal liability for the death, injury, or disability of any human being, or from damage to property;
- (2) Of medical, hospital, surgical, and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of human beings;
- (3) Of the obligation accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury to employees;
- (4) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt of any of the foregoing; also insurance against loss or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers or documents, resulting from any cause, except while in the mail;
- (5) Upon personal effects of individuals, by an all-risk type of policy commonly known as the personal property floater;
- (6) Against loss or damage to glass and its appurtenances resulting from any cause;
- (7) Against any liability and loss or damage to property resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus;
- (8) Against loss of or damage to any property of the insured resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire;
- (9) Against loss or damage to any property caused by the breakage or leakage of sprinklers, water pipes, or containers, or by water entering through leaks or openings in buildings;
- (10) Against loss or damage resulting from failure of debtors to pay their obligations to the insured (credit insurance);
- (11) Against loss of or damage to any domesticated or wild animal resulting from any cause (livestock insurance);
- (12) Against loss of or damage to any property of the insured resulting from collision of any other object with such property, but not including collision to or by vessels, craft, piers, or other instrumentalities of ocean or inland navigation (collision insurance);
- (13) Against legal liability of the insured, and against loss, damage, or expense incident to a claim of such liability, and including any obligation of the insured to pay medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interest of any person as the result of negligence in rendering expert, fiduciary, or professional service (malpractice insurance);
- (14) Against any contract of warranty or guaranty which promises service maintenance, parts replacement, repair, money, or any other indemnity in the event of loss of or damage to a motor vehicle or any part thereof from any cause, including loss of or damage to or loss of use of the motor vehicle by reason of depreciation, deterioration, wear and tear, use, obsolescence, or breakage if made by a warrantor or guarantor who or which as such is doing an insurance business; provided that service contracts, as defined and meeting the requirements of chapter 481X, shall not be subject to chapter 431.

- The doing or proposing to do any business in substance equivalent to the business described in this section in a manner designed to evade the provisions of this section is the doing of an insurance business; and
- (15) Against any other kind of loss, damage, or liability properly the subject of insurance and not within any other class or classes or type of insurance as defined in sections 431:1-204 to 431:1-211, if such insurance is not contrary to law or public policy."

SECTION 5. Section 431:2-209, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Three years after the [year to which they relate,] date filed or within three years of the due date prescribed for the filing of the tax report, whichever is later, the commissioner may destroy [any foreign or alien insurer's] the tax reports[,] of any foreign or alien insurers, surplus lines brokers, or independently procured insureds, or similar records or reports now or hereafter in the commissioner's possession."

SECTION 6. Section 431:2-402, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The branch may review and take appropriate action on complaints [relating to insurance fraud.] of fraud relating to insurance under title 24, including chapters 431, 432, and 432D, but excluding workers' compensation insurance under chapter 386."

SECTION 7. Section 431:10A-102.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) When used in sections 431:10A-104, 431:10A-105, 431:10A-106, 431:10A-107, 431:10A-108, 431:10A-109, 431:10A-110, 431:10A-111, 431:10A-112, 431:10A-113, 431:10A-114, 431:10A-117, 431:10A-118, 431:10A-601, 431:10A-602, 431:10A-603, and 431:10A-604, except as otherwise provided, the terms "accident insurance", "accident and health or sickness insurance", "health insurance", or "sickness insurance" shall include an accident-only, specified disease, hospital indemnity, long-term care, disability, dental, vision, medicare supplement, or other limited benefit health insurance contract regardless of the manner in which benefits are paid[.]; provided that if any of the requirements set forth in the foregoing sections as applied to long-term care insurance conflict with the provisions of article 10H, the provisions of article 10H shall govern and control."

SECTION 8. Section 431:11A-101, Hawaii Revised Statutes, is amended by amending the definition of "licensed insurer" or "insurer" to read as follows:

""Licensed insurer" or "insurer" means any person, firm, association, or corporation duly licensed to transact a property or casualty insurance business in this State. The following are not licensed insurers for the purposes of this article:

- [1] All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, P.L. No. 99-499, 100 Stat. 1613 (1986), and the Risk Retention Act, 15 U.S.C. section 3901 et seq. (1982 and Supp. 1986), and chapter 431K;
- [2] (1) All residual market pools and joint underwriting authorities or associations; and

[3] (2) Captive [insurers] insurance companies as defined in section 431:19-101[.], other than risk retention captive insurance companies."

SECTION 9. Section 431:19-101, Hawaii Revised Statutes, is amended by amending the definition of "captive insurance company" to read as follows:

"Captive insurance company" or "captive insurer" means a class 1 company, class 2 company, class 3 company, class 4 company, or class 5 company formed or authorized under this article."

SECTION 10. Section 431M-2, Hawaii Revised Statutes, is amended to read as follows:

**"§431M-2 Policy coverage.** (a) All individual and group accident and health or sickness insurance policies issued in this State, individual or group hospital or medical service plan contracts, and nonprofit mutual benefit society, fraternal benefit society, and health maintenance organization health plan contracts shall include within their hospital and medical coverage the benefits of alcohol [dependence, drug dependence,] use disorder, substance use disorder, and mental [illness] health treatment services [provided in section 431M-4], including services for alcohol dependence and drug dependence, except that this section shall not apply to insurance policies that are issued solely for single diseases, or otherwise limited, specialized coverage.

(b) The policies and contracts set forth in subsection (a) shall not impose any financial requirements or treatment limitations on mental health or substance use disorder benefits that are more restrictive than the predominant financial requirements and treatment limitations, either quantitative or nonquantitative, imposed on medical and surgical benefits in accordance with the Mental Health Parity and Addiction Equity Act of 2008."

SECTION 11. Section 431M-4, Hawaii Revised Statutes, is amended to read as follows:

**"§431M-4 Mental illness, alcohol and drug dependence benefits.** [(a) The covered benefit under this chapter shall not be less than thirty days of in-hospital services per year. Each day of in-hospital services may be exchanged for two days of nonhospital residential services, two days of partial hospitalization services, or two days of day treatment services. Visits to a physician, psychologist, licensed clinical social worker, marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse shall not be less than thirty visits per year to hospital or nonhospital facilities or to mental health outpatient facilities for day treatment or partial hospitalization services. Each day of in-hospital services may also be exchanged for two outpatient visits under this chapter; provided that the patient's condition is such that the outpatient services would reasonably preclude hospitalization. The total covered benefit for outpatient services in subsections (b) and (c) shall not be less than twenty-four visits per year; provided that coverage of twelve of the twenty-four outpatient visits shall apply only to the services under subsection (e). The other covered benefits under this chapter shall apply to any of the services in subsection (b) or (c). In the case of alcohol and drug dependence benefits, the insurance policy may limit the number of treatment episodes but may not limit the number to less than two treatment episodes per lifetime. Nothing in this section shall be construed to limit serious mental illness benefits.]

(b)] (a) Alcohol and drug dependence benefits shall be as follows:

- (1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility that has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:
  - (A) Room and board;
  - (B) Diagnostic x-rays;
  - (C) Laboratory testing; and
  - (D) Drugs, equipment use, special therapies, and supplies.

~~Detoxification services shall be included as part of the covered in-hospital services[, but shall not be included in the treatment episode limitation, as specified in subsection (a)];~~
- (2) Alcohol or drug dependence treatment through in-hospital, non-hospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a qualified physician, psychologist, licensed clinical social worker, marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both; provided that the substance abuse services covered under this paragraph shall include those services that are required for licensure and accreditation [~~and shall be included as part of the covered in-hospital services as specified in subsection (a)]~~. Excluded from alcohol or drug dependence treatment under this subsection are detoxification services and educational programs to which drinking or drugged drivers are referred by the judicial system and services performed by mutual self-help groups;
- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a qualified physician, psychologist, licensed clinical social worker, marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse and shall be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a marriage and family therapist, licensed mental health counselor, licensed clinical social worker, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist[~~Services covered under this paragraph shall be included as part of the covered outpatient services as specified in subsection (a)]~~; and
- (4) Substance abuse assessments for alcohol or drug dependence as a covered benefit under this section for a child facing disciplinary action under section 302A-1134.6 shall be provided by a qualified physician, psychologist, licensed clinical social worker, advanced practice registered nurse, or certified substance abuse counselor. The certified substance abuse counselor shall be employed by a hospital or nonhospital facility providing substance abuse services. The substance abuse assessment shall evaluate the suitability for substance abuse treatment and placement in an appropriate treatment setting.  
[(e)] (b) Mental illness benefits.  
(1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment

- of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psychologist, licensed clinical social worker, marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse and must be reasonably expected to improve the patient's condition. An individualized treatment plan approved by a licensed clinical social worker, marriage and family therapist, licensed mental health counselor, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;
- (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation [and shall be included as part of the covered in-hospital services as specified in subsection (a)];
  - (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation [and shall be included as part of the covered in-hospital services as specified in subsection (a)]; and
  - (4) Mental health outpatient services shall be a covered benefit under this chapter [and shall be included as part of the covered outpatient services as specified in subsection (a)]."

SECTION 12. Section 431M-6, Hawaii Revised Statutes, is amended to read as follows:

**"§431M-6 Rules.** The insurance commissioner, after consultation with all interested parties including the director of health, the Hawaii medical board, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit societies, health maintenance organizations, public and private providers, consumers, employers, and labor organizations shall adopt rules pursuant to chapter 91 as are deemed necessary for the effective implementation and operation of this chapter. The rules shall include criteria and guidelines to be used in determining the appropriateness and medical or psychological necessity of services covered under this chapter, including the appropriate level of care or place of treatment and the number or quantity of services, [and the objective and quantifiable criteria for determining when a health maintenance organization meets the conditions and requirements of section 431M-5,] and shall include an appeals process.

The director of health shall also adopt rules pursuant to chapter 91 as are deemed necessary for the implementation and operation of this chapter. The rules shall provide certification standards that:

- (1) Reflect quality of care; and
- (2) Do not compromise the quality of care."

SECTION 13. Section 432:1-406, Hawaii Revised Statutes, is amended by amending the definition of "uncovered expenditures" to read as follows:

"Uncovered expenditures" means the costs to the mutual benefit society for health care services that are the obligation of the mutual benefit society, for which a member may be liable in the event of the mutual benefit society's

insolvency, and for which no alternative arrangements have been made that are acceptable to the commissioner. Uncovered expenditures include but are not limited to out-of-area services, referral services, and hospital services. Uncovered expenditures do not include expenditures for services when a provider has agreed not to bill the member even though the provider is not paid by the mutual benefit society, or for services that are guaranteed, insured, or assumed by a person or organization other than a mutual benefit society.”

**SECTION 14.** Section 432:2-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing in this article shall exempt fraternal benefit societies from the provisions and requirements of part IV of article 2, part IV of article 3, and article 15 of chapter 431, and [or section 431:2-215.] sections 431:2-215, 431:3-303, 431:3-304, and 431:3-305.”

**SECTION 15.** Section 432D-1, Hawaii Revised Statutes, is amended by amending the definition of “uncovered expenditures” to read as follows:

““Uncovered expenditures” means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization’s insolvency, and for which no alternative arrangements have been made that are acceptable to the commissioner. Uncovered expenditures include but are not limited to out-of-area services, referral services, and hospital services. Uncovered expenditures do not include expenditures for services when a provider has agreed not to bill the enrollee even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.”

**SECTION 16.** Section 432D-19, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Article 2, article 2D, part IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, and sections 431:3-301 [and], 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers granted by those provisions to the commissioner shall apply to health maintenance organizations, so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.”

**SECTION 17.** Section 432G-1, Hawaii Revised Statutes, is amended by amending the definition of “uncovered expenditures” to read as follows:

““Uncovered expenditures” means the costs to the dental insurer for dental care services that are the obligation of the dental insurer, for which an enrollee may also be liable in the event of the dental insurer’s insolvency, and for which no alternative arrangements have been made that are acceptable to the commissioner. Uncovered expenditures include but are not limited to out-of-area services, referral services, and hospital services. Uncovered expenditures shall not include expenditures for services when a provider has agreed not to bill the enrollee even though the provider is not paid by the dental insurer, or for services that are guaranteed, insured, or assumed by a person or organization other than the dental insurer.”

**SECTION 18.** Section 431M-3, Hawaii Revised Statutes, is repealed.

**SECTION 19.** Section 431M-5, Hawaii Revised Statutes, is repealed.

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**SECTION 20.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

**SECTION 21.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

### **Notes**

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## **ACT 187**

**S.B. NO. 2465**

A Bill for an Act Relating to Continuing Education for Psychologists.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that in 1967, Hawaii established regulation of the profession of psychology. However, unlike most other licensed professions, continuing education credits are not currently required for psychologists in the State to renew their licenses. The legislature also finds that psychologists provide critically needed services in prevention, intervention, and treatment to a broad spectrum of clients so it is essential that psychologists maintain their professional competency and keep abreast of the latest developments in their profession.

The purpose of this Act is to require psychologists in the State, beginning July 1, 2016, to complete a minimum of eighteen credit hours of continuing education courses for each licensing renewal biennium.

**SECTION 2.** Section 465-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Continuing education” means courses approved by the American Psychological Association, the Hawaii Psychological Association, or other state or provincial psychological associations.

“Credit hour” means, except as otherwise provided, the value assigned to fifty minutes of instruction.”

**SECTION 3.** Section 465-11, Hawaii Revised Statutes, is amended to read as follows:

**“§465-11 Renewals[-]; continuing education requirement.** (a) Every license issued under this chapter shall be renewed biennially on or before June 30 of each even-numbered year. Failure to renew a license shall [suspend] result in forfeiture of the license; provided that a psychologist whose license has been [suspended] forfeited for one year or less for failure to renew may [reinstate] restore the license by payment of the renewal fee and, in the case of a psychologist who is audited, pursuant to subsection (g), submission of documentation of continuing education compliance, for the biennium in which the failure occurred[, and provided that the period of suspension is not greater than one year]. If licensing has lapsed for more than one year, the person may reapply for a license in the manner prescribed in [the previous sections of] this chapter.

(b) A psychologist in good standing who will not be practicing in the State for at least one year may petition the board to have the psychologist's license placed on inactive status without penalty. When the psychologist wishes to

return to practice, an application shall be made to the board for [reinstatement] reactivation upon payment of the license fee for the biennial period and subject to the board's review of the application as provided in its rules.

(c) Beginning with the July 1, 2016, through June 30, 2018, biennium period and prior to every biennial renewal thereafter, each licensee shall:

- (1) Pay all required fees; and
- (2) Complete a minimum of eighteen credit hours of continuing education within every licensing biennium.

(d) First-time licensees shall not be subject to the continuing education requirement established under subsection (c)(2) for the first license renewal.

(e) Each licensee shall be responsible for maintaining the licensee's continuing education records. At the time of renewal, each licensee shall certify under oath that the licensee has complied with the continuing education requirement of this section. The board may require a licensee to submit evidence satisfactory to the board that demonstrates compliance with the continuing education requirement.

(f) Any licensee seeking renewal of a license without full compliance with the continuing education requirement shall submit with the renewal application the required fee, a notarized affidavit setting forth the facts explaining the reasons for noncompliance, and a request for an extension on the basis of the facts; provided that the licensee shall complete at least thirty-six hours of continuing education for the next licensing biennium. The board shall consider each case on an individual basis and may grant an extension based on:

- (1) Practice in an isolated geographical area with an absence of opportunities for continuing education by taped programs or otherwise; or
- (2) Inability to devote sufficient hours to continuing education because of incapacity, undue hardship, or any other serious extenuating circumstances.

(g) The board may conduct random audits of licensees to determine compliance with the continuing education requirement. The board shall provide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the board with documentation verifying compliance with the continuing education requirement established by this section."

SECTION 4. Section 465-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, the board shall refuse to grant a license to any applicant and may revoke or suspend any license, or may place a license[.] or may put a license holder on conditional probation, for any cause authorized by law, including but not limited to the following:

- (1) Professional misconduct, gross carelessness, manifest incapacity, or incompetency in the practice of psychology;
- (2) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;
- (3) Any unethical practice of psychology as defined by the board in accordance with its own rules;
- (4) Fraud or deception in applying for or procuring a license to practice psychology as defined in section 465-1;
- (5) Conviction of a crime substantially related to the qualifications, functions, or duties of psychologists;

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- (6) Wilful unauthorized communication of information received in professional confidence;
- (7) The suspension, revocation, or imposition of probationary conditions by another state of a license or certificate to practice psychology issued by that state if the act for which the disciplinary action was taken constitutes a violation of this chapter;
- (8) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a client, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a psychologist;
- (9) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;
- (10) Exercising undue influence in the manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
- (11) Conviction of fraud in filing medicaid claims or conviction of fraud in filing claims to any third party payor, for which a copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence;
- (12) Aiding or abetting any unlicensed person to engage in the practice of psychology;
- (13) Repeated acts of excessive treatment or use of diagnostic procedures as determined by the standard of the local community of licensees;
- (14) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, or excessive use of any substance, or as a result of any mental or physical condition;
- (15) Conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;
- (16) Use of untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment;
- (17) Functioning outside of the licensee's professional competence established by education, training, and experience;
- (18) Refusal to comply with any written order of the board;
- (19) Making any fraudulent or untrue statement to the board[;], including a false certification of compliance with the continuing education requirement of section 465-11; or
- (20) Violation of a board rule."

SECTION 5. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 188

H.B. NO. 2401

A Bill for an Act Relating to Condominiums.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a large percentage of persons in Hawaii live in condominiums and are members of their condominium unit owners' association. The legislature further finds that under existing statute, condominium unit owners are entitled to receive a variety of documents, records, and information from a condominium association, board, or managing agent within thirty days of receipt of the unit owner's written request. However, the legislature also finds that references to releasing these required documents, records, and information appear throughout chapter 514B, Hawaii Revised Statutes, which may lead to confusion among unit owners.

Therefore, the purpose of this Act is to create a new section under chapter 514B, Hawaii Revised Statutes, that:

- (1) Clarifies the documents, records, and information that must be made available to any unit owner and the unit owner's authorized agents; and
- (2) Specifies that all documents, records, and information shall be provided to a unit owner no later than thirty days after receipt of the unit owner's written request.

The legislature notes that nothing in this Act creates new requirements for the release of documents, records, or information. Rather, this Act merely consolidates into one section the existing requirements for documents, records, and information that already must be released or provided to unit owners, within thirty days, under existing statute.

SECTION 2. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§514B- Association documents to be provided.** (a) Notwithstanding any other provision in the declaration, bylaws, or house rules, if any, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be made available to any unit owner and the owner's authorized agents by the managing agent, resident manager, board through a board member, or the association's representative:

- (1) All financial and other records sufficiently detailed in order to comply with requests for information and disclosures related to the resale of units;
- (2) An accurate copy of the declaration, bylaws, house rules, if any, master lease, if any, a sample original conveyance document, and all public reports and any amendments thereto;
- (3) Detailed, accurate records in chronological order of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred and monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses;
- (4) All records and the vouchers authorizing the payments and statements kept and maintained at the address of the project, or else-

- where within the State as determined by the board, subject to section 514B-152;
- (5) All signed and executed agreements for managing the operation of the property, expressing the agreement of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments;
  - (6) An accurate and current list of members of the condominium association and the members' current addresses and the names and addresses of the vendees under an agreement of sale, if any. A copy of the list shall be available, at cost, to any unit owner or owner's authorized agent who furnishes to the managing agent, resident manager, or the board a duly executed and acknowledged affidavit stating that the list:
    - (A) Shall be used by the unit owner or owner's authorized agent personally and only for the purpose of soliciting votes or proxies or for providing information to other unit owners with respect to association matters; and
    - (B) Shall not be used by the unit owner or owner's authorized agent or furnished to anyone else for any other purpose;
  - (7) The association's most current financial statement, at no cost or on twenty-four-hour loan, at a convenient location designated by the board;
  - (8) Meeting minutes of the association, pursuant to section 514B-122;
  - (9) Meeting minutes of the board, pursuant to section 514B-126, which shall be:
    - (A) Available for examination by unit owners or owners' authorized agents at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board; or
    - (B) Transmitted to any unit owner or owner's authorized agent making a request for the minutes within fifteen days of receipt of the request by the owner or owner's authorized agent; provided that:
      - (i) The minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner or owner's authorized agent, if the owner or owner's authorized agent indicated a preference at the time of the request; and
      - (ii) The owner or owner's authorized agent shall pay a reasonable fee for administrative costs associated with handling the request, subject to section 514B-105(d);
  - (10) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association for the duration those records are kept by the association, and any documents regarding delinquencies of ninety days or more shall be available for examination by unit owners or owners' authorized agents at convenient hours at a place designated by the board; provided that:
    - (A) The board may require unit owners or owners' authorized agents to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association, its members, or both; and

- (B) Unit owners or owners' authorized agents shall pay for administrative costs in excess of eight hours per year;
- (11) Proxies, tally sheets, ballots, unit owners' check-in lists, and the certificate of election subject to section 514B-154(c);
- (12) Copies of an association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154;
- (13) A copy of the management contract from the entity that manages the operation of the property before the organization of an association; and
- (14) Other documents requested by a unit owner or owner's authorized agent in writing; provided that the board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of a request for documents pursuant to this paragraph.

(b) Subject to section 514B-105(d), copies of the items in subsection (a) shall be provided to any unit owner or owner's authorized agent upon the owner's or owner's authorized agent's request; provided that the owner or owner's authorized agent pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

(c) Notwithstanding any provision in the declaration, bylaws, or house rules providing for another period of time, all documents, records, and information listed under subsection (a), whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be provided no later than thirty days after receipt of a unit owner's or owner's authorized agent's written request, unless a lesser time is provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, and except as provided in subsection (a)(14).

(d) Any documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, may be made available electronically to the unit owner or owner's authorized agent if the owner or owner's authorized agent requests such in writing.

(e) An association may comply with this section or section 514B-152, 514B-153, or 514B-154 by making the required documents, records, and information available to unit owners or owners' authorized agents for download through an internet site, at the option of each unit owner or owner's authorized agent and at no cost to the unit owner or owner's authorized agent.

(f) Any fee charged to a unit owner or owner's authorized agent to obtain copies of the association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed \$1 per page, or portion thereof, except that the fee for pages exceeding eight and one-half inches by fourteen inches may exceed \$1 per page.

(g) This section shall apply to condominiums organized under chapter 514A or 514B.

(h) Nothing in this section shall be construed to create any new requirements for the release of documents, records, or information."

**SECTION 3:** Section 514B-61, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this part, part V, section 514B-103,

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514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-, or any of the commission's related rules or orders, the commission, without prior administrative proceedings, may maintain an action in the appropriate court to enjoin that act or practice or for other appropriate relief. The commission shall not be required to post a bond or to prove that no adequate remedy at law exists in order to maintain the action.

(c) The commission may exercise its powers in any action involving the powers or responsibilities of a developer under this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, [or] sections 514B-152 to 514B-154[.], or section 514B-.”

SECTION 4. Section 514B-65, Hawaii Revised Statutes, is amended to read as follows:

“**[§§514B-65]** **Investigative powers.** If the commission has reason to believe that any person is violating or has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-, or the rules of the commission adopted pursuant thereto, the commission may conduct an investigation of the matter and examine the books, accounts, contracts, records, and files of all relevant parties. For purposes of this examination, the developer and the real estate broker shall keep and maintain records of all sales transactions and of the funds received by the developer and the real estate broker in accordance with chapter 467 and the rules of the commission, and shall make the records accessible to the commission upon reasonable notice and demand.”

SECTION 5. Section 514B-66, Hawaii Revised Statutes, is amended to read as follows:

“**[§§514B-66]** **Cease and desist orders.** In addition to its authority under sections 514B-67 and 514B-68, whenever the commission has reason to believe that any person is violating or has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-, or the rules of the commission adopted pursuant thereto, it may issue and serve upon the person a complaint stating its charges in that respect and containing a notice of a hearing at a stated place and upon a day at least thirty days after the service of the complaint. The person served has the right to appear at the place and time specified and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law or rules charged in the complaint. If the commission finds that this chapter or the rules of the commission have been or are being violated, it shall make a report in writing stating its findings as to the facts and shall issue and cause to be served on the person an order requiring the person to cease and desist from the violations. The person, within thirty days after service upon the person of the report or order, may obtain a review thereof in the appropriate circuit court.”

SECTION 6. Section 514B-68, Hawaii Revised Statutes, is amended to read as follows:

“**[§§514B-68]** **Power to enjoin.** Whenever the commission believes from satisfactory evidence that any person has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-, or the rules of the commission adopted pursuant thereto, it may conduct an investigation of the matter and bring an action against the person in

any court of competent jurisdiction on behalf of the State to enjoin the person from continuing the violation or doing any acts in furtherance thereof."

SECTION 7. Section 514B-69, Hawaii Revised Statutes, is amended to read as follows:

"**[§514B-69]** **Penalties.** (a) Any person who violates or fails to comply with this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, [or] sections 514B-152 to 514B-154, or section 514B-, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$10,000, or by imprisonment for a term not exceeding one year, or both. Any person who violates or fails to comply with any rule, order, decision, demand, or requirement of the commission under this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, [or] sections 514B-152 to 514B-154, or section 514B-, shall be punished by a fine not exceeding \$10,000.

(b) In addition to any other actions authorized by law, any person who violates or fails to comply with this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-, or the rules of the commission adopted pursuant thereto, shall also be subject to a civil penalty not exceeding \$10,000 for any violation. Each violation shall constitute a separate offense."

SECTION 8. Section 514B-152, Hawaii Revised Statutes, is amended to read as follows:

"**[§514B-152]** **Association records; generally.** The association shall keep financial and other records sufficiently detailed to enable the association to comply with requests for information and disclosures related to resale of units. Except as otherwise provided by law, all financial and other records shall be made [reasonably] available pursuant to section 514B- for examination by any unit owner and the owner's authorized agents. Association records shall be stored on the island on which the association's project is located; provided that if original records, including but not limited to invoices, are required to be sent off-island, copies of the records shall be maintained on the island on which the association's project is located."

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 11. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Condominiums.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§514B- Voting for elections; cumulative voting.** (a) If the bylaws provide for cumulative voting for an election at a meeting, each unit owner present in person or represented by proxy shall have a number of votes equal to the unit owner's voting percentage multiplied by the number of positions to be filled at the election.

(b) Each unit owner shall be entitled to cumulate the votes of the unit owner and give all of the votes to one nominee or distribute the votes among any or all of the nominees.

(c) The nominee or nominees receiving the highest number of votes under this section, up to the total number of positions to be filled, shall be deemed elected and shall be given the longest term.

(d) This section shall not prevent the filling of vacancies on the board of directors in accordance with this chapter and the association's governing documents.”

**SECTION 2.** Section 514B-3, Hawaii Revised Statutes, is amended by amending the definition of “majority” or “majority of unit owners” to read as follows:

““Majority” or “majority of the unit owners” means the owners of units to which are appurtenant more than fifty per cent of the common interests. Any specified percentage of the unit owners means the owners of units to which are appurtenant such percentage of the common interest.”

**SECTION 3.** Section 514B-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(b) An amendment to the declaration, bylaws, condominium map or other constituent documents authorized by this section may be adopted by the vote or written consent of a majority of the unit owners; provided that any amendment adopted pursuant to this section shall not invalidate the reserved rights of a developer. If an amendment grants to any person any rights, powers, or privileges permitted by this chapter, all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.”

**SECTION 4.** Section 514B-106, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

(b) The board may not act on behalf of the association to amend the declaration or bylaws (sections 514B-32(a)(11) and 514B-108(b)(7)), to remove the condominium from the provisions of this chapter (section 514B-47), or to elect members of the board or determine the qualifications, powers and duties, or terms of office of board members (subsection (e)); provided that nothing in this subsection shall be construed to prohibit board members from voting proxies (section 514B-123) to elect members of the board; [and] provided further that notwithstanding anything to the contrary in the declaration or bylaws, the board may only fill vacancies in its membership to serve until the next annual or duly

noticed or special association meeting[.]; provided further that the notice of the special meeting shall include notice of the election to fill the vacancy, and the meeting date shall be set on a date that allows sufficient time for owners to declare their intentions to run for election and to solicit proxies for that purpose.”

2. By amending subsection (e) to read:

“(e) Not later than the termination of any period of developer control, the unit owners shall elect a board of at least three members; provided that projects created after May 18, 1984, with one hundred or more individual units, shall have an elected board of at least nine members unless the membership has amended the bylaws to reduce the number of directors; and provided further that projects with more than one hundred individual units where at least seventy per cent of the unit owners do not reside at the project may amend the bylaws to reduce the board to as few as five members by the written consent of a majority of the unit owners or the vote of a majority of a quorum at any annual meeting or special meeting called for that purpose. The association may rely on its membership records in determining whether a unit is owner-occupied. A decrease in the number of directors shall not deprive an incumbent director of any remaining term of office.”

SECTION 5. Section 514B-107, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Directors shall not expend association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses; provided that, with the approval of the board, directors may be reimbursed for actual expenditures incurred on behalf of the association. The board meeting minutes shall reflect in detail the items and amounts of the reimbursements.”

SECTION 6. Section 514B-143, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The board, with the vote or written consent of a majority of the unit owners, may require unit owners to obtain reasonable types and levels of insurance. The liability of a unit owner shall include but not be limited to the deductible of the owner whose unit was damaged, any damage not covered by insurance required by this subsection, as well as the decorating, painting, wall and floor coverings, trim, appliances, equipment, and other furnishings.

If the unit owner does not purchase or produce evidence of insurance requested by the board, the directors may, in good faith, purchase the insurance coverage and charge the reasonable premium cost back to the unit owner. In no event is the association or board liable to any person either with regard to the failure of a unit owner to purchase insurance or a decision by the board not to purchase the insurance for the owner, or with regard to the timing of its purchase of the insurance or the amounts or types of coverages obtained.”

SECTION 7. Section 514B-149, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For purposes of subsection (a), lease rent collections and rental operations shall not include the rental or leasing of common elements that is conducted on behalf of the association or the collection of ground lease rents from individual unit owners of a project and the payment of such ground lease rents to the ground lessor if:

(1) The collection is allowed by the provisions of the declaration, by-laws, master deed, master lease, or individual unit leases of the project;

## **ACT 190**

- (2) A management contract requires the managing agent to collect ground lease rents from the individual unit owners and pay the ground lease rents to the ground lessor;
- (3) The system of lease rent collection has been approved at a meeting of the association by a [majority] vote of [all] a majority of the unit owners [at a meeting of the association]; and
- (4) The managing agent or association does not pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual unit owners.”

**SECTION 8.** Section 514B-150, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The association shall require an annual audit of the association financial accounts and no less than one annual unannounced verification of the association’s cash balance by a public accountant; provided that if the association is comprised of less than twenty units, the annual audit and the annual unannounced cash balance verification may be waived at an association meeting by a [majority] vote of [all] a majority of the unit owners [taken at an association meeting].”

**SECTION 9.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 10.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 190**

**H.B. NO. 2509**

A Bill for an Act Making an Appropriation to Assist Communities with the Removal of Motor Vehicle Tires.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2014-2015 to assist communities affected by discarded or abandoned tires by providing funds for programs promoting the removal from the landscape of abandoned tires that have been illegally dumped, including funding county abandoned tire removal programs that have been established in accordance with the requirements under chapter 342I, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

**SECTION 2.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 191

H.B. NO. 2304

A Bill for an Act Relating to the Neurotrauma Advisory Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321H-3, Hawaii Revised Statutes, is amended to read as follows:

**"[§§321H-3] Neurotrauma advisory board.** (a) There is established within the department a neurotrauma advisory board to advise the director in implementing this chapter.

(b) The board shall consist of [twenty-one] eleven members to be appointed by the director. The director shall designate a member to be the chairperson of the advisory board. The director or a designee shall serve as an ex officio, nonvoting member of the advisory board. The director may also appoint up to three state and county representatives whose work relates to neurotrauma to be ex officio, nonvoting members of the board. The members shall serve for a term of four years; provided that upon the initial appointment of members, [five] two shall be appointed for a term of one year, [five] three for a term of two years, [five] three for a term of three years, and [six] three for a term of four years. In establishing the advisory board, the director shall appoint:

- (1) [Five] Two survivors of neurotrauma or their family members [(two each) (one for traumatic brain injuries and one for spinal cord injuries);]
- (2) [Two members] One member of the Brain Injury Association of Hawaii;
- (3) One member representing the state traumatic brain injury advisory board;
- (4) [Three] Two members representing private sector businesses that provide services for neurotrauma survivors;
- (5) One member representing trauma centers that provide services for neurotrauma survivors;
- [6] Two members of the Spinal Cord Association;
- [7] [Two representatives] One representative for persons with stroke; and
- [8] (7) [Five] Three at-large members.

(c) The members shall serve without compensation but shall be reimbursed for actual expenses, including travel expenses, that are necessary for the performance of their duties.

(d) The number of members necessary to constitute a quorum to do business shall consist of a majority of all the voting members who have been appointed by the director and have accepted that appointment. When a quorum is in attendance, the concurrence of a majority of the voting members in attendance shall make any action of the board valid."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

A Bill for an Act Relating to Forensic Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** In June 2012, a special action team was commissioned by the governor to analyze the causes and identify ideas to address systemic factors that increased the rate of admissions and increased the length of stay at the Hawaii state hospital. The team was tasked with considering possible solutions and making recommendations to the governor in time for consideration by the governor and the legislature during the regular session of 2013 and the fiscal year 2014-2015 budget cycle.

The special action team comprised representatives from the office of the governor, the department of health adult mental health division, the department of public safety, the department of human services, the department of the attorney general, the department of human resources development, the department of budget and finance, the office of the prosecutors of each county, the office of the public defender, and the chief of police of each county. These representatives worked together to examine data and develop measures to revitalize adult mental health services in the community and more effectively address the rate of increase in the census of the Hawaii state hospital.

Part of the special action team's analysis revealed that, in addition to the occurrence of high numbers of admissions to the Hawaii state hospital for completion of court-ordered examinations to evaluate a defendant's fitness to proceed and forensic commitments under section 704-404 or 704-406, Hawaii Revised Statutes, required examinations are frequently delayed or incomplete because required information from other public agencies is not provided in a timely way to the examiners who perform these evaluations and report to the court.

The special action team reached a consensus to propose changes to chapter 704, Hawaii Revised Statutes, to address this issue. Requiring public agencies to provide defendants' records necessary for court-ordered mental health evaluations is intended to expedite these evaluations, thereby lessening the length of time of a patient's stay at Hawaii state hospital and reducing overpopulation at Hawaii state hospital.

The purpose of this Act is to expedite the process regarding forensic evaluations of defendants by requiring public agencies to provide to the court, records they maintain about defendants for whom forensic examinations are ordered by the court.

**SECTION 2.** Section 704-404, Hawaii Revised Statutes, is amended to read as follows:

**“§704-404 Examination of defendant with respect to physical or mental disease, disorder, or defect.** (1) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding responsibility, or there is reason to doubt the defendant's fitness to proceed, or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court may immediately suspend all further proceedings in the prosecution. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The discharge of the trial jury shall not be a bar to further prosecution.

(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners in felony cases and one qualified examiner in nonfelony cases to examine and report upon the physical and mental condition of the defendant. In felony cases the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, licensed psychologist, or qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. In nonfelony cases the court may appoint either a psychiatrist or a licensed psychologist. All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted on an out-patient basis or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination. As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3).

(3) An examination performed under this section may employ any method that is accepted by the professions of medicine or psychology for the examination of those alleged to be affected by a physical or mental disease, disorder, or defect; provided that each examiner shall form and render diagnoses and opinions upon the physical and mental condition of the defendant independently from the other examiners, and the examiners, upon approval of the court, may secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination and diagnosis.

- (4) The report of the examination shall include the following:
  - (a) A description of the nature of the examination;
  - (b) A diagnosis of the physical or mental condition of the defendant;
  - (c) An opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense;
  - (d) An opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired at the time of the conduct alleged;
  - (e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is required to establish an element of the offense charged; and
  - (f) Where more than one examiner is appointed, a statement that the diagnosis and opinion rendered were arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.

(5) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.

## ACT 193

(6) Three copies of the report of the examination, including any supporting documents, shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(7) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.

(8) The court shall obtain all existing medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statutes, and make such records available for inspection by the examiners. If, pursuant to this section, the court orders the defendant committed to a hospital or other suitable facility under the control of the director of health, then the county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant which have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of plea of guilty or no contest made pursuant to chapter 853, so long as the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments, with the exception of expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center. The county police departments shall segregate or sanitize from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with its investigation, or who were of investigatory interest. Records shall not be re-disclosed except to the extent permitted by law.

(9) All public agencies in possession of medical, mental health, social, and juvenile records, and any other pertinent records of a defendant ordered to be examined under this chapter, shall provide those records to the court, notwithstanding any other state statute.

[9] (10) The compensation of persons making or assisting in the examination, other than those retained by the nonindigent defendant, who are not undertaking the examination upon designation by the director of health as part of their normal duties as employees of the State or a county, shall be paid by the State."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 193

H.B. NO. 2224

A Bill for an Act Relating to Group Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The legislature finds that the clean and sober homes and halfway houses task force was formed in response to legislation introduced in the regular session of 2012. Clean and sober homes and halfway houses, which are located in communities throughout the State, provide housing for individu-

als suffering from substance abuse, including people who may have co-occurring mental health issues, as they transition from the treatment setting to life in the community. The clean and sober homes and halfway houses task force explored ways to develop a plan to ensure that these homes are properly monitored and accountable to meet occupancy, zoning, and permitting requirements, as well as quality standards.

Clean and sober homes and halfway houses allow individuals to return to the community through support in an alcohol- and drug-free, home-like environment, without the rigid structure of a therapeutic living program, which requires being licensed by the State. Notwithstanding the needs of those who benefit from these homes, neighboring residents have expressed concerns over the legality of the operation of clean and sober homes in their immediate vicinity and the poor conduct and lack of neighborly behavior of some residents of the clean and sober homes. While the State's only halfway house is monitored by the agencies that contract for its services, the level of oversight for clean and sober homes varies, depending on the referral source.

Currently, various types of group homes are defined in section 46-4(f), Hawaii Revised Statutes, relating to county zoning. Section 46-4(f), Hawaii Revised Statutes, defines terms that are either no longer needed or are defined elsewhere in the Hawaii Revised Statutes. In addition, inconsistent with the federal Fair Housing Amendments Act, section 46-4(e), Hawaii Revised Statutes, requires that a public informational meeting be held in the affected community before a halfway house, a clean and sober home, or a drug rehabilitation home is located in that community.

As recommended by the clean and sober homes and halfway houses task force, this Act will balance the needs of those requiring the support of the group homes and the concerns of community members.

The purpose of this Act is to help residents and prospective residents of clean and sober group homes to access a stable, alcohol- and drug-free, home-like living environment in residences that comply with federal, state, and county requirements and minimum quality standards. This Act:

- (1) Establishes a registry for clean and sober homes within the department of health; and
- (2) Amends the county zoning statute to better align functions of state and county jurisdictions with federal law.

## PART II

**SECTION 2.** The legislature finds that the primary goals of rehabilitation and recovery are to restore social, family, lifestyle, vocational, and economic supports by stabilizing an individual's physical and psychological functioning. Alcohol- and drug-free environments that are safe, sanitary, and secure promote recovery and assist individuals in becoming self-supporting. The legislature further finds that these environments assist persons recovering from substance abuse to live in the community at-large.

The clean and sober homes and halfway houses task force recognized that there is a need to improve the operation of group homes if group homes are to achieve their intended purposes. While some homes are well-run, others are overcrowded and not well-managed. To increase the number of homes that maintain appropriate living conditions, a voluntary registry will be established to set minimum standards, but also give special advantages to homes on the registry, such as technical support and preferred referral status. The voluntary registry will include specific requirements that homes on the registry must meet and will also provide a framework to monitor the homes. A key function of the

voluntary registry is to enable agencies referring clients to monitor residences that provide the necessary support for recovery efforts.

The purpose of this part is to establish a registry of clean and sober homes.

SECTION 3. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVI to be appropriately designated and to read as follows:

**“§321- Clean and sober homes registry.** (a) The department shall establish a voluntary clean and sober homes registry to assist persons recovering from substance abuse to have a safe, clean, and sober environment that supports their recovery. The department shall establish procedures and standards by which homes will be allowed to be listed on the registry, including but not limited to:

- (1) Organizational and administrative standards;
- (2) Fiscal management standards;
- (3) Operation standards;
- (4) Recovery support standards;
- (5) Property standards; and
- (6) Good neighbor standards.

(b) Upon review and approval of a home operator’s application, the department shall issue a certificate of registration that shall specify:

- (1) The name of the holder of the registration;
- (2) The address to which the registration applies;
- (3) The maximum number of persons to reside in the home; and
- (4) The period for which the registration shall be valid.

An owner, operator, or landlord shall not hold the property out to be or advertise to be a “registered clean and sober home” unless the home is registered and in good standing with the clean and sober homes registry.

(c) The certificate of registration shall be publicly displayed at the home.

(d) The certificate of registration shall not be transferred to a new owner or operator, or to an address other than as specified on the certificate of registration.

(e) Nothing in this section shall relieve a certificate holder from compliance with other pertinent statutory provisions, nor shall a certificate holder be relieved from compliance with other applicable provisions of federal, state, or county laws, ordinances, or rules.

(f) The department may revoke the certificate of registration if a home ceases to meet established standards or any other applicable federal, state, or county law, ordinance, or rule.

(g) The department may immediately revoke a certificate of registration if there are reasonable grounds to believe that the continued operation of the home presents an immediate danger to residents of the home or the general public.

(h) Any revocation of the certificate of registration shall be made in writing to the certificate holder.

(i) The department shall maintain a listing of all registered clean and sober homes on its website.

(j) The department shall establish a toll-free telephone number to receive complaints regarding clean and sober homes.

(k) This section shall not be construed to abrogate an individual’s right to privacy. Unless otherwise provided by law, the department shall implement sufficient protections to ensure that the identity of a clean and sober home resi-

dent remains confidential and that information collected pursuant to this section is used solely for the purposes of this section.

(l) The department shall adopt rules under chapter 91 as necessary to carry out the purposes of this section."

**SECTION 4.** Section 321-191, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Clean and sober home" means a dwelling unit that is intended to provide a stable, independent environment of alcohol- and drug-free living conditions to sustain recovery and that is shared by unrelated adult persons who are recovering from substance abuse."

**SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2014-2015 for staffing and operating costs to plan, establish, and operate the registry of clean and sober homes.

The sum appropriated shall be expended by the department of health for the purposes of this part.

### PART III

**SECTION 6.** The legislature finds that amendments to section 46-4, Hawaii Revised Statutes, relating to county zoning, that were agreed upon by the clean and sober homes and halfway houses task force in December 2012, are necessary to better align the functions of state and county jurisdictions.

The purpose of this part is to amend section 46-4, Hawaii Revised Statutes, to:

- (1) Clarify the conditions under which the counties shall not prohibit group homes that have up to eight unrelated persons in a dwelling unit;
- (2) Eliminate any conflict with the federal Fair Housing Amendments Act by deleting the requirement for a public informational meeting; and
- (3) Eliminate definitions for terms that are defined elsewhere in the Hawaii Revised Statutes or are no longer needed.

**SECTION 7.** Section 46-4, Hawaii Revised Statutes, is amended to read as follows:

**"§46-4 County zoning.** (a) This section and any ordinance, rule, or regulation adopted in accordance with this section shall apply to lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted;
- (2) The areas in which residential uses may be regulated or prohibited;
- (3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;
- (4) The areas in which particular uses may be subjected to special restrictions;
- (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;
- (6) The location, height, bulk, number of stories, and size of buildings and other structures;
- (7) The location of roads, schools, and recreation areas;
- (8) Building setback lines and future street lines;
- (9) The density and distribution of population;
- (10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;
- (11) Minimum and maximum lot sizes; and
- (12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning agency after an opportunity for a hearing pursuant to chapter 91. The proceeding shall not be a prerequisite for any injunctive relief ordered by the circuit court.

Nothing in this section shall invalidate any zoning ordinance or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to July 1, 1957.

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accordance with a long-range, comprehensive general plan to ensure the greatest benefit for the State as a whole. This section shall not be construed to limit or repeal any powers of any county to achieve these ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned and as provided in subsections (c) and (d).

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses. Nothing in this

section shall affect or impair the powers and duties of the director of transportation as set forth in chapter 262.

(b) Any final order of a zoning agency established under this section may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accordance with the Hawaii rules of civil procedure.

(c) Each county may adopt reasonable standards to allow the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted.

(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities with eight or fewer residents [and] for purposes or functions that are licensed, certified, registered, or monitored by the State [as provided for under section 321-15.6, or in an intermediate care facility for individuals with intellectual disabilities in the community for persons, including mentally ill, elder, disabled, developmentally disabled, or totally disabled persons, who are not related to the home operator or facility staff; provided that those]; provided that a resident manager or a resident supervisor and the resident manager's or resident supervisor's family shall not be included in this resident count. These group living facilities shall meet all applicable county requirements not inconsistent with the intent of this subsection [and], including but not limited to building height, setback, maximum lot coverage, parking, and floor area requirements.

[e) No permit shall be issued by a county agency for the operation of a halfway house, a clean and sober home, or a drug rehabilitation home unless a public informational meeting is first held in the affected community. The State shall provide notification and access to relevant information, as required, under chapter 846E.

A clean and sober home shall be considered a residential use of property and shall be a permitted or conditional use in residentially designated zones, including but not limited to zones for single-family dwellings.

(f) For purposes of this section:

"Clean and sober home" means a house that is operated pursuant to a program designed to provide a stable environment of clean and sober living conditions to sustain recovery and that is shared by unrelated adult persons who:

(1) Are recovering from substance abuse;  
 (2) Share household expenses; and  
 (3) Do not require twenty-four-hour supervision, rehabilitation, or therapeutic services or care in the home or on the premises; provided that the home shall meet all applicable laws, codes, and rules of the counties and State.

"Developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333F-1.

"Disabled person" means a person with a disability as defined under section 515-2.

"Drug rehabilitation home" means:

- (1) A residential treatment facility that provides a therapeutic residential program for care, diagnosis, treatment, or rehabilitation for socially or emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, and developmentally disabled persons; or
- (2) A supervised living arrangement that provides mental health services, substance abuse services, or supportive services for individuals or families who do not need the structure of a special treatment facility and are transitioning to independent living;

provided that drug rehabilitation homes shall not include halfway houses or clean and sober homes.

“Elder” means an elder as defined under section 356D-1.

“Halfway house” means a group living facility for people who:

(1) Have been released or are under supervised release from a correctional facility;

(2) Have been released from a mental health treatment facility; or

(3) Are receiving substance abuse or sex offender treatment; and

are housed to participate in programs that help them readjust to living in the community.

“Intermediate care facility for individuals with intellectual disabilities in the community” means an identifiable unit providing residence and care for eight or fewer individuals with intellectual disabilities. Its primary purpose is the provision of health, social, and rehabilitation services to the individuals with intellectual disabilities through an individually designed active treatment program for each resident. No person who is predominantly confined to bed shall be admitted as a resident of such a facility.

“Mental health treatment facility” means a psychiatric facility or special treatment facility as defined under section 334-1.

“Mentally ill person” has the same meaning as defined under section 334-1.

“Totally disabled person” means a “person totally disabled” as defined under section 235-1.

“Treatment program” means a “substance abuse program” or “treatment program”, as those terms are defined under section 353G-2.

(g) (e) Neither this section nor any other law, county ordinance, or rule shall prohibit the use of land for employee housing and community buildings in plantation community subdivisions as defined in section 205-4.5(a)(12); in addition, no zoning ordinance shall provide for the elimination, amortization, or phasing out of plantation community subdivisions as a nonconforming use.”

SECTION 8. Section 518-3, Hawaii Revised Statutes, is amended to read as follows:

**“§518-3 Invalidity of certain restrictive covenants.** It is the public policy of the State to establish community residences in residential areas. Therefore, any restrictive covenant or other private legal impediment made by any person, association, firm, or corporation which directly or indirectly prevents or restricts the establishment in an area zoned for residential use of a facility licensed by the State as an adult residential care home as defined under section 321-15.1; intermediate care facility for individuals with intellectual disabilities in the community [as defined under section 46-4(f)]; or special treatment facility as defined under section 334-1 shall be void and unenforceable as to such community residences.”

#### PART IV

SECTION 9. The department of health shall submit a progress report to the legislature concerning the status of the plan for establishing and operating the registry of clean and sober homes, no later than twenty days prior to the convening of the regular session of 2015.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 13. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 194**

H.B. NO. 2448

A Bill for an Act Relating to the Hawaii Housing Finance and Development Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201H-72, Hawaii Revised Statutes, is amended to read as follows:

**"[§201H-72] Issuance of bonds for the development of infrastructure.** Without limiting section 201H-71, the corporation, pursuant to and in accordance with this subpart, is [hereby] authorized to issue bonds for the purpose of financing the development of infrastructure [on] for land owned by the corporation[-] or for land owned by an eligible developer as defined in section 201H-32 whose housing project approval by a state or county agency requires the construction of affordable housing."

SECTION 2. Revenue bonds are hereby authorized to be issued by the Hawaii housing finance and development corporation pursuant to part III, chapter 39, Hawaii Revised Statutes, and subpart A of part III of chapter 201H, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$125,000,000, at such times and in such amounts as it deems advisable for the purpose of financing the development of infrastructure as provided under section 201H-72, Hawaii Revised Statutes.

Revenues from bonds issued pursuant to this section shall be expended by the Hawaii housing finance and development corporation.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

A Bill for an Act Relating to Witnesses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the per diem stipend amount for out-of-state witnesses has remained static for a number of years. This amount is no longer sufficient to pay for the personal expenses of out-of-state witnesses, such as lodging and food. These individuals are often forced to pay for their own necessary personal expenses when subpoenaed to return to the State as a witness in state court proceedings.

Because the per diem stipend amount has not been adjusted to keep pace with the cost of living in Hawaii, it has emerged as an economic "barrier" that either discourages or prevents an out-of-state witness who is the victim of a crime from pursuing charges against offenders. The legislature also finds that the per diem stipend amount for witnesses who live in Hawaii and are required to travel to a different island in the State is also insufficient to cover the witness' personal expenses when that witness is required to stay overnight.

The purpose of this Act is to increase the amount of per diem stipends for out-of-state witnesses as well as make available additional amounts of per diem stipends for Hawaii residents who must travel to another island in the State to appear as a witness, if required to stay overnight.

SECTION 2. Section 621-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every witness legally required to attend a state court or grand jury in any criminal case, other than a public officer or employee, shall be entitled to \$20 for each day's attendance and a reasonable mileage fee to be established pursuant to rules adopted by the judiciary for each mile actually and necessarily traveled on the ground each way, including travel to and from the nearest airport when required to travel from another island or from outside the State.

In addition to witness' fees, every witness[, who]:

- (1) Who attends a state court from outside the State shall be entitled to the actual round-trip cost of plane travel, plus [~~\$110~~] \$145 per twenty-four-hour day[,] or [if]
- (2) Who attends a state court from any island in the State other than that on which the court holds session[,] shall be entitled to the actual round-trip cost of plane travel, plus \$55 per twenty-four-hour day[, which amounts], provided that when the witness is required to stay overnight, the witness shall be entitled to an additional \$90 per twenty-four-hour day.

These per diem payments shall cover all personal expenses, such as board and lodging[. These per diem payments], and shall be computed on the basis of quarter day periods of time."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 196

H.B. NO. 2243

A Bill for an Act Relating to Criminal History Record Checks.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to allow qualified entities that may be non-governmental agencies to request state and national fingerprint-based criminal history record checks on their applicants for employment, employees, and volunteers who provide care for children, vulnerable adults, or individuals with disabilities, and to receive the results directly.

Section 5119a of the National Child Protection Act of 1993, Public Law No. 103-209, as amended, authorizes public, private, nonprofit, or for-profit entities to submit requests for fingerprint-based criminal history record checks on their applicants, employees, and volunteers who provide care to children, vulnerable adults, or individuals with disabilities. Generally, an authorized government agency must receive the results and make the suitability determination. However, other jurisdictions have been permitted to provide the information directly to a non-governmental agency upon receipt of a waiver from the individual on whom the criminal history record check is being run.

This Act will allow a qualified entity to receive national and state fingerprint-based criminal history records directly for those individuals who provide care or care placement services for children, vulnerable adults, or individuals with disabilities who provide a waiver to the Hawaii criminal justice data center.

This Act amends the version of section 846-2.7, Hawaii Revised Statutes, that will go into effect on July 1, 2014, pursuant to Act 93, Session Laws of Hawaii 2012. It is intended that this Act go into effect one day after Act 93 goes into effect.

**SECTION 2.** Section 846-2.7, Hawaii Revised Statutes, is amended to read as follows:

**“§846-2.7 Criminal history record checks.** (a) The agencies and other entities named in [subsection (b)] subsections (b) and (c) may conduct state and national criminal history record checks on the personnel identified in [subsection (b).] subsections (b) and (c), and participate in the rap back program, for the purpose of determining suitability or fitness for a permit, license, [or employment;] employment, or volunteer service; provided that the Hawaii criminal justice data center may charge a reasonable fee for the criminal history record checks performed. The agencies and other entities named in [subsection (b)] subsections (b) and (c) shall notify [applicants and employees] applicants, employees, and volunteers subject to a criminal history record check pursuant to this section that their fingerprints shall be retained by the Hawaii criminal justice data center and the Federal Bureau of Investigation[-] for all purposes and uses authorized for fingerprint submissions. Notification shall also be given to the [applicants and employees] applicants, employees, and volunteers subject to the rap back program. The criminal history record check shall include the submission of fingerprints to:

- (1) The Federal Bureau of Investigation for a national criminal history record check; and
- (2) The Hawaii criminal justice data center for a state criminal history record check that shall include nonconviction data.

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Except as otherwise provided in this section, criminal history record information shall be used exclusively for the stated purpose for which it was obtained[.] in accordance with section 378-2.5.

- (b) Criminal history record checks may be conducted by:
  - (1) The department of health or the department's designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
  - (2) The department of health or the department's designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;
  - (3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
  - (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 321-484;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors

- in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
  - (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
  - (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
  - (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
  - (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
  - (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
  - (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-496;
  - (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult and community care services branch, as provided by section 346-97;
  - (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
  - (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
  - (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
  - (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
  - (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

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- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with vulnerable adults or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or dependent adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or dependent adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable and disabled citizens during emergencies or crises; and
- (37) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.
  - (c) A qualified entity may conduct a criminal history record check on applicants for licensure or employment, employees, and volunteers who provide care to children, vulnerable adults, or individuals with disabilities. A qualified entity shall comply with the following requirements:
    - (1) A qualified entity shall register with the Hawaii criminal justice data center before submitting a request for a criminal history record check under this subsection. As a part of the registration, the qualified entity shall agree to comply with state and federal law by signing an agreement approved by the attorney general, or the attorney general's duly authorized representative within the department of the attorney general;

- (2) A qualified entity shall verify that the applicant, employee, or volunteer for whom a request is being made, will be or is physically working or volunteering in the State;
- (3) A qualified entity shall submit to the Hawaii criminal justice data center a request for a criminal history record check on an applicant, employee, or volunteer with a complete set of electronic fingerprints and a signed waiver allowing the release of state and national criminal history record information to the qualified entity;
- (4) The Hawaii criminal justice data center shall provide directly to the qualified entity the state and national criminal history records to use only for the purpose of screening applicants, employees, or volunteers, as authorized by the written waiver required for submission of a request;
- (5) The determination whether the criminal history record shows that the applicant, employee, or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the applicant, employee, or volunteer to have responsibility for the safety and well-being of children, vulnerable adults, or individuals with disabilities shall be made solely by the qualified entity. This subsection does not require the Hawaii criminal justice data center to make such a determination on behalf of any qualified entity;
- (6) The qualified entity shall notify the applicant, employee, or volunteer in writing of the person's right to obtain a copy of any background screening report, including the criminal history records obtained under this subsection, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the background screening, including the criminal history record check, if any;
- (7) A qualified entity shall allow the periodic audit by the Hawaii criminal justice data center to ensure compliance with applicable federal law and this subsection; and
- (8) The State, any political subdivision of the State, or any agency, officer, or employee of the State or a political subdivision shall not be liable for damages for providing the information requested under this subsection.

As used in this subsection, unless a different meaning plainly is required:  
"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, vulnerable adults, or individuals with disabilities.

"Qualified entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care placement services, including a business, organization, or agency that licenses or certifies others to provide care or care placement services that are not covered under subsection (b), and including those agencies described in subsection (b) but only to the extent that they seek criminal history record checks on volunteers.

[e] (d) The [applicant or employee] applicant, employee, or volunteer subject to a criminal history record check shall provide to the requesting agency[.] or qualified entity:

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- (1) Consent to obtain the [applicant's or] applicant's, employee's, or volunteer's fingerprints, conduct the criminal history record check, and participate in the rap back program;
  - (2) Identifying information required by the Federal Bureau of Investigation, such as the [applicant's or] applicant's, employee's, or volunteer's name, date of birth, height, weight, eye color, hair color, gender, race, and place of birth; and
  - (3) A statement indicating whether the [applicant or] applicant, employee, or volunteer has ever been convicted of a crime[-] and, if so, the particulars of the conviction.
- [~~(d)~~] (e) Fingerprints and information and records relating to the fingerprints acquired by the Hawaii criminal justice data center under this section shall be retained and maintained in an appropriate form and in an appropriate office in the custody and control of the Hawaii criminal justice data center, and shall at all times be kept separate from any similar records relating to the identification of criminals. The information shall be available only to authorized [entities and] entities, agencies, and qualified entities as described in [~~subsection~~] subsections (b) and (c) and such other persons or agencies as the attorney general shall authorize, subject to any restriction that the attorney general shall prescribe. The Hawaii criminal justice data center may dispose of any record of fingerprints and information and records relating to the fingerprints without regard to chapter 94, whenever, in the attorney general's discretion, retention of the record is no longer required or practicable. No officer or employee of the Hawaii criminal justice data center shall disclose any records of fingerprints or information and records relating to the fingerprints acquired in the performance of any of the officer's or employee's duties under this section to any person not authorized to receive the same pursuant to this section or pursuant to the orders of the attorney general. No person acquiring from the records of fingerprints or information and records relating to the fingerprints any information concerning any individual shall disclose the information to any person not so authorized to receive the same."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 2, 2014.

(Approved July 1, 2014.)

## ACT 197

H.B. NO. 1564

A Bill for an Act Relating to Veterans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 363-5, Hawaii Revised Statutes, is amended to read as follows:

**"§363-5 Councils' responsibility; burial of service members, veterans, and dependents[.]; office of veterans' services approval.** (a) The councils of the counties of Hawaii, Kauai, and Maui shall each provide for the establishment of the veterans cemetery or cemeteries to be located within their respective counties, which includes grading, filling, leveling, platting, paving of roadways and walks, installation of curbs, building of fences, planting of grass, trees and shrubs, erec-

tion of memorial buildings and monuments, and building of other necessary or convenient structures, and shall make provisions for the maintenance and upkeep of the cemetery or cemeteries. The councils shall each provide for the interment of the remains, of:

- (1) Service members who died while in the armed forces of the United States;
- (2) Eligible veterans who entered military service after September 7, 1980, as an enlisted person, or after October 16, 1980, as an officer, and served a minimum of twenty-four continuous months or the full period for which the person was called to active duty, as in the case of a reservist;
- (3) Eligible veterans who were discharged under conditions other than dishonorable of the armed forces of the United States with either peacetime or wartime service; and
- (4) The wife, husband, minor children, or unmarried disabled adult children, who predecease a service member or veteran who would be entitled to interment, in any state veterans cemetery.

The cost of transportation of the remains to the county of interment shall be borne by the family or estate of the deceased.

(b) The determination of eligibility for burial within any state veterans cemetery shall be in accordance with current Veterans Affairs and National Cemeteries Administration Regulations.

(c) Prior to any county action that may:

- (1) Have an adverse financial impact upon the State's fiscal obligation to establish and maintain veterans cemeteries; or
- (2) Impair or conflict with federal requirements that are a prescribed condition for the allocation of federal funds,

the county shall obtain approval of the action from the office of veterans' services. In the event of any disagreement between any county and the office of veterans' services over whether this subsection applies, the decision of the office of veterans' services shall control."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## ACT 198

S.B. NO. 2817

A Bill for an Act Relating to Secure and Fair Enforcement for Mortgage Licensing Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 454F-1, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read:

"Elder" means an individual who is sixty-two years of age or older.

"Offers or negotiates terms of a residential mortgage loan" means:

- (1) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;

- (2) Communicates directly or indirectly with a borrower or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or
- (3) Takes or gathers information from a borrower or prospective borrower for the purpose of recommending, referring, or steering that borrower or prospective borrower directly or indirectly to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower.

"Principal office" means the office location where the company's core executive and administrative functions are primarily carried out.

"Regular business hours" means Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.

"Sole proprietorship" means a mortgage loan originator business that is solely and personally owned and operated by an individual mortgage loan originator, and where there is no legal distinction between the individual business owner and the business."

2. By amending the definitions of "branch office", "exempt sponsoring mortgage loan originator company", "mortgage loan originator", "mortgage servicer company", "principal place of business", and "unique identifier" to read:

~~"Branch office" means any location[, separate from the principal place of business of the mortgage loan originator company] in this State that is identified by any means to the public or customers as a location at which the licensee holds itself out as a mortgage loan originator company. [For mortgage loan originator companies headquartered out of state, a branch office may be its principal place of business.]~~

"Exempt sponsoring mortgage loan originator company" means any person exempt from or not included in the licensing requirements of this chapter who registers with [NMLS] for purposes of sponsoring a mortgage loan originator.

"Mortgage loan originator":

- (1) Means an individual who for compensation or gain or in the expectation of compensation or gain:
  - (A) Takes a residential mortgage loan application; or
  - (B) Offers or negotiates terms of a residential mortgage loan;
- [2) Means any individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, including a vacation home, or inherited property that served as the deceased's dwelling; provided that the individual does not act as a mortgage loan originator or provide financing for such sales more than three times in a calendar year;] and
- [3)] (2) Includes an independent contractor as defined in this section.

"Mortgage servicer company" means a mortgage servicer company licensed, or required to be licensed, under chapter 454M that [employs one or more individuals who conduct] conducts mortgage loan origination activity.

"Principal place of business" means a mortgage loan originator company's main office location in this State that is [separate from a branch office unless the branch office is specified as the principal place of business by a mortgage loan originator company headquartered out of state and] identified by any means to [consumers] the public or customers as a location at which the licensee holds itself out as a mortgage loan originator company.

"Unique identifier" means a number or other identifier assigned by protocols established by [NMLS]."

SECTION 2. Section 454F-2, Hawaii Revised Statutes, is amended to read as follows:

- “§454F-2 Exemptions.** This chapter shall not apply to the following:
- (1) An exempt registered mortgage loan originator when acting for an insured depository institution or an institution regulated by the Farm Credit Administration;
  - [2] Any individual who offers or negotiates terms of a residential mortgage loan with, or on behalf of, an immediate family member of the individual;
  - [3] Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;
  - [4] (2) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client unless the attorney is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of a lender, mortgage loan originator company, or other mortgage loan originator;
  - [5] (3) A person or entity that only performs real estate brokerage activities and is licensed or registered by the State unless the person or entity is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of the lender, mortgage loan originator company, or other mortgage loan originator;
  - [6] (4) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in title [§11] United States Code section 101(53D);
  - [7] (5) An exempt sponsoring mortgage loan originator company as defined by this chapter except as otherwise provided by this chapter;
  - [8] (6) An insured depository institution;
  - [9] (7) An institution regulated by the Farm Credit Administration; [~~or~~
  - [10] (8) Employees of government agencies or of housing finance agencies who act as mortgage loan originators[-]; or
  - (9) A mortgage servicer company that is exempt from chapter 454M, pursuant to section 454M-3.”

SECTION 3. Section 454F-8, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

(b) The minimum standards for license renewal for mortgage loan originator companies shall include the following:

- (1) The mortgage loan originator company continues to meet the minimum standards for licensure established pursuant to section 454F-5;
- (2) The mortgage loan originator company's qualified individual and every branch manager have satisfied the minimum standards for license renewal; [~~and~~]
- (3) The mortgage loan originator company has paid all required fees for renewal of the license[-]; and
- (4) The mortgage loan originator company is registered with the business registration division of the department of commerce and consumer affairs.

(c) The minimum standards for license renewal for a mortgage servicer company shall include the following:

- (1) The mortgage servicer company continues to meet the minimum standards for licensure established pursuant to section 454F-5; [and]
- (2) The mortgage servicer company has paid all required fees for renewal of the license[.]; and
- (3) The mortgage servicer company is registered with the business registration division of the department of commerce and consumer affairs.”

**SECTION 4.** Section 454F-10.5, Hawaii Revised Statutes, is amended to read as follows:

**“§454F-10.5 Authorized places of business; designation of qualified individuals and branch managers; branch offices; [out-of-state headquarters;] principal office; relocation.** (a) Every mortgage loan originator company licensed under this chapter shall have and maintain a principal place of business in the State and shall designate a qualified individual [who is licensed as a mortgage loan originator pursuant to this chapter to oversee mortgage loan originators employed or contracted by the company. If the qualified individual is physically located at a branch office, the qualified individual may also be designated as the branch manager.] to fulfill the duties and responsibilities of a qualified individual set forth in section 454F-1.7.

(b) A mortgage loan originator company shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. An application to establish a branch office shall be submitted through NMLS with a nonrefundable application fee as required by section 454F-22. A mortgage loan originator company shall designate a branch manager for each branch office who is physically present in the branch office to oversee that branch office[. Every branch manager shall be licensed as a mortgage loan originator pursuant to this chapter.] and fulfill the duties and responsibilities of a branch manager set forth in section 454F-1.7. At no time shall a branch manager oversee more than one branch office or principal place of business.

(c) A mortgage loan originator company shall not relocate any office in this State without the prior written approval of the commissioner. An application to relocate an office shall be submitted to the commissioner at least thirty days prior to relocating and shall set forth the reasons for the relocation, the street address of the proposed relocated office, and other information that may be required by the commissioner. An application to relocate an office pursuant to this subsection shall be submitted with a nonrefundable fee as required by section 454F-22.

(d) A mortgage loan originator company shall give the commissioner notice of its intent to close a branch office at least thirty days prior to the closing. The notice shall:

- (1) State the intended date of closing; and
- (2) Specify the reasons for the closing.
- (e) A mortgage loan originator company that maintains its [headquarters] principal office outside of the State shall:
  - (1) Designate an office in this State as its principal place of business in this State;
  - (2) Apply for and obtain approval from the commissioner to designate its principal place of business in this State as a branch office pursuant to this section; and
  - (3) Designate a qualified individual [who shall hold a license as a mortgage loan originator pursuant to this chapter]; provided that

the qualified individual may be the same person designated as the branch manager[.] of a branch office where the qualified individual is physically present.

(f) A mortgage loan originator company that maintains its [headquarters] principal office in this State shall designate a qualified individual who is physically present in the principal place of business [office] as its branch manager to oversee and manage that principal place of business [office]. Such principal place of business shall not be considered a branch office for purposes of section 454F-22(c).

(g) The principal place of business and each branch office of the mortgage loan originator company shall be identified in NMLS to consumers as a location at which the licensee holds itself out as a mortgage loan originator company. Each such location shall be open for business to the public during posted business hours which shall be during regular business hours. If a location is in a commercial building, then the business hours shall be posted on or adjacent to the main office door of the mortgage loan originator company's location, and visible to the public from outside the location. If a location is not in a commercial building, or such posting is not permitted by the commercial building, then the business hours shall be posted on the home page of the mortgage loan originator company's website, along with the address and phone number of the location. Business hours, whether posted at a location or on a mortgage loan originator company website, shall be displayed in a clear, conspicuous, and accurate manner to inform the consumer when the location will be open.

(h) The commissioner or the commissioner's authorized representatives shall be able to conduct an examination or investigation during regular business hours. If the commissioner or the commissioner's authorized representatives are denied access to any office, record, or file for any reason, such denial may be considered a violation of this chapter."

SECTION 5. Section 454F-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) To ensure the effective supervision and enforcement of this chapter, the commissioner may, pursuant to chapter 91:

- (1) Deny, suspend, revoke, condition, or decline to renew a license because of a violation of this chapter, rules, an order, or a directive entered under this chapter;
- (2) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of section 454F-4, 454F-6, or [section] 454F-8, violates section 454F-17, or withholds information or makes a material misstatement in an application for a license or renewal of a license;
- (3) Order restitution against persons subject to this chapter for violations of this chapter;
- (4) Impose fines on persons subject to this chapter; and
- (5) Issue orders or directives under this chapter as follows:
  - (A) Order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;
  - (B) Order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;
  - (C) Enter immediate temporary orders to cease doing business under a license issued pursuant to the authority granted under this chapter if the commissioner determines that the license

## **ACT 198**

was erroneously granted or the licensee or any person subject to this chapter is currently in violation of this chapter; or

- (D) Order or direct any other affirmative action as the commissioner deems necessary.”

**SECTION 6.** Section 454F-14, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators, mortgage loan originator companies, and mortgage servicer companies that are included in NMLS for access by the public.”

**SECTION 7.** Section 454F-16, Hawaii Revised Statutes, is amended to read as follows:

**“§454F-16 Mortgage call reports.** Each licensee[.] and exempt sponsoring mortgage loan originator company, as may be required by title 12 United States Code sections 5101 to 5116, shall submit quarterly to NMLS reports of condition, using the form entitled “[REPORT OF] FINANCIAL CONDITION”[.] or “[RESIDENTIAL MORTGAGE LOAN ACTIVITY]”, which shall be in the form and contain the information as NMLS may require.”

**SECTION 8.** Section 454F-19, Hawaii Revised Statutes, is amended to read as follows:

**“§454F-19 Unique identifier shown.** The unique identifier of any person originating a residential mortgage loan, except a person who is exempt from this chapter, shall be clearly shown on all residential mortgage loan application forms, solicitations, [or] and advertisements, including business cards or websites, and any other documents as established by rule or order of the commissioner.”

**SECTION 9.** Section 454F-22, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) A sole [proprietor] proprietorship mortgage loan originator shall pay the following fees to obtain and maintain a valid sole proprietor mortgage loan originator license:

- (1) Initial application fee of \$35;
- (2) Annual license renewal fee of \$35;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.”

2. By amending subsection (f) to read:

“(f) A mortgage servicer company shall pay for a principal office the following fees to maintain a valid mortgage loan [originator company] servicer loan modification license:

- (1) Initial application fee of \$600;
- (2) Annual license renewal fee of \$600;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each con-

trol person, executive officer, director, general partner, and managing member.”

SECTION 10. Section 454F-24, Hawaii Revised Statutes, is amended to read as follows:

**“[§454F-24] Mortgage servicer companies; mortgage loan originators.**

An employee who performs mortgage loan originator activities for a mortgage servicer company is exempt from registration and licensure as a mortgage loan originator; provided that:

- (1) The employee’s actions are part of the employee’s duties as an employee of the mortgage servicer company; and
- (2) The employee [only] provides mortgage loan originator services only with respect to a residential mortgage loan modification.”

SECTION 11. Section 454F-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) An employee who performs mortgage loan originator activities for a nonprofit organization is exempt from registration and licensure as a mortgage loan originator; provided that:

- (1) The employee’s actions are part of the employee’s duties as an employee of the nonprofit organization;
  - (2) The employee only provides mortgage loan originator services with respect to residential mortgage loans with terms favorable to the borrower; and
  - (3) The nonprofit organization registers with [NMLS].
- (b) The commissioner shall periodically examine the books and activities of nonprofit organizations as defined in section 454F-1 and shall revoke an organization’s registration as a nonprofit organization with [NMLS] if the nonprofit organization fails to meet the requirements to be a nonprofit organization.”

SECTION 12. Section 454F-26, Hawaii Revised Statutes, is repealed.

SECTION 13. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 199**

H.B. NO. 1966

A Bill for an Act Relating to Public Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 253, Session Laws of Hawaii 2000, and Act 300, Session Laws of Hawaii 2006, sought to reduce the number of civil service exempt employees in public service in the State. The legislature finds that since the enact-

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ment of these Acts, there have been few conversions of civil service exempt positions to civil service positions. The legislature further finds that these conversions are overdue.

Accordingly, the purpose of this Act is to further the purposes enumerated in the state plan in section 226-27, Hawaii Revised Statutes, to ensure effective, efficient, and responsive government service at all levels of the State and to ensure fiscal integrity, responsibility, and efficiency in the state and county governments by requiring the state auditor to:

- (1) Review the current civil service exemption process; and
- (2) Recommend procedures, guidelines, and criteria to ensure the appropriate use of this process only in extraordinary circumstances.

**SECTION 2.** (a) The state auditor shall review the current civil service exemption processes in sections 46-33, 76-16, and 76-77, Hawaii Revised Statutes, and recommend procedures, guidelines, and criteria to ensure that the civil service exemption process is used appropriately and only in extraordinary circumstances.

- (b) The state auditor shall:

- (1) Determine the reasons state and county departments and agencies have used the civil service exemption process; and
- (2) Recommend modifications to streamline and update the process for modernizing and reconciling job position descriptions within state and county departments and agencies to accurately reflect the duties that the employees are expected to perform.

(c) The state auditor shall submit a report of its findings and recommendations, including proposed legislation, if any, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

## **ACT 200**

H.B. NO. 1702

A Bill for an Act Relating to the Capital Infrastructure Tax Credit.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that development of a new overseas container terminal and piers at the lower Kapalama military reservation site requires improvements on fast and submerged lands associated with piers twenty-four through twenty-eight to accommodate maritime dependent operators at Kapalama who are to be evicted and displaced. The total cost for the proposed master plan at the Kapalama site is estimated to be \$243,000,000, which is being financed entirely by the State through revenue bonds and revenues from harbor tariffs and leases. None of these funds, however, will go toward assisting displaced maritime and waterfront dependent tenants of the Kapalama site. The displaced tenants will be relocated to various piers that have limited infrastructure, facilities, and utilities. These tenants must find ways to finance not only their move, but also significant capital improvements to state-owned land.

The legislature finds that the Kapalama container terminal project is critical to modernizing commercial harbors and that completion of the project will assure that harbor infrastructure is adequate to support sustained economic growth. The legislature also finds that supporting those maritime and water-

front dependent tenants displaced by the Kapalama container terminal project will facilitate the growth of commerce in the State and support maritime jobs. In light of state support provided for University of Hawaii-related tenants that have been displaced by the Kapalama container terminal project, the legislature finds it prudent and fair to also support the maritime dependent operators in Kapalama who are being displaced by the project. The solution proposed in this Act is to provide a capital infrastructure tax credit to help displaced tenants raise private equity capital. This approach is expected to:

- (1) Mobilize private equity and near-equity capital for investment in critical waterfront infrastructure in Honolulu harbor;
- (2) Retain the private sector culture of focusing on rate of return in the investing process;
- (3) Secure and retain the services of high quality trade labor in the maritime industry in Hawaii; and
- (4) Accomplish the foregoing in a return-driven manner with the goal of minimizing any adverse impact on state tax revenues.

Accordingly, the purpose of this Act is to establish a capital infrastructure tax credit to help tenants displaced by the Kapalama container terminal project in raising capital to make improvements on state-owned property upon relocation.

**SECTION 2.** Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§235- Capital infrastructure tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a capital infrastructure tax credit that shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the capital infrastructure costs were paid or incurred.

(b) For the purpose of this section:

“Base investment” means the amount of money invested by an investor.

“Capital infrastructure costs” means capital expenditures, as used in section 263 of the Internal Revenue Code and the regulations promulgated thereunder; provided that the capital expenditures are for real property and fixtures that are paid or incurred in connection with the displaced tenant’s move of the tenant’s current active trade or business to the tenant’s new location; provided further that the capital infrastructure costs shall not include amounts for which another credit is claimed.

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Qualified infrastructure tenant” means a business:

(1) That currently owns capital or property or maintains an office, operations, or facilities at the former Kapalama military reservation site;

(2) Whose principal business is maritime, and waterfront dependent, and is included under the State’s plan to relocate the business to piers twenty-four through twenty-eight within Honolulu harbor; and

(3) Will be displaced and relocated by the State pursuant to the Kapalama container terminal project.

(c) The amount of the tax credit shall be equal to fifty per cent of the capital infrastructure costs paid or incurred by the qualified infrastructure tenant during the taxable year up to a maximum of \$2,500,000 in capital infrastructure costs in any taxable year, provided that the qualified infrastructure tenant

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shall notify the taxpayer claiming the credit under subsection (a) of the amount of capital infrastructure costs which may be claimed.

(d) In the case of an entity taxed as a partnership, credit shall be determined at the entity level, but distribution and share of the credit may be determined notwithstanding section 704 of the Internal Revenue Code.

(e) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted. All claims, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) This section shall not apply to taxable years beginning after December 31, 2019.

(g) Any credit claimed under this section shall be recaptured following the close of the taxable year for which the credit is claimed if within three years:

- (1) The qualified infrastructure tenant fails to continue the line of business it conducted as of July 1, 2014; or
- (2) The interest in the qualified infrastructure tenant, whether in whole or in part, has been sold, exchanged, withdrawn, or otherwise disposed of by the taxpayer claiming a credit under this section.

The recapture shall be equal to one hundred per cent of the amount of the total tax credit claimed under this section in the preceding five taxable years, and shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs pursuant to this subsection.

(h) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section. The director of taxation may adopt rules to effectuate the purposes of this section pursuant to chapter 91."

**SECTION 3.** Chapter 241, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§241- Capital infrastructure tax credit.** The capital infrastructure tax credit established by section 235- shall be operative for this chapter for taxable years beginning after December 31, 2013."

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 6.** This Act shall take effect on July 1, 2014, and shall apply to taxable years beginning after December 31, 2013.

(Approved July 1, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 201**

H.B. NO. 2490

A Bill for an Act Relating to Juvenile Justice.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that in August 2013, the governor, chief justice, president of the senate, and speaker of the house of representatives established the Hawaii juvenile justice working group. The working group was composed of stakeholders from the executive, legislative, and judicial branches, as well as representatives from key stakeholder groups including law enforcement, prosecution, public defense, and community service providers. The working group was charged with the development of policies to reduce recidivism and crime by improving outcomes for youth in the juvenile justice system; maximizing the effectiveness of Hawaii's correctional dollars and placement options; and grounding Hawaii's policies in data and research.

The working group's analysis revealed that Hawaii has made commendable improvements in its juvenile justice system. Juvenile arrests for serious violent and property offenses fell twenty-eight per cent between 2002 and 2011, and the number of youth annually admitted to the Hawaii youth correctional facility declined forty-one per cent as of 2013. However, the working group also identified several areas needing improvement.

Even amidst a decline in commitments to the Hawaii youth correctional facility, the working group sought to determine whether commitments to the facility were effectively targeted to protect public safety. Research reveals that secure facilities are most effective when targeted toward serious juvenile offenders who pose a public safety risk. However, when less serious youth are placed in secure facilities, the risk of repeat offenses increases. Further, mental health and substance abuse treatment are often more efficiently and effectively delivered in a community setting.

The legislature also finds that over the last decade, the proportion of youth in Hawaii confined for nonviolent offenses has risen, as has the proportion confined for misdemeanor offenses. In fiscal year 2013, seventy-two and sixty-one per cent of admissions for a new offense were youth committed for a nonviolent or misdemeanor offense, respectively. Between fiscal year 2004 and fiscal year 2013, average lengths of stay in the Hawaii youth correctional facility rose from 2.5 months to 7.2 months, and forty-six per cent of the commitments to the correctional facility came from the neighbor islands, which are home to just thirty-one per cent of all youth.

The legislature further finds that critical services to reduce delinquency, including mental health and substance abuse treatment, are not sufficiently resourced or accessible to Hawaii's youth.

The analysis revealed that each bed in the Hawaii youth correctional facility costs Hawaii taxpayers more than \$199,000 per year. Despite this level of investment and the longer lengths of stay, seventy-five per cent of youth released from the facilities between 2005 and 2007 were re-adjudicated in family court or re-convicted in the adult criminal justice system within three years of release.

The legislature further finds that the working group also identified opportunities for strengthening juvenile probation. During the last decade, probation terms increased one hundred fifty-five per cent, but probation staff still encounter significant difficulty in accessing resources for youth on probation. Furthermore, inconsistent probation practices across the circuits may lead to disparate treatment of youth.

The purpose of this Act is to:

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- (1) Improve and enhance Hawaii's juvenile justice system by concentrating secure bed space on serious juvenile offenders and strengthening disposition, adjustment, diversion, and services available for juvenile offenders to ensure that family court judges, court staff, departmental staff, and service providers have the tools they need to keep youth safely and effectively in their communities; and
- (2) Increase interagency collaboration and implement a temporary oversight committee to continually improve juvenile justice practices and ensure accountability.

SECTION 2. Chapter 352, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§352- Reentry plans; notification.** (a) The director or the director's designee shall develop a comprehensive reentry plan for each person committed to the Hawaii youth correctional facilities who is not serving a concurrent term of probation. The scope of the reentry plan shall address the period of time from admission to the Hawaii youth correctional facilities until parole or final discharge from the department. The reentry plan shall seek to prepare committed persons for transition to the community. The reentry plan required under this section shall be completed within thirty days of a person's commitment to the Hawaii youth correctional facilities and shall include:

- (1) Programming, treatment, and service needs identified in the most recently conducted risk and needs assessment;
- (2) Individualized goals to guide successful reentry to the community during parole or following final discharge; and
- (3) Identification of, and a plan for, coordination with agencies that can provide or contract for existing programs and services relevant or necessary for successful reentry.

(b) The director or the director's designee shall consult with a committed person's parent, legal guardian, or custodian in developing the terms of the reentry plan and provide written copies of the plan to the committed person and the committed person's parent, legal guardian, or custodian. If requested, the director or the director's designee shall provide regular updates on the committed person's progress concerning the reentry plan to the committed person's parent, legal guardian, or custodian.

(c) The director or the director's designee may collaborate with, and provide information to, the probation officer of a person committed to the Hawaii youth correctional facilities who is serving a concurrent term of probation, upon the probation officer's request, for the probation officer to incorporate the reentry plan into the person's case plan required under section 571-A at the probation officer's discretion.

(d) The director or the director's designee shall notify the parent, legal guardian, or custodian, and any relevant agency or service provider that may be involved in the person's transition to the community, at least thirty days prior to discharging a committed person, of the intended discharge of the person.

(e) The director or the director's designee shall review, and update if necessary, reentry plans for each person taken into custody pursuant to section 352-26."

SECTION 3. Chapter 571, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

**“§571-A Probation supervision requirements.** Every child placed on probation pursuant to section 571-48(1)(A) shall be supervised in accordance with the following requirements:

- (1) Supervision levels, frequency of contacts with probation officers and the court, and referrals to treatment and programs under section 571-31.4(c)(7) shall be established using, among other factors, the results of the risk and needs assessment conducted pursuant to section 571-45;
- (2) A case plan, as defined in section 571-2, shall be developed for each child and submitted to the court. The case plan shall be developed in consultation with the child and the child’s parent, legal guardian, or custodian. The probation officer assigned to each child shall keep the child’s parent, legal guardian, or custodian informed regarding development of and progress toward the case plan, the child’s conduct, compliance with the conditions of probation, and any other relevant matter in the child’s case;
- (3) A child whose probation term and case plan require in-person visits with a probation officer shall receive at least one home visit; provided that the first visit shall take place within forty-five days of the child’s placement on probation; provided further that a home visit shall not be required when the probation officer has reasonable perceptions of risks to the probation officer’s safety due to known factors of violent criminal activity or isolation of the child’s place of residence. The probation officer shall immediately report any reasonable perceptions of risks to a supervisor and may receive permission to waive the home visit requirement for the child or to conduct the home visit accompanied by another;
- (4) Probation officers shall have the authority to impose graduated sanctions in response to a violation of the rules and conditions of probation, as an alternative to judicial modification or revocation pursuant to section 571-50, or to award incentives or rewards for positive behavior exhibited by the child. The graduated sanctions and incentives shall be established as follows:
  - (A) The judiciary shall adopt guidelines and procedures for the development and application of a statewide graduated sanctions and incentives system in accordance with this section, and the deputy chief court administrator in each judicial circuit, or the administrator’s designee, shall adopt policies or procedures for the implementation of the adopted graduated sanctions and incentives system to guide probation officers in imposing sanctions and awarding incentives;
  - (B) The system shall include a series of presumptive sanctions for the most common types of probation violations but shall allow for a child’s risk level and seriousness of violation to be taken into consideration. The system shall also identify incentives that a child may receive as a reward for compliance with the rules and conditions of probation, completion of benchmarks, or positive behavior exceeding expectations, at the discretion of the probation officer;
  - (C) The system shall be developed with the following objectives:
    - (i) To respond quickly, consistently, and proportionally to violations of the rules and conditions of probation;
    - (ii) To reduce the time and resources expended by the court in responding to violations with judicial modification;

- (iii) To reduce the likelihood of a new delinquent act; and
- (iv) To encourage positive behavior;
- (D) At a child's first meeting with a probation officer after being adjudicated and disposed to a probation term, the probation officer shall provide written and oral notification to the child regarding the graduated sanctions and incentives system to ensure the child is aware of the sanctions and incentives that may be imposed or rewarded;
- (E) When issuing a sanction or incentive, the probation officer shall provide written notice to the child of the nature and date of the relevant behavior, the sanction or incentive imposed or rewarded, and, in the case of sanctions, any applicable time period in which the sanction will be in effect or by which corrective behavior must be taken. The probation officer shall provide this information to the court at the next regularly scheduled review hearing and inform the court of the child's response to the sanction or incentive; and
- (F) Each administrator of the juvenile client services branch in each judicial circuit shall report annually to the board of family court judges and the Hawaii juvenile justice state advisory council, the number and the per cent of children on probation who received a graduated sanction or incentive, the types of sanctions and incentives used, and the child's current probation status.

**§571-B Earned discharge from probation; reporting requirements.** (a) A child placed on probation pursuant to section 571-48(1)(A) shall be eligible to receive earned discharge credits to reduce the length of the probation term. Earned discharge credits shall reduce the term of probation by thirty days for each calendar month of compliance with the rules and conditions of probation.

(b) A child is deemed to be compliant with the rules and conditions of probation, and shall be awarded earned discharge credits for the month, if there was no violation of rules and conditions of probation that month at a level that would warrant the filing of a petition or violation report. The court, at the request of the probation officer or on its own motion, may award discharge credits to children who have demonstrated substantial compliance with the rules and conditions of probation.

(c) The judiciary shall adopt guidelines and procedures for the awarding of earned credits for discharge from probation.

(d) Each administrator of the juvenile client services branch in each judicial circuit shall annually provide to the board of family court judges and the Hawaii juvenile justice state advisory council, the number and per cent of youth who received earned discharge credits and the number of credits earned by each youth.

**§571-C Statewide juvenile justice interdepartmental cluster; local juvenile justice interdepartmental cluster; high-need youth services coordination.** (a) There is established a statewide juvenile justice interdepartmental cluster to provide coordinated services, as defined in section 571-2, to certain children under the jurisdiction of the family court, and to provide an avenue for regular collaboration between the judiciary and the child and adolescent mental health division of the department of health.

(b) The statewide cluster shall be composed of representatives from the major youth-serving agencies with statewide authority and responsibility. The

statewide cluster shall include, in addition to the judiciary, designees from the department of education, the department of health, and the office of youth services. At the discretion of the representatives in the statewide cluster, community service providers may be included as regular members.

The judiciary shall staff the statewide cluster and identify a place where development and management of coordinated services may be carried out on a regular basis.

The statewide cluster may establish local juvenile justice interdepartmental clusters that shall have the ability to refer individual cases or issues to the statewide cluster for review and recommendation.

The statewide cluster shall establish written policies and procedures for itself and any local juvenile justice interdepartmental clusters.

(c) Family courts may recommend youth for consideration by the statewide cluster based on the results of a risk and needs assessment conducted pursuant to section 571-45 indicating that a youth is high-need and if the youth is actively involved with two or more youth-serving agencies.

(d) Coordinated services for justice system-involved youth shall be identified and carried out using a coordinated service plan, developed during regular meetings of the statewide cluster. The coordinated service plan shall include:

- (1) An assessment of the individual needs of the youth;
- (2) Identification of services currently being provided;
- (3) Identification of the necessary coordinated services;
- (4) Identification of the public or private agencies that can provide the necessary coordinated services to the youth, and a description of how each coordinated service will be funded;
- (5) If any necessary coordinated service need cannot be met, a specific explanation as to why the service need could not be met, such as a lack of funding or unavailability of service, which shall be reported to the board of family court judges and the Hawaii juvenile justice state advisory council; and
- (6) Opportunities for participation from the youth's legal parent, guardian, or custodian.

(e) The statewide cluster shall annually report the number of cases referred to the cluster, the number of cases in which a coordinated service plan was established, and the outcome of the cases. This report shall be submitted to the board of family court judges and the Hawaii juvenile justice state advisory council.

**§571-D Family court; annual report.** Each deputy chief court administrator, or the administrator's designee, shall submit an annual report to the board of family court judges and the Hawaii juvenile justice state advisory council that includes:

- (1) The number and per cent of cases ordered to administrative monitoring status;
- (2) The number and per cent of cases ordered to administrative monitoring status that were subsequently closed without a protective supervision or probation term;
- (3) The number and per cent of youth disposed to a probation term, and the outcome of the probation terms;
- (4) The number and per cent of cases committed to a Hawaii youth correctional facility; the underlying offense or type of probation violation or revocation precipitating commitment; and the age, race, and gender of the child; and

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- (5) The number and per cent of cases returned to court supervision on a maintained probation term following a release from a Hawaii youth correctional facility."

SECTION 4. Section 352-25, Hawaii Revised Statutes, is amended to read as follows:

**"§352-25 Furlough, parole, discharge.** (a) The director, for good reasons shown to the director's satisfaction, may furlough or parole any person committed to the director's custody. The director shall give the court and the prosecutor's office of the appropriate county a thirty-day notice prior to discharging a committed person. Prior court approval shall be obtained when such is specifically required in the commitment order.

No furlough, parole, or discharge shall be granted unless it appears to the director that there is a reasonable probability that the person will not violate the law and that the person's release is not incompatible with the welfare and safety of society.

(b) When granting parole, the director shall consider whether:

- (1) The results of a risk and needs assessment indicate the person is at a lower risk to reoffend;
- (2) The person has substantially complied with the facility rules and has had no significant misconduct in the prior two months;
- (3) The person has demonstrated efforts toward rehabilitation;
- (4) The person is likely to follow the reentry plan established pursuant to section 352-; and
- (5) A home visit has been completed and the living situation upon parole is determined to be safe and conducive to rehabilitation.

The form of furlough or parole may include return to the person's own home, transfer to another youth correctional facility, a group home or foster home placement, or other appropriate alternative. Nonresidential programs may be made available to selected persons on furlough such that they return to the facility during nontreatment hours.

(c) The director shall submit an annual report to the board of family court judges and the Hawaii juvenile justice state advisory council. The report shall include the number of persons committed to the director's custody who are not serving a concurrent term of probation, the number of those persons who were granted parole in the previous year, the length of the parole term for each paroled person, and the number of persons on parole who return to the Hawaii youth correctional facilities for any reason."

SECTION 5. Section 352D-4, Hawaii Revised Statutes, is amended to read as follows:

**"[§§352D-4] Establishment; purpose.** There is established within the department of human services for administrative purposes only the office of youth services. The office of youth services is established to provide services and programs for youth at risk under one umbrella agency in order to facilitate optimum service delivery, to prevent delinquency, and to reduce the incidence of recidivism among juveniles through the provision of prevention, rehabilitation, and treatment services. The office shall also be responsible for program planning and development, intake/assessment, oversight, as well as consultation, technical assistance, and staff training relating to the delivery of services.

The office shall provide a continuum of services as follows:

- (1) An integrated intake/assessment and case management system;

- (2) The necessary educational, vocational, social counseling and mental health services;
- (3) Community-based shelter and residential facilities;
- (4) Oversight of youth services; and
- (5) Other programs which encourage the development of positive self-images and useful skills in such youth.

The executive director of the office of youth services shall submit annual reports to the legislature no later than twenty days prior to the convening of each regular session, reporting the services or programs funded pursuant to this section, the number of youth served by each service or program, and the results of the services or programs funded.

To this end, on July 1, 1991, this office shall assume the responsibilities for juvenile corrections functions, which were temporarily placed in the department of corrections pursuant to Act 338 of 1987. These functions shall include, but not be limited to, all responsibilities, under chapter 352, for the Hawaii youth correctional facilities."

SECTION 6. Section 571-2, Hawaii Revised Statutes, is amended by adding nine new definitions to be appropriately inserted and to read as follows:

"Administrative monitoring" means a legal status of a child adjudicated for a status offense or a law violation who is not placed on legal status, but is ordered by the court to complete a discrete, small number of conditions within a short time period, and without regular court appearances.

"Case plan" means a plan designed to ensure that a child on probation receives services and programming to achieve rehabilitation, proper care, and case management. The case plan may include rules and conditions of probation, goals related to reducing criminogenic needs, and evidence-based practices, requirements, services, and opportunities to incorporate the family.

"Coordinated services" means treatment, education, care, services, and other resources provided by one or more distinct state or local agencies in a coordinated manner for a child who is involved with two or more youth-serving agencies.

"Evidence-based practices" means supervision policies, procedures, and practices, as well as treatment and intervention programs, that research demonstrates are likely to reduce delinquency amongst children in the juvenile justice system.

"Home visit" means an announced or unannounced visit to a child's place of residence, conducted by the child's probation officer.

"Interdepartmental cluster" means the regular coordination of several agencies, directed by the judiciary, to more efficiently provide services for high-need, court-involved children.

"Presumptive sanction" means a probation violation sanction determined by a probation officer from a range of graduated sanctions for the most common types of violation, adopted by the judiciary pursuant to section 571-A(4) and based upon consideration of factors including the nature and severity of the violation and the child's risk level.

"Risk and needs assessment" means a determination, based on an actuarial tool validated on Hawaii's juvenile justice system-involved population, of specific factors that predict a child's likelihood of recidivating and criminogenic factors that, when properly addressed, can reduce the likelihood of recidivating.

"Statewide cluster" means the statewide juvenile justice interdepartmental cluster as established under section 571-C."

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SECTION 7. Section 571-5, Hawaii Revised Statutes, is amended to read as follows:

**“§571-5 Board of family court judges.** A board of family court judges, which shall consist of all the State's family court judges and district family judges is hereby created. The board shall annually elect from among its members a chairperson who shall preside at meetings of the board. The chairperson shall have no other authority not specifically authorized under this chapter, or any applicable rule of the supreme court, or specifically delegated by a majority of the board. The board shall meet at stated times to be fixed by it but not less often than once every six months, and on call of the chairperson.

The board shall discuss and shall attempt to achieve agreement upon general policies for the conduct of the family courts and forms for use in such courts. The board shall recommend, for adoption by the supreme court, rules of court governing procedure and practices in such courts. The board shall provide the guidelines and procedures necessary to implement a single statewide standardized tool to conduct risk and needs assessments and validation of the tool every five years. The board may, within the limitations of the facilities available to the family courts of the State, seek the consolidation of the statistical and other data on the work and services of such courts and research studies that may be made of the problems of families and children dealt with by such courts to the end that the treatment of children and families subject to the jurisdiction of such courts shall achieve the highest possible degree of uniformity throughout the State and to the further end that knowledge of treatment, methods and therapeutic practices be shared among such courts. The board may also formulate recommendations for remedial legislation. All actions by the board shall be subject to the regulatory supervision of the chief justice of the supreme court.”

SECTION 8. Section 571-6, Hawaii Revised Statutes, is amended to read as follows:

**“§571-6 Appointment and duties of employees.** (a) For each family court, the judge, or the senior judge when there is more than one judge, shall appoint a chief administrative and executive officer who shall have the title of director of the family court. Under the general supervision of the senior judge or the judge, the director shall:

- (1) Prepare an annual budget for the court;
- (2) Formulate procedures governing the routine administration of court services;
- (3) Make recommendations to the court for improvement in court services;
- (4) Make recommendations to the senior judge or the judge for the appointment of administrative, supervisory, consultant, and necessary professional and clerical and other personnel to perform the duties assigned to the court and the director;
- (5) Provide supervision and consultation to the administrative and supervisory staff regarding the administration of court services, recruitment of personnel, in-service training, and fiscal and office management; and
- (6) Perform other duties as the senior judge or the judge shall specify.  
(b) For each family court the judge or senior judge where there is more than one shall appoint necessary probation officers, social workers, and marital counselors and may appoint, or make arrangements for the services of physi-

cians, psychologists, psychiatrists, and other professionally competent persons, to carry on the work of the court.

(c) Pursuant to subsection (a)(5), the deputy chief court administrator shall require each probation officer to complete training annually on juvenile justice or probation supervision best practices; provided that funding is available. The form and length of the training shall be determined by the deputy chief court administrator, or a designee, and at the discretion of the several deputy chief court administrators, training may be conducted jointly between judicial circuits, as defined in section 603-1."

SECTION 9. Section 571-31.2, Hawaii Revised Statutes, is amended to read as follows:

**"§571-31.2 Juvenile intake and diagnostic services.** (a) The court or other designated agency shall:

- (1) Notify the child's parent, guardian or legal custodian or take reasonable action to ensure that such notice has been given;
- (2) Require the child, the child's parent, the child's guardian or legal custodian, or both, to appear at the court or other designated agency as soon as practicable for a family counseling session to attempt a quick resolution of their problem;
- (3) Investigate, evaluate, make necessary determination, and take appropriate actions regarding:
  - (A) Diversion from justice system processing, formal or informal, and closure of the case;
  - [(A)] (B) Release of a child to the care of the child's parent or other responsible adult;
  - [(B)] (C) Extending to or making arrangement for the securing of suitable informal adjustment under section 571-31.4, 571-31.5 or 571-31.6;
  - [(C)] (D) Initiation of the filing of a complaint or petition;
  - [(D)] (E) Detention of a child, utilizing the standard set out in section 571-31.1 or temporary shelter in a nonsecure shelter; and
  - [(E)] (F) Making such other informal disposition as may be suitable.

(b) If the intake officer believes it desirable, such officer may take action to obtain the child or the written promise of a parent, guardian, or legal custodian to take the child to the court or other designated agency as in section 571-31(c). The failure of a parent, guardian, or other legal custodian to produce the child in court or at the other designated agency as required by an authorized notice may be pursued as provided in section 571-31(d).

(c) For cases diverted under subsection (a)(3)(A), intake officers shall compile reports at least monthly enumerating the aggregate number of cases diverted and the types of alleged offenses precipitating the referral of the child to the court. These reports shall be submitted to the administrator of the juvenile client services branch in each judicial circuit, who shall compile the reports into an annual report for each judicial circuit, to be submitted to the board of family court judges and the Hawaii juvenile justice state advisory council.

SECTION 10. Section 571-31.4, Hawaii Revised Statutes, is amended to read as follows:

**"§571-31.4 Informal adjustment, law violators.** (a) When a child reasonably believed to come within section 571-11(1) is referred to the court or other designated agency, and is not diverted from processing, informal adjustment

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may be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish *prima facie jurisdiction* and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding.

(b) The deputy chief court administrators of each circuit shall together establish a framework that includes the criteria probation officers shall use to guide the exercise of discretion in providing informal adjustment.

[{(b)}] (c) Informal adjustment under this section may include, among other suitable methods, programs, and procedures, the following:

- (1) Participation in restitution projects to obtain appropriate victim satisfaction;
- (2) Participation in community service projects so as to establish the child's self value in the community;
- (3) Participation in community-based programs which work with the child and family to maintain and strengthen the family unit so that the child may be retained in the child's own home;
- (4) Submission to neighborhood courts or panels upon procedures to be established by the court. As used in this paragraph "neighborhood courts or panels" are community organizations designed to settle minor disputes between parties on a voluntary basis using mediation or nonbinding arbitration;
- (5) Participation in programs to support, counsel, or provide work and recreational opportunities to help prevent delinquency;
- (6) Participation in educational programs or supportive services designed to help delinquents and to encourage other youths to remain in elementary and secondary schools or in alternative learning situations;
- (7) Participation in youth-initiated programs and outreach programs designed to assist youth and families;
- (8) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling and therapy;
- (9) Placement with nonsecure or secure shelter facilities;
- (10) Restitution providing for monetary payment by the parents of the child; or
- (11) Participation in a restorative justice program where the child and the child's parents or guardian, and other supporters of the child, may meet with the victim harmed by the child's law violation and the victim's supporters.

[{(e)}] (d) Informal adjustment projects, programs, and services may be provided through public agencies or private agencies.

[{(f)}] (e) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.

(f) Intake officers shall compile annual reports that include the number and per cent of referrals informally adjusted, and the number and per cent of children informally adjusted who avoided further system processing. The administrator of the juvenile client services branch in each judicial circuit shall compile the annual reports from the probation intake sections into a single annual report for each judicial circuit and shall submit the final report to the board of family court judges and the Hawaii juvenile justice state advisory council.”

SECTION 11. Section 571-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When a child reasonably believed to come within section 571-11(2) is referred to the court or other designated agency, informal adjustment [may] shall be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding. Informal adjustment under this section may include, among other suitable methods, programs, and procedures, listed in section [571-31.4(b),] 571-31.4(c), except section [571-31.4(b)(1),] 571-31.4(c)(1), and provided that placement with shelter facilities under section [571-31.4(b)(9)] 571-31.4(c)(9) shall be on a non-secure basis unless the child is processed under subsection (b) [of this section].”

SECTION 12. Section 571-31.6, Hawaii Revised Statutes, is amended to read as follows:

**“§571-31.6 Informal adjustment, minor who may be both law violator and status offender.** When a child is reasonably believed to come within section 571-11(1) and (2), the intake officer may exercise discretion to process informal adjustment under section 571-31.4 [or 571-31.5]. In making that determination, the officer shall be guided by the criteria set out in section 571-31.1(c)(1) to (5) [,] and the criteria in the framework established pursuant to section 571-31.4(b), taking into account the availability of suitable method, program, or procedure for the child.”

SECTION 13. Section 571-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) In the disposition part of the hearing any relevant and material information, including [that] information contained in a written report, study, or examination, and the results of a risk and needs assessment of the child conducted pursuant to section 571-45, shall be admissible, and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination shall be subject to both direct and cross-examination upon demand and when the maker is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to the child as to disputed issues of fact shall be based upon a preponderance of such evidence.”

SECTION 14. Section 571-45, Hawaii Revised Statutes, is amended to read as follows:

**“§571-45 [Investigation] Assessment and investigation prior to disposition[-]; suspension of delinquency proceedings; denial of services reporting.** (a) Prior to disposition, the court shall conduct a risk and needs assessment, using the tool procured and validated pursuant to section 571-5, for each child concerning whom a petition has been filed pursuant to section 571-11(1) and (2).

(b) [Except where the requirement is waived by the judge] In addition to the risk and needs assessment, a social study and a report in writing shall be made in the case of a [minor] child concerning whom a petition has been filed under section 571-11(1) and (2)[,] except where the judge waives the requirement to make a social study and a report in writing. The study shall be initiated upon the filing of a petition except in petitions filed under section 571-11(1) when it is ascertained that the [minor] child denies the allegations set forth in the petition.

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In such case the study shall proceed only after the court after hearing has made a finding as to the allegations of the petition.

Except where the requirement is waived by the judge, social studies shall also be made in proceedings to decide disputed or undetermined legal custody and in custody disputes arising out of a divorce action. In all other awards of custody arising out of a divorce action, including those where an agreement with respect to custody has been made by the parties, and in any other case or class of cases, the judge may order a social study when the judge has reason to believe such action is necessary to assure adequate protection of the [minor] child or of any other person involved in the case. By special order of the judge or by rule of court a social study may be required in support cases covering financial ability and other matters pertinent to making an order of support. The use of such studies in custody and support hearings shall be subject to the applicable provisions of section 571-41.

(c) [Social] The results of the risk and needs assessment and any social studies required by this section shall be presented to and considered by the judge prior to making disposition[-] pursuant to section 571-41(d).

The judge may order and use a presentence investigation with respect to any criminal action under the jurisdiction of the court in accordance with the existing provisions of the law with respect to the making and use of such studies.

(d) If the results of the risk and needs assessment indicate a substance abuse or mental health need, the probation officer shall immediately refer the child to the department of health for an eligibility determination.

(e) The court, upon the motion of the child or on its own motion, may order the suspension of the delinquency proceedings, prior to adjudication, for a period of up to one year to obtain substance abuse or mental health treatment if the court finds:

- (1) The child presently needs and is likely to benefit from treatment; and
- (2) The suspension of the delinquency proceedings will advance the interests of justice.

No later than one month before the end of the period of suspension of the delinquency proceedings, the treatment provider shall submit a report on whether the child has completed the treatment program.

If the court, on the motion of the child or on its own motion, finds that the child has successfully completed the treatment program, the court may dismiss the suspended delinquency proceedings. If the court does not find that the child has satisfactorily completed treatment, the court may terminate the suspension and proceed with the case.

(f) A probation officer referring a child to the department of health under this section shall report any subsequent denial of services to the administrator of the juvenile client services branch in each judicial circuit. The administrators of the juvenile client services branch shall submit an annual report compiling all such denials to the board of family court judges and the Hawaii juvenile justice state advisory council."

SECTION 15. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

**"§571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected.** When a [minor] child is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its juris-

dition over the [minor.] child. Upon the decree the court, by order duly entered, shall proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
  - (A) The court may place the child on probation:
    - (i) In the child's own home; or
    - (ii) In the custody of a suitable person or facility elsewhere, upon conditions determined by the court.

An order by the court placing a child on probation under this subparagraph shall include a definite term of probation stated in months or years, subject to extension or modification by the court pursuant to section 571-50. When conditions of probation include custody in a youth correctional facility, the custody shall be for a term not to exceed one year, after which time the [person] child shall be allowed to reside in the community subject to additional conditions as may be imposed by the court;
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution[, in]:
    - (i) In a Hawaii youth correctional facility[, in] if the child has been adjudicated for a felony-level offense or a violation or revocation of probation, or is committed to the facility from juvenile drug court or girls court on a court order. For a child eligible for placement in a Hawaii youth correctional facility, the court shall enter a finding of fact in the record stating the reasons the child is a public safety risk warranting placement in the correctional facility. No such finding of fact shall be required if the child is adjudicated for a felony against a person or a sex offense;
    - (ii) In a local public agency or institution[, or in];
    - (iii) In any private institution or agency authorized by the court to care for children; or [~~place the child in~~]
    - (iv) In a private home.

If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other appropriate department; [~~or~~]
  - (C) The court may place a child on administrative monitoring, as defined in section 571-2, pending completion of conditions as may be imposed by the court, to preempt the need for disposition to a full probation term, and to afford the child the opportunity to demonstrate behavior adjustments. Upon completion of the court-ordered conditions, the court shall discharge the child pursuant to section 571-50. If a child fails to complete the court-ordered conditions, the court may extend or modify the order pursuant to section 571-50, or dispose the child to probation status under paragraph (1)(A); or
  - (D) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine;
- (2) As to a child adjudicated under section 571-11(2):
  - (A) The court may place the child under protective supervision, as hereinabove defined, in the child's own home, or in the custody

- of a suitable person or agency elsewhere, upon conditions determined by the court; or
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other appropriate department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators;
- (3) An order vesting legal custody of a minor in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court, after notice to the parties, may conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court;
- (4) Whenever the court commits a child to the care of the director of human services or executive director of the office of youth services, or vests legal custody of a child in an institution or agency, it shall transmit with the order copies of the clinical reports, social study, results of the risk and needs assessment conducted by the court, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized in this chapter and under chapter 352;
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law;
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child;
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who

- are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. The court may also make appropriate orders concerning the parents or other persons having custody of the child and who are parties to the proceeding. If such persons fail to comply with the requirement or with the court order, the court may proceed against them for contempt of court;
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other;
  - (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time;
  - (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law;
  - (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service;
  - (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service; and
  - (13) The court may order the parents of an adjudicated [minor] child to make restitution of money or services to any victim, person, or party who has incurred a loss or damages as a result of the child's action."

**SECTION 16.** (a) There is established a juvenile justice oversight advisory council, deemed to be temporary and for a special purpose. The purpose of the advisory council is to oversee implementation and issue necessary reports to carry out the juvenile justice reforms in this Act.

- (b) The duties of the advisory council are as follows:
- (1) To review, evaluate, and make recommendations regarding the implementation of the reforms in this Act;
- (2) To develop a uniform process for establishing and reviewing performance and outcome standards for the office of youth services and the family court division of the judiciary, as well as other interrelated agencies. The uniform process shall include the performance and outcome measures for each agency that shall be reviewed annually, the deadlines and format for the submission of the performance and outcome measures, and the entity to which the measures shall be reported;
- (3) To review data and information submitted to the advisory council and submit annual reports to the executive, legislative, and judicial branches for the term the advisory council is in existence, evaluating implementation of the reforms in this Act and juvenile justice system effectiveness; and
- (4) To review current eligibility requirements for mental health services for youth, with a focus on expanding access to services to ensure that youth determined to be at-risk and with a need for mental health services receive those services in a more comprehensive and timely

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manner, through the department of health or its contracted mental health providers, collaborating and consulting with any relevant agency, and submit a report no later than twenty days prior to the convening of the 2016 regular session to the executive, legislative, and judicial branches, including the current eligibility requirements, recent changes to eligibility requirements, and recommendations for further changes to the eligibility requirements.

- (c) The advisory council shall be composed of seventeen members to be selected as follows, without regard to section 26-34, Hawaii Revised Statutes:
- (1) One member from the executive branch, appointed by the governor;
  - (2) One member from the house of representatives, appointed by the speaker of the house of representatives, or designee;
  - (3) One member from the senate, appointed by the president of the senate, or designee;
  - (4) One member from the judiciary, appointed by the chief justice of the supreme court, or designee;
  - (5) Four members to represent each of the four judicial circuits defined in section 603-1, Hawaii Revised Statutes, appointed by the chief justice of the supreme court, or designee;
  - (6) The executive director of the office of youth services;
  - (7) Two members from the child and adolescent mental health division of the department of health, appointed by the director of health;
  - (8) Two members from the department of education, appointed by the superintendent of education;
  - (9) One member from the department of human services, appointed by the director of human services;
  - (10) One juvenile justice stakeholder from the advocacy community, appointed by the executive director of the office of youth services;
  - (11) One juvenile crime victim advocate, selected from a list submitted by the victim-witness coordinators, and appointed by the governor; and
  - (12) One member from a law enforcement agency or a county prosecutor's office, appointed by the governor.

The advisory council shall meet within ninety days after appointment and organize itself by electing one of its members as chair and such other officers as the advisory council may consider necessary. Thereafter, the advisory council shall meet at least quarterly and at the call of the chair or by a majority of the members. The advisory council shall provide teleconferencing or video-conferencing capabilities for members to attend meetings remotely. A quorum shall consist of eight members.

(d) The advisory council shall receive copies of all data, reports, performance measures, and other evaluative materials submitted to any agency or branch of government under this Act and may request further data analysis or information from youth-serving agencies to carry out its duties. The advisory council may also request recidivism data from the attorney general.

(e) The judiciary shall provide staff support to the advisory council, at the request of the advisory council. The members shall serve without compensation.

(f) The advisory council shall cease to exist on the last day of the regular session of 2016, unless the advisory council is extended by concurrent resolution of the legislature.

**SECTION 17.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,260,500 or so much thereof as may be necessary

for fiscal year 2014-2015 for the necessary costs and expenses incurred in carrying out the purposes of this Act.

The sum appropriated shall be expended by the office of youth services for the purposes of this Act.

**SECTION 18.** This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Hawaii State Constitution or Article I, section 10, of the United States Constitution.

**SECTION 19.** In codifying the new sections added by section 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 20.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 21.** This Act shall take effect on July 1, 2014, and apply to delinquent behavior committed on or after that date; provided that:

- (1) Section 15 shall take effect on October 1, 2014, and apply to delinquent behavior committed on or after that date; and
- (2) Sections 3 and 14 shall take effect on November 1, 2014, and apply to delinquent behavior committed on or after that date.

(Approved July 2, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 202**

H.B. NO. 2116

A Bill for an Act Relating to Sentencing for Juvenile Offenders.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature acknowledges and recognizes that children are constitutionally different from adults and that these differences must be taken into account when children are sentenced for adult crimes. As stated by the United States Supreme Court in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), "only a relatively small proportion of adolescents who engage in illegal activity develop entrenched patterns of problem behavior, and developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds, for example, in parts of the brain involved in behavior control." Children are more vulnerable to negative influences and outside pressures, including from family and peers, they have limited control over their own environment, and they may lack the ability to extricate themselves from horrific, crime-producing settings. The Supreme Court has emphasized through its decisions in *Roper v. Simmons*, 125 S. Ct. 1183 (2005), *Graham v. Florida*, 130 S. Ct. 2011 (2010), and *Miller v. Alabama* that "the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes." Youthfulness both lessens a juvenile's moral culpability and enhances the prospect that, as the youth

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matures into an adult and neurological development occurs, the individual can become a contributing member of society.

The legislature further acknowledges that the United States is the only nation in the world that allows children to be sentenced to life imprisonment without parole, in violation of Article 37 of the United Nations Convention on the Rights of the Child, which categorically bars the imposition of “capital punishment [or] life imprisonment without the possibility of release . . . for offenses committed by persons below eighteen years of age.”

Therefore, the purpose of this Act is to abolish life imprisonment without the possibility of parole as a sentencing option for those convicted for offenses committed while under the age of eighteen.

SECTION 2. Section 706-656, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Persons eighteen years of age or over at the time of the offense who are convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment without the possibility of parole.”

As part of such sentence, the court shall order the director of public safety and the Hawaii paroling authority to prepare an application for the governor to commute the sentence to life imprisonment with parole at the end of twenty years of imprisonment; provided that persons who are repeat offenders under section 706-606.5 shall serve at least the applicable mandatory minimum term of imprisonment.

“Persons under the age of eighteen years at the time of the offense who are convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment with the possibility of parole.”

SECTION 3. Section 706-657, Hawaii Revised Statutes, is amended to read as follows:

**“§706-657 Enhanced sentence for second degree murder.** The court may sentence a person who was eighteen years of age or over at the time of the offense and who has been convicted of murder in the second degree to life imprisonment without the possibility of parole under section 706-656 if the court finds that the murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity or that the person was previously convicted of the offense of murder in the first degree or murder in the second degree in this State or was previously convicted in another jurisdiction of an offense that would constitute murder in the first degree or murder in the second degree in this State. As used in this section, the phrase “especially heinous, atrocious, or cruel, manifesting exceptional depravity” means a conscienceless or pitiless crime which is unnecessarily torturous to a victim and “previously convicted” means a sentence imposed at the same time or a sentence previously imposed which has not been set aside, reversed, or vacated.

Hearings to determine the grounds for imposing an enhanced sentence for second degree murder may be initiated by the prosecutor or by the court on its own motion. The court shall not impose an enhanced term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. Subject to the provision of section 706-604, the defendant shall have the right to hear and controvert the evidence against the defendant and to offer evidence upon the issue.

The provisions pertaining to commutation in section 706-656(2), shall apply to persons sentenced pursuant to this section.”

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 6.** This Act shall take effect upon its approval, and shall apply to proceedings arising on or after its effective date and to proceedings that were begun but not concluded before its effective date.

(Approved July 2, 2014.)

## ACT 203

S.B. NO. 2853

A Bill for an Act Relating to Developmental Disabilities Adult Foster Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 321-11.2, Hawaii Revised Statutes, is amended to read as follows:

**“§321-11.2 Adult foster homes.** (a) The department of health is authorized to certify adult foster homes for individuals with developmental [disabilities] or intellectual disabilities requiring [such] care beyond the individual's eighteenth birthday. “Adult foster home” means a private family home providing care on a twenty-four hour basis [for] to adults with developmental or intellectual disabilities. To be certified, an adult foster home shall [have] house not more than two adults with developmental or intellectual disabilities who are unrelated to the certified caregiver at the same time[, who are unrelated to the foster family]. The director of health may waive the two-adult limit for certification of that home as an adult foster home; provided that the total number of adults with developmental or intellectual disabilities in the [certified] home shall not exceed three adults with developmental or intellectual disabilities[.] who are related or unrelated to the certified caregiver.

For the purposes of this subsection:

“Certified caregiver” means an individual who is twenty-one years of age or older, resides in an adult foster home, and has been issued by the department a valid certificate of approval to provide care, training, and supervision on a twenty-four hour basis to adults with developmental or intellectual disabilities.

“Related” means connected by legal guardianship, trusteeship, blood, marriage, or a legal relationship between the certified caregiver and the adult with developmental or intellectual disabilities.

(b) To accommodate residents of a foster boarding home for children with developmental or intellectual disabilities who reach the age of eighteen years, where the home is certified as a foster boarding home for children under section 346-17, the director of health may waive the two-adult limit for certification of that home as an adult foster home[.]; provided that:

- (1) [the] The total number of foster children with developmental or intellectual disabilities and adults with developmental or intellectual disabilities in such a dually certified home shall not exceed [five,] three; and

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(2) [no] No new adults may be admitted into the home while there are any foster children residing in the home.

This subsection shall not affect the validity of the certification of any adult foster home that is certified as a foster boarding home under section 346-17 and in existence as of the effective date of Act , Session Laws of Hawaii 2014.

(c) An existing adult foster home shall not be given dual certification if the certification as an adult foster home precedes dual certification, unless the certification as a foster boarding home under section 346-17 is for a specific child, as provided in the department of human services' administrative rules.

[~~(b)~~] (d) The rules of the department of human services adopted under authority of section 346-17, which prescribe the standards of conditions and competence of operation of child foster boarding homes shall apply to adult foster homes. Notwithstanding chapter 91, to the contrary, the rules shall be considered adopted by the department of health on July 1, 1986, for the purpose of regulating adult foster care homes and shall be valid until the department of health adopts rules pursuant to chapter 91. The department of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this section.

[~~(e)~~] (e) Rate of payment for adult foster homes is to be determined on the same basis as domiciliary care homes as provided under section 346-53."

SECTION 2. Upon this Act's approval, the revisor of statutes shall insert the number of this Act in section 321-11.2(b), Hawaii Revised Statutes, as amended by section 1.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 2014.)

## ACT 204

H.B. NO. 2037

A Bill for an Act Relating to Project Kealahou.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that despite intervention efforts, girls are at greater risk than boys for sexual abuse, running away, truancy, suicide, prostitution, and further victimization. These challenges require interventions tailored to the unique psychosocial and interpersonal characteristics of girls. Accordingly, Project Kealahou was developed in response to broad recognition among leaders and workers in Hawaii's public child-serving system that established treatment programs do not adequately address challenges encountered by adolescent girls.

The legislature further finds that Project Kealahou is a six-year, federally funded program housed within the child and adolescent mental health division of the department of health that promotes community-based, individualized, culturally and linguistically competent, family-driven, youth-guided, and evidence-based services. In addition to these standard system of care principles, Project Kealahou also emphasizes gender-responsive and trauma-informed care when serving its target population of adolescent females age eleven through twenty-one who have experienced significant trauma in their lives. Project Kealahou offers a relatively low-cost array of community-based services and sup-

port that provide cost-effective deterrents and alternatives to more expensive and disruptive out-of-home placements for youth and a range of cultural and recreational community-based group activities to help youth and their families reconnect with each other and their communities.

The legislature also finds that federal funding for Project Kealahou is phasing out by October 2014. State funding is therefore needed to continue and expand the array of services offered by Project Kealahou to at-risk youth and their families. Although services are currently offered only in limited catchment areas on the island of Oahu, ideally, these services would be expanded to include additional areas on Oahu as well as the neighbor islands.

Therefore, the purpose of this Act is to appropriate funds for Project Kealahou.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$216,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the continued funding of Project Kealahou within the child and adolescent mental health division of the department of health.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 2014.

(Approved July 2, 2014.)

## ACT 205

H.B. NO. 611

A Bill for an Act Relating to Tanning.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that many physicians and scientists now warn that the health risks associated with suntanning are greater when tanning with artificial ultraviolet light. Specifically, those health risks include but are not limited to sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system.

The legislature further finds that certain medications, cosmetics, and foods are "photosensitizing," which means that in some people, they react unfavorably with ultraviolet light to produce skin rashes or burns, and sunlamps and other artificial sources of ultraviolet light are known to intensify these effects. In light of this, the legislature further finds that it is necessary to protect and promote the public health, safety, and welfare concerning tanning with artificial ultraviolet light, especially where minors are concerned.

Accordingly, the purpose of this Act is to make it unlawful for tanning facilities and operators to allow the use of tanning beds by anyone under the age of eighteen.

**SECTION 2.** Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§321- Tanning facilities; minors; penalties.** (a) It shall be unlawful for any tanning facility owner, lessee, or operator to allow any person under the age of eighteen to use any tanning equipment.

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(b) A tanning facility owner, lessee, or operator shall post in a conspicuous place in each tanning facility that the individual owns, leases, or operates in this State, a notice developed by the director of health addressing the following:

- (1) That it is unlawful for a tanning facility owner, lessee, or operator to allow a person under the age of eighteen to use any tanning equipment;
- (2) That any tanning facility owner, lessee, or operator violating this section shall be subject to a fine;
- (3) That any individual may report a violation of this section to the individual's local law enforcement agency; and
- (4) The health risks associated with tanning.
- (c) The director of health may impose on a person who violates this section:
  - (1) For a first violation, a fine not to exceed \$250; and
  - (2) For each subsequent violation, a fine not to exceed \$500.

(d) This section shall not apply to any physician duly licensed to practice medicine who uses, in the practice of medicine, medical diagnostic and therapeutic equipment that emits ultraviolet radiation or to any person who owns tanning equipment exclusively for personal, noncommercial use.

(e) The director of health may adopt rules in accordance with chapter 91 to implement this section.

- (f) As used in this section:

“Operator” means a person designated by the tanning facility owner or tanning equipment lessee to operate or assist and instruct in the operation and use of the tanning facility or tanning equipment.

“Tanning equipment” means any device that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including but not limited to sunlamps, tanning booths, or tanning beds.

“Tanning facility” means any location, place, area, structure, or business that provides persons access to any tanning equipment, including tanning salons, health clubs, gyms, apartments, condominiums, and hotels, regardless of whether a fee is charged for access to the tanning equipment.”

**SECTION 3.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 4.** New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Approved July 2, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 206**

H.B. NO. 1796

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to:

- (1) Prohibit the use of seclusion and reduce and prevent the use of restraint in public schools;
- (2) Ensure the safety of all students and personnel in public schools and promote a positive school culture and climate;
- (3) Protect students from:
  - (A) Physical and mental abuse;
  - (B) Aversive behavioral interventions that compromise health and safety; and
  - (C) Any restraint imposed solely for purposes of discipline or convenience;
- (4) Ensure that restraint is imposed in public schools only when a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; and
- (5) Assist public schools by:
  - (A) Establishing policies and procedures to keep all students and school personnel safe, including students with the most complex and intense behavioral needs;
  - (B) Providing school personnel with the necessary tools, training, and support to ensure the safety of all students and all school personnel;
  - (C) Collecting and analyzing data on the use of restraint in schools; and
  - (D) Identifying and implementing effective evidence-based models to prevent and reduce restraint in schools.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§302A-A Use of seclusion, chemical restraint, or mechanical restraint prohibited.** The use of seclusion, chemical restraint, or mechanical restraint shall be prohibited in public schools regardless of any consent of the student, parents, or guardians.

**§302A-B Use of physical restraint limited; notification; policies and procedures; training; review.** (a) The use of physical restraint shall be prohibited in public schools unless a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; provided that other less intrusive interventions have failed or been determined to be inappropriate for the student.

(b) No physical restraint may be imposed that is life threatening, including physical restraint that may restrict breathing.

(c) The board shall establish a policy regarding the use of restraint in public schools. The department shall establish procedures to be followed after each incident involving the imposition of restraint upon a student, including procedures to provide to the parent or legal guardian of the student:

(1) An immediate verbal or electronic communication on the same day as each incident; and

(2) Written notification within twenty-four hours of each incident.

(d) All parents and legal guardians of students shall receive, upon the student's entry into public school, written information issued by the department about policies and procedures for restraint. This written information shall include:

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- (1) A brief summary describing the training received by public school staff in using restraint in facilities or programs;
  - (2) Information describing board policy;
  - (3) Information on the procedures for determining when restraint can and cannot be properly used in public school settings;
  - (4) Definitions of restraint;
  - (5) Information on the procedural safeguards that are in place to protect the rights of children and their parents or legal guardians;
  - (6) A description of the alignment of policies and procedures on restraint with applicable state laws or department rules;
  - (7) Information on the procedures for notifying parents and legal guardians when restraint has been used with their child; and
  - (8) Information on the procedures for notifying parents and legal guardians about any changes to policies and procedures on restraint.
- (e) The department shall make information relating to policies and procedures available on the department's website.
- (f) If policy or procedural changes related to restraint are made during the school year, the department shall post the changes on its website immediately.
- (g) All public schools shall ensure that staff who use restraint in facilities or programs are trained, recertified, or trained and recertified on a periodic basis no less frequently than annually. Training shall include:
- (1) Evidence-based techniques shown to be effective in the prevention of restraint;
  - (2) Evidence-based techniques shown to be effective in keeping school personnel and students safe when imposing restraint;
  - (3) Evidence-based skills related to positive behavioral supports and interventions, safe physical escort, conflict prevention, understanding antecedents, de-escalation, and conflict management;
  - (4) A wide array of prevention and intervention modalities; and
  - (5) Information describing state policies and procedures that meet the minimum standards established by state statutes and administrative rules.
- (h) No less than annually, there shall be a review of data on students at each public school who were restrained, which shall be conducted as directed by each complex area superintendent. The review shall determine whether:
- (1) There are strategies in place to address the students with dangerous behaviors at issue;
  - (2) The strategies in place are effective in increasing appropriate behaviors of students with dangerous behaviors; and
  - (3) New strategies need to be developed or current strategies need to be revised or changed to prevent the reoccurrence of dangerous behaviors.
- Patterns and trends in the data that are identified by the review shall be reported to the department.
- (i) Each public school shall maintain records of its reviews of restraint data and any resulting decisions or actions regarding the use of restraint.
- (j) The department shall review policies and procedures on the use of restraint, including by reviewing available data on such use, outcomes, settings, individual staff involvement, and programs, and the frequency of use for student populations categorized by: individual students; groups of students; gender; race; national origin; disability status and type of disability; and limited English proficiency, for the purposes of determining:
- (1) Whether policies for restraint are being applied consistently;

- (2) The accuracy and consistency with which restraint data is being collected, as well as the extent to which this data is being used to plan behavioral interventions and staff training;
- (3) Whether policies and procedures are being implemented with fidelity;
- (4) Whether policies and procedures continue to protect students; and
- (5) Whether policies and procedures remain properly aligned with applicable state statutes and administrative rules and consistent with privacy laws.

(k) As used in this section:

**“Behavior intervention plan”** means a proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral supports and interventions.

**“Chemical restraint”** means a drug or medication used on a student to control behavior or restrict freedom of movement; provided that the term does not include a drug or medication that is:

- (1) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under state law, for the standard treatment of a student’s medical or psychiatric condition; and
- (2) Administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional’s authority under state law.

**“Emergency situation”** means a student’s behavior that poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists.

**“Mechanical restraint”** means the use of devices as a means of restricting a student’s freedom of movement or the ability to communicate in the student’s primary language or mode of communication.

**“Physical restraint”** means a personal restriction, other than a chemical or mechanical restraint, that immobilizes or reduces the ability of a student to move the student’s arms, legs, or head freely.

**“Positive behavioral supports and interventions”** means a systematic approach to embed evidence-based practices and data-driven decision making to improve public school climate and culture and includes a range of systemic and individualized strategies to reinforce desired behaviors and diminish the reoccurrence of problem behaviors in order to achieve improved academic and social outcomes and increase learning for all students, including students with the most complex and intense behavioral needs.

**“Restraint”** means:

- (1) A mechanical restraint;
- (2) A chemical restraint; or
- (3) A physical restraint.

**“Seclusion”** means the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress.”

SECTION 3. Section 302A-1141, Hawaii Revised Statutes, is amended to read as follows:

**“[§302A-1141] Punishment of pupils limited.** No physical punishment of any kind may be inflicted upon any pupil, [but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting oneself or any other person or property, and reasonable force may be used as defined in section 703-309(2) by a principal or the principal’s agent only with

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~~another teacher present and out of the presence of any other student but only for the purposes outlined in section 703-309(2)(a).] except as provided for under sections 302A-B and 703-309(2).~~

**SECTION 4.** The department of education shall submit a report to the legislature no later than twenty days prior to the convening of the regular sessions of 2015 and 2016. The report shall include:

- (1) The department of education's plan to phase in the implementation of sections 2 and 3 of this Act;
- (2) Any budgetary needs of the department of education in implementing sections 2 and 3 of this Act; and
- (3) Any proposed legislation necessary to implement sections 2 and 3 of this Act.

**SECTION 5.** The department of education shall update the senate committee on education and the house of representatives committee on education no later than twenty days prior to the convening of the regular session of 2017 on the department of education's policy and procedures on the use of restraint in public schools.

**SECTION 6.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2014-2015 to provide resources for training and data accountability to assist with the effective implementation of this Act.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

**SECTION 7.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 8.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 9.** This Act shall take effect upon its approval; provided that:

- (1) Sections 2 and 3 shall take effect on August 1, 2016; and
- (2) Section 6 shall take effect on July 1, 2014.

(Approved July 2, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 207**

**H.B. NO. 2598**

A Bill for an Act Relating to Hawaii 3R's.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Hawaii 3R's, a Hawaii nonprofit organization, brings private financing and human resources together to tackle the repair and maintenance backlog in Hawaii's public schools. The legislature finds that for more than a decade, Hawaii 3R's provided a valuable service of bringing much-needed

improvements to the public schools. Section 235-102.5(b), Hawaii Revised Statutes, enables taxpayers to elect to make donations toward the school-level minor repairs and maintenance special fund by checking off a box on tax returns. When enacted, the section was intended to facilitate funding for the repair and maintenance of Hawaii's public schools.

The purpose of this Act is to:

- (1) Rename the Hawaii 3R's school repair and maintenance fund as the Hawaii 3R's school improvement fund; and
- (2) Require the transfer of moneys collected pursuant to section 235-102.5(b), Hawaii Revised Statutes, and authorize the transfer of any other moneys received in the form of grants and donations for school-level improvement and minor repairs and maintenance to the Hawaii 3R's school improvement fund.

**SECTION 2.** Section 302A-1502.4, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**"§302A-1502.4 Hawaii 3R's school [repair and maintenance] improvement fund."**

2. By amending subsections (a) through (c) to read:

"(a) There is established the Hawaii 3R's school [repair and maintenance] improvement fund (hereinafter, "fund") as a separate restricted fund of Hawaii 3R's, a Hawaii nonprofit organization. Moneys received from the State, county, or federal government, private contributions of cash or other property, and the income and capital gains earned by the fund shall constitute its assets.

(b) Hawaii 3R's shall expend moneys from the fund in the form of either grants to organizations or contracts with private vendors for the [repair and maintenance] improvement of public schools and benefit of students in Hawaii in accordance with this section.

(c) The fund may receive contributions, grants, endowments, or gifts in cash or otherwise from all sources, including corporations or other businesses, foundations, government, individuals, and other interested parties. The fund shall also receive moneys transferred to it from the school-level minor repairs and maintenance special fund established under section 302A-1504.5. The legislature intends that public and private sectors review and investigate all potential funding sources. The State may appropriate moneys to the fund; provided that any appropriations made by the State are not intended to supplant the funding of any existing [school-level minor repairs and maintenance] programs."

3. By amending subsection (e) to read:

"(e) The fund shall not be placed in the state treasury, and [the State shall not administer the fund, nor shall] the State shall not be liable for the operation or solvency of the fund or Hawaii 3R's."

**SECTION 3.** Section 302A-1504.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established within the state treasury a special fund to be known as the school-level minor repairs and maintenance special fund, into which shall be deposited all moneys collected pursuant to section 235-102.5(b), and any other moneys received by the department in the form of grants and donations for school-level improvements and minor repairs and maintenance. The special fund shall be administered by the department and used to fund school-level minor repairs and maintenance. The department shall transfer moneys collected pursuant to section 235-102.5(b), and may transfer any other moneys

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received in the form of grants and donations for school-level improvements and minor repairs and maintenance to the Hawaii 3R's school improvement fund established pursuant to section 302A-1502.4."

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved July 2, 2014.)

## **ACT 208**

**H.B. NO. 1814**

A Bill for an Act Relating to Payment of Wages.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the intent of chapter 388, Hawaii Revised Statutes (chapter 388), is to protect the payment of workers' wages and other compensation, encourage employers to pay wages promptly, and reduce workers' economic losses. Chapter 388 only addresses payment methods of cash or check convertible to cash but does not specify payment methods through direct deposits or pay cards.

The legislature further finds that the department of labor and industrial relations has long recognized the voluntary use of direct deposits as a method that satisfies the payment of wages. According to the Hawaii Bankers Association, approximately eighty-five per cent of all employees in Hawaii are paid by direct deposit.

The legislature additionally finds that there is an increasing number of employers in Hawaii who pay their employees through a pay card. According to the Hawaii Bankers Association, approximately fourteen thousand employees in Hawaii receive their wages through this method of payment.

The legislature also finds that numerous concerns have been raised throughout the nation over the use of pay cards. To address these concerns, certain worker protections are needed for the use of pay cards in Hawaii. These protections will ensure that employers retain the option to pay their employees by pay card or direct deposit and will also ensure that employees are able to authorize, after full disclosure, the payment of their wages through pay cards and are fully informed about the use of a pay card, such as options for receiving wages; information about pay card fees; and what free services the pay card provides, including the ability to access the employee's funds from the pay card.

The purpose of this Act is to modernize chapter 388 to:

- (1) Authorize employers to pay wages to an employee using a pay card if certain requirements are met;
- (2) Reflect direct deposit as a current practice in the payment of wages under certain conditions;
- (3) Hold an employer responsible for any fees incurred if an employer has insufficient funds in the employer's bank account for an electronic transfer of the employee's wages; and
- (4) Ensure protection of the payment of workers' earned wages.

**SECTION 2.** Chapter 388, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§388- Payment of wages by pay cards.** (a) Notwithstanding section 388-2, an employer shall not pay wages due to the employer's employees by use of a pay card unless the following requirements are satisfied:

- (1) The employee shall be given the option of receiving the employee's wages by direct deposit to a depository account of the employee's choosing, receiving payment by paper check, or receiving payment by pay card before the employee selects direct deposit, pay card, or paper check;
- (2) The employer shall not mandate an employee's use of a pay card;
- (3) The employer shall not make participation in the pay card program a condition of hire or continued employment;
- (4) The employee shall voluntarily authorize the payment of wages using a pay card in writing or via electronic signature, without intimidation, coercion, or fear of discharge or reprisal for refusal to accept the pay card or pay card account;
- (5) Prior to obtaining the employee's consent, the employer shall provide the employee in writing, in plain language in at least ten-point font:
  - (A) A description of the employee's options for receiving wages;
  - (B) The pay card fee schedule in a form that the employee may retain for the employee's records stating the dollar amount of all fees;
  - (C) A notice that states whether third parties may assess additional fees relating to the use of the pay card; and
  - (D) A list of the services available to the employee pursuant to paragraph (8);
- (6) The employer shall be responsible for fees that have been assessed against the employee outside the pay card fee schedule;
- (7) The employer shall agree to honor a written request by the employee to change the method of receiving wages from a pay card to another method offered by the employer within two pay periods from the time of the request;
- (8) The pay card shall provide for all of the following, at no cost to the employee:
  - (A) A pay card on which the employee may receive wages, with no charges for the application, initiation, transfer, loading of wages by the employer, privilege of participation, or distribution or delivery of the initial pay card;
  - (B) The ability during each pay period for the employee to make at least three free withdrawals from the pay card, at least one of which permits withdrawal of the full amount of the employee's net wages on the card at a federally insured depository institution or at that institution's affiliated automated teller machines;
  - (C) The means to access the balance or other account information online and via telephone offered in conjunction with the pay card in a manner that allows access to account information twenty-four hours a day, seven days a week without charging a fee;
  - (D) A readily accessible electronic history of the employee's account transactions covering at least sixty days preceding the date the employee electronically accesses the account;

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- (E) Upon oral or written request or via electronic signature by the employee, a written history of the account transactions covering at least sixty days prior to the employee's request;
- (F) No pay card shall assess an overdraft fee or charge pursuant to the pay card issuer's overdraft service against an employee or the employee's account; and
- (G) The ability to close a pay card account and obtain payment of the balance remaining on the card;
- (9) The pay card shall not impose fees based on an employee's account balance;
- (10) The employer shall ensure that the pay card account provides one free replacement pay card per year at no cost to the employee at least fifteen days before the pay card's expiration date; provided that the replacement pay card need not be issued if the pay card has been inactive for a period of not less than twelve months or the employee is no longer employed by the employer;
- (11) Pooled pay card accounts shall be permitted; provided that each subaccount shall be for the sole and exclusive benefit of the named employee, and not subject to the claims of the employer's creditors; provided further that each employee's pay card account shall be eligible for deposit insurance on a pass through basis, including:
  - (A) The account records of the federally insured depository institution shall disclose the existence of the agency or custodial relationship;
  - (B) The records of the federally insured depository institution, custodian, or other party shall disclose the identities of the employee cardholders who actually own the deposits and the amounts owned by each employee cardholder; and
  - (C) The funds in the account shall be owned by the individual employee cardholders under an agreement among the parties or pursuant to applicable law and shall not be used by the employer's creditor; and
- (12) The funds in the pay card account shall not expire. The pay card account may be closed after six continuous months of inactivity, with reasonable notice to the employee; provided that the remaining funds in the pay card account shall be refunded to the employee at no cost to the employee.
  - (b) An employer shall deposit all wages owed to an employee, who has elected in writing or via electronic signature to receive the employee's wages through a pay card, into the employee's pay card account on or before the employee's designated payday. The employee shall be deemed to have been paid wages owed at the time the wages are deposited into the employee's pay card account and the employee has access to those wages. If there is any delay of an employee's access to wages due to an error by the issuer, the employer shall not be held liable for this delay; provided that the employer deposited the proper amount of wages into the account on or before the designated payday and the employer is in compliance with subsection (a).
  - (c) An employer shall be liable for any wages due and not timely paid onto a pay card pursuant to subsection (b).
  - (d) The employer shall provide twenty-one days prior written notice to any change to the pay card program taking effect. The written notice shall state in plain language in at least ten-point font any change to any of the terms and conditions of the pay card account, including any changes in the itemized list of fees.

(e) The employer shall comply with all applicable recordkeeping requirements under this chapter and section 387-6.

(f) The employer's obligation under this section shall cease sixty days after the employer-employee relationship ends and the employee has been paid the employee's final wages."

SECTION 3. Section 388-1, Hawaii Revised Statutes, is amended by adding five new definitions to be appropriately inserted and to read as follows:

"Electronic transfer" means any transfer of funds, other than transactions originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal or computer so as to order, instruct, or authorize a federally insured depository institution to debit or credit an account. "Electronic transfer" includes but is not limited to point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by a telephone conversation.

"Issuer" means the pay card issuer authorized to accept deposits and whose deposits are federally insured, and includes a person acting as a direct or indirect agent or administrator of an issuer.

"Pay card" means a prepaid debit card distributed to an employee by an employer, or by another entity by arrangement with the employer, through which the employer provides the employee access to the employee's wages and is:

- (1) Issued by a federally insured depository institution authorized to accept deposits; and
- (2) Used by an employee to access wages from a pay card account and is redeemable at multiple unaffiliated merchants or service providers or automated teller machines.

"Pay card account" means an account that is directly or indirectly established by an employer and to which transfers of the employee's wages are made.

"Pay card fee schedule" means a written list of fees that may be charged to an employee by an issuer in connection with a pay card account or an explanation of how the fees will be determined."

SECTION 4. Section 388-2, Hawaii Revised Statutes, is amended to read as follows:

**§388-2 Semimonthly payday[-]; method of payment of wages.** (a) Every employer shall pay all wages due to the employer's employees at least twice during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States [or], with checks convertible into cash on demand at full face value thereof[;], by direct deposit to the employee's account at a federally insured depository institution as provided in subsection (d), or by other means as provided in section 388- ; provided that when a majority of an employer's employees or a majority of the employees in a collective bargaining unit recognized by an employer or established by law elect, in a secret ballot election under procedures approved by the director of labor and industrial relations, to be paid once a month on a regularly scheduled basis, the employees shall be paid on such monthly basis. The elections shall not be held more frequently than once in every two years and each election shall be valid for a period of two years.

(b) The earned wages of all employees shall be due and payable within seven days after the end of each pay period.

(c) The director may, upon application showing good and sufficient reasons, permit an employer to:

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- (1) Establish regular paydays less frequently than semimonthly; provided that the employee shall be paid in full at least once each calendar month on a regularly established schedule; or
- (2) Pay earned wages within fifteen days after the end of each pay period.
- (d) An employer may pay wages due to the employer's employees by direct deposit to the employee's account at a financial institution; provided that:
  - (1) The employee has voluntarily authorized, in writing or via electronic signature, the direct deposit to the account and financial institution of the employee's choice;
  - (2) The deposits and accounts of the financial institution selected are insured by the Federal Deposit Insurance Corporation or any other comparable federal or state agency;
  - (3) The employee may cancel the direct deposit at any time with reasonable notice;
  - (4) The employer shall provide a pay statement as required under section 388-7(4);
  - (5) No employee shall be required to pay any costs or fees for the direct deposit of wages into the employee's account; and
  - (6) No employee may be disciplined or otherwise penalized for authorizing or refusing to authorize the direct deposit of wages."

SECTION 5. Section 388-5.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§388-5.5] Payment of wages by check[-] or electronic transfer.** Whenever an employee receives the employee's wages from the employee's employer in the form of a check or electronic transfer for which insufficient amounts are available in the bank account of the employer, the employer shall be liable for any bank's special handling fee which the employee may incur by reason of negotiating the check[-] or the electronic transfer."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 2014; provided that:

- (1) Section 2 shall take effect with the payroll period beginning on September 1, 2014; and
- (2) Sections 4 and 5 shall take effect upon approval.

(Approved July 2, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 209

S.B. NO. 2472

A Bill for an Act Relating to Occupational Therapy Practice.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that occupational therapists treat patients with injuries, illnesses, or disabilities through the therapeutic use of every-

day life activities. Occupational therapy assistants assist occupational therapists in providing occupational therapy.

Although the regulation of occupational therapy practice is codified in chapter 457G, Hawaii Revised Statutes, the law is incomplete in relation to certain aspects of the profession, and does not require the licensure of occupational therapists or occupational therapy assistants. The legislature notes that Hawaii is the last state in the country to license occupational therapists and one of the last three states to license occupational therapy assistants.

The legislature further finds that occupational therapists and occupational therapy assistants should be licensed in Hawaii to protect public health, safety, and the welfare of the patients served by occupational therapists and occupational therapy assistants. Requiring the licensure of occupational therapists and occupational therapy assistants will ensure that qualified occupational therapists and occupational therapy assistants provide occupational therapy services in Hawaii and will enable insurers to meet payer requirements, as some insurers require occupational therapy to be provided by licensed individuals.

The purpose of this Act is to improve the regulation of occupational therapists and occupational therapy assistants by establishing an occupational therapy program and licensing requirements for occupational therapists and occupational therapy assistants, including provisions relating to the qualifications, licensure practice of occupational therapy, supervision of occupational therapy assistants, exemptions, powers and duties of the director of commerce and consumer affairs, licensure renewal, restoration, penalty, and revocation or suspension of licenses.

Accordingly, this Act provides that, effective with the renewal period beginning December 31, 2014, each occupational therapist registration shall be converted to an occupational therapist license. To effectuate a seamless conversion, current occupational therapist registrants will be grandfathered and issued an occupational therapist license upon renewal.

In addition, the Act provides that, effective January 1, 2017, except as otherwise provided, no person shall practice as an occupational therapy assistant or represent the person's self as being able to practice as an occupational therapy assistant in the State without possessing a valid license issued by the director of commerce and consumer affairs in accordance with this Act.

SECTION 2. Chapter 457G, Hawaii Revised Statutes, is amended by adding eight new sections to be appropriately designated and to read as follows:

**“§457G-A Occupational therapy program.** There is established an occupational therapy program within the department to be administered by the director.

**§457G-B Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the powers and duties to:

- (1) Grant, deny, renew, refuse to renew, restore, terminate, reinstate, condition, restrict, suspend, or revoke a license issued pursuant to this chapter;
- (2) Grant permission to a person to practice occupational therapy and to use the title of “licensed occupational therapist” or a description indicating that the person is a licensed occupational therapist in this State;
- (3) Grant permission to a person to practice as an occupational therapy assistant and to use the title “licensed occupational therapy assis-

- tant" or a description indicating that the person is a licensed occupational therapy assistant in this State;
- (4) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out the purposes of this chapter;
  - (5) Administer, coordinate, and enforce this chapter;
  - (6) Discipline a licensed occupational therapist or licensed occupational therapy assistant on grounds specified by this chapter or chapter 436B or for any violation of rules adopted by the director pursuant to this chapter;
  - (7) Refuse to license a person for failure to meet the licensing requirements in this chapter or for any reason specified by this chapter as grounds to discipline an occupational therapist or occupational therapy assistant; and
  - (8) Appoint an advisory committee composed of practicing occupational therapists and occupational therapy assistants to assist with the implementation of this chapter.

**§457G-C Qualifications of occupational therapy assistants.** (a) Effective January 1, 2017, occupational therapy assistants shall be licensed pursuant to this chapter.

(b) To qualify for licensure in this state, occupational therapy assistants shall have completed the educational requirements and supervised field work required for certification by the National Board for Certification in Occupational Therapy and shall have passed a national certification examination administered by the National Board for Certification in Occupational Therapy.

(c) In the case of foreign-trained persons, the applicant for an occupational therapy assistant license shall have completed the National Board for Certification in Occupational Therapy eligibility determination process for occupational therapy assistants and shall have passed a national certification examination administered by the National Board for Certification in Occupational Therapy.

**§457G-D Supervision of occupational therapy assistants; partnership with occupational therapists.** (a) An occupational therapy assistant may practice occupational therapy only under the supervision of, and in partnership with, an occupational therapist who is licensed to practice occupational therapy in the State. The occupational therapist shall be responsible for occupational therapy evaluation, appropriate reassessment, treatment planning, interventions, and discharge from occupational therapy based on standard professional guidelines. The supervising occupational therapist and the supervised occupational therapy assistant shall have legal and ethical responsibility for ongoing management of supervision, including providing, requesting, giving, or obtaining supervision.

- (b) The supervising occupational therapist shall:
- (1) Determine the frequency, level, and nature of supervision with input from the occupational therapy assistant; and
  - (2) Base the supervision determination on a variety of factors, including the clients' required level of care, treatment plan, and experience and pertinent skills of the occupational therapy assistant.
- (c) The supervising occupational therapist shall supervise the occupational therapy assistant to ensure that the occupational therapy assistant:
- (1) Does not initiate or alter a treatment program without prior evaluation by and approval of the supervising occupational therapist;
  - (2) Obtains prior approval of the supervising occupational therapist before making adjustments to a specific treatment procedure; and

- (3) Does not interpret data beyond the scope of the occupational therapy assistant's education and training.

**§457G-E Exemptions.** (a) Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be an occupational therapist or occupational therapy assistant, or claim to be performing occupational therapy, unless the person is also licensed under this chapter.

(b) Nothing in this chapter shall be construed to prohibit students in an educational program for occupational therapists or occupational therapy assistants from participating in activities that are conducted as part of the educational program and are under the guidance and supervision of a licensed occupational therapist.

(c) Nothing in this chapter shall be construed to prohibit a person licensed as an occupational therapist in another state or foreign country from practicing occupational therapy in this State if the person is part of an educational demonstration or instructional program or seminar sponsored by an educational institution, hospital, medical care program, the Occupational Therapy Association of Hawaii, or any other similar person or group, for the duration of the program or seminar and confined to the purpose of the program or seminar.

(d) Nothing in this chapter shall be construed to prohibit an occupational therapist who is practicing in the United States armed services, United States Public Health Service, or Department of Veterans Affairs pursuant to federal regulations for state licensure of health care providers from practicing as an occupational therapist; provided that if the person, while federally employed as an occupational therapist, engages in the practice of occupational therapy outside the course and scope of the person's federal employment, the person shall be required to obtain a license in accordance with this chapter.

**§457G-F Biennial renewal; failure to renew; restoration, inactive license; conversion from registration.** (a) The biennial renewal fee shall be paid to the department on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee on or before this date shall constitute a forfeiture of the license. A forfeited license may be restored upon written application within one year from the date of forfeiture and the payment of the delinquent fee plus an amount equal to fifty per cent of the delinquent fee.

(b) Upon written application by the licensee, the director may place the licensee's active license on inactive status. During the inactive period, a licensee shall not engage in the practice of occupational therapy. The license may be reactivated at any time by the licensee by submitting a written application to the director and payment of the renewal and any other applicable fees. A licensee's inactive status shall not deprive the director of the director's authority to institute or continue any disciplinary or enforcement action against the licensee.

(c) Effective with the December 31, 2014, renewal period, each active occupational therapist registration shall be converted to an active occupational therapist license by operation of law. The conversion from registration to licensure shall not:

- (1) Affect any prior discipline, limitation, or condition imposed by the director on an occupational therapist's registration;
- (2) Limit the director's authority over any registrant; or
- (3) Affect any pending investigation or administrative proceeding.

(d) Effective January 1, 2015, the director shall treat any application pending for an occupational therapist registration as an application for licensure.

sure, and the application shall be subject to the requirements established by the director in accordance with this chapter.

**§457G-G License revocation or suspension; reinstatement; probation.** (a)

In addition to any other actions authorized by law, any license issued under this chapter may be revoked or suspended by the director at any time for any cause authorized by law, including but not limited to the following:

- (1) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
  - (2) Wilfully betraying patient confidentiality;
  - (3) Making an untruthful and improbable statement in advertising one's practice or business;
  - (4) False, fraudulent, or deceptive advertising;
  - (5) Being habituated to the excessive use of drugs or alcohol or being or having been addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
  - (6) Practicing occupational therapy while the ability to practice is impaired by alcohol, drugs, or mental instability;
  - (7) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to practice occupational therapy;
  - (8) Professional misconduct, gross negligence, or manifest incapacity in the practice of occupational therapy;
  - (9) Conduct or practice contrary to recognized standards of ethics for the practice of occupational therapy in the United States; or
  - (10) Violation of this chapter, chapter 436B, or any rule or order of the director.
- (b) To reinstate a suspended license, or to grant licensure to an applicant whose license was previously revoked, the director may require further education or training or require proof of competence in performance.
- (c) In lieu of revoking or suspending a license, the director may place the licensee on probation, the terms of which may require observation of the licensee by a licensed occupational therapist.
- (d) Any licensee or applicant who violates this section may be fined not more than \$1,000 per violation in addition to any other fine or fee imposed.

**§457G-H License required.** (a) Except as specifically provided in this chapter, no person shall engage in the practice of occupational therapy or use the title "licensed occupational therapist" or "occupational therapist" without a valid license to practice occupational therapy issued pursuant to this chapter.

(b) Except as specifically provided in this chapter, no person shall engage in the practice of occupational therapy as an occupational therapist assistant or use the title "licensed occupational therapist assistant" or "occupational therapist assistant" unless:

- (1) The practice is performed under the supervision of and in partnership with a person who is an occupational therapist licensed to practice occupational therapy in the State; and
  - (2) The person possesses a valid license issued pursuant to this chapter to practice occupational therapy as an occupational therapy assistant.
- (c) Any person who violates this section shall be subject to a fine of not more than \$1,000 per violation."

SECTION 3. Section 457G-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

“Foreign-trained person” means a person who has completed an educational program or course of study in occupational therapy in an institution located outside the United States.

“Occupational therapist” means a person who engages in the practice of occupational therapy in this State.

“Occupational therapy assistant” means a person who engages in the practice of occupational therapy under the supervision of and in partnership with an occupational therapist.”

2. By repealing the definition of “occupational therapy services”.

[“Occupational therapy services” include:

- (1) The assessment of needs and provision of treatment in consultation with the individual, family, or other appropriate persons;
- (2) Interventions directed toward developing, improving, ascertaining, enhancing, or restoring:
  - (A) Daily living skills, including self care skills and activities that involve interactions with others and the environment, work readiness or work performance, play skills or leisure capacities, or educational performance skills; or
  - (B) Sensorimotor, oral-motor, perceptual, or neuromuscular functioning; or emotional, motivational, cognitive, or psychosocial components of performance;
- (3) The education of the individual, family, or other appropriate persons in carrying out appropriate interventions;
- (4) Design, development, adaptation, application, or training in the use of:
  - (A) Assistive technology devices; and
  - (B) Rehabilitative technology such as orthotic or prosthetic devices;
- (5) The application of physical agent modalities as an adjunct to, or in preparation for, purposeful activity;
- (6) The application of ergonomic principles, and the adaptation of environments and processes to enhance functional performance; and
- (7) The promotion of health and wellness.”]

SECTION 4. Section 457G-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“§457G-1.5 Practice of occupational therapy; qualifications; registration.** (a) [No person shall represent, advertise, or announce oneself, either publicly or privately, as an occupational therapist, nor use, in connection with the person’s name or place of business, the words “occupational therapist”, “certified occupational therapist”, “occupational therapist registered”, or the letters “OT”, “COT”, or “OTR”, or any other words, letters, abbreviations, or insignia indicating or implying that such person is an occupational therapist unless such person registers the person’s name and business address biennially with the department of commerce and consumer affairs in a manner established by rules adopted pursuant to chapter 91, and meets the qualifications of section 457G-2.]

(b) The department shall maintain and biennially update a list of the names and business addresses of the occupational therapists who are registered under subsection (a).

(e) Nothing in this chapter shall be construed to prohibit a registered occupational therapist from utilizing occupational therapy support personnel to assist in the practice of occupational therapy; provided that the occupational therapy support personnel shall work under the supervision of or in consultation with the registered occupational therapist.

"Occupational therapy support personnel" includes a person certified by the National Board for Certification in Occupational Therapy, and who uses the title "occupational therapy assistant" or "certified occupational therapy assistant", the letters "COTA" or "OTA", or any other titles, letters, abbreviations, or insignia indicating or implying that the person is an occupational therapy assistant.

(d) A registration granted under this chapter shall mean that the person has met requirements that include minimum practice standards to provide protection to the public and is permitted to use the title and engage in the practice as an occupational therapist. In the granting of permission to engage in this profession, and consistent with section 436B-2, the definition for "license" is inclusive of a registration issued under this chapter and, as such, an occupational therapist that holds a registration shall be similarly regarded as an occupational therapist that holds a license.] The practice of occupational therapy is the therapeutic use of everyday life activities with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. It includes:

- (1) Evaluation of factors affecting activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, including:
  - (A) Client factors, including body functions, such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors; body structures, such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement, values, beliefs, and spirituality;
  - (B) Habits, routines, roles, rituals, and behavior patterns;
  - (C) Occupational and social environments, cultural, personal, temporal, and virtual contexts and activity demands that affect performance; and
  - (D) Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication, and social skills;
- (2) Methods or approaches selected to direct the process of interventions, including:
  - (A) Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline;
  - (B) Compensation, modification, or adaptation of activity or environment to enhance performance or prevent injuries, disorders, or other conditions;
  - (C) Retention and enhancement of skills or abilities without which performance in everyday life activities would decline;
  - (D) Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities; and
  - (E) Prevention of barriers to performance and participation, including injury and disability prevention; and
- (3) Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of

daily living, rest and sleep, education, work, play, leisure, and social participation, including:

- (A) Therapeutic use of occupations, exercises, and activities;
- (B) Training in self-care, self-management, health management and maintenance, home management, community reintegration, work reintegration, school activities, and work performance;
- (C) Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions; pain tolerance and management; and behavioral skills;
- (D) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process;
- (E) Education and training of individuals, including family members, caregivers, groups, populations, and others;
- (F) Care coordination, case management, and transition services;
- (G) Consultative services to groups, programs, organizations, or communities;
- (H) Modification of environments, such as home, work, school, or community, and adaptation of processes, including the application of ergonomic principles;
- (I) Assessment, design, fabrication, application, fitting, and training in seating and positioning; assistive technology; adaptive devices; orthotic devices; and training in the use of prosthetic devices;
- (J) Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices;
- (K) Low vision rehabilitation;
- (L) Driver rehabilitation and community mobility;
- (M) Management of feeding, eating, and swallowing to enable eating and feeding performance;
- (N) Application of physical agent modalities and use of a range of specific therapeutic procedures, such as wound care management, interventions to enhance sensory-perceptual and cognitive processing, and manual therapy, to enhance performance skills; and
- (O) Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

(b) No person shall engage in the practice of occupational therapy gratuitously or for pay, offer to practice occupational therapy, offer occupational therapy, or represent, advertise, or announce, either publicly or privately, that the person is an occupational therapist, unless the person is appropriately licensed under this chapter.

(c) No person shall use, in connection with the person's name or business, the words "occupational therapist licensed", "registered occupational therapist", "licensed occupational therapist", "occupational therapist", or "doctor of occupational therapy", or the letters "OT", "OTR", "OTD", "OT/L", "OTR/L", or "OTD/L", or any other words, letters, abbreviations, or insignia indicating or implying that the person is an occupational therapist unless the person is appropriately licensed as an occupational therapist under this chapter.

(d) Effective January 1, 2017, except as otherwise provided in this chapter, no person shall engage in the practice of occupational therapy or represent

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the person's self as able to practice as an occupational therapy assistant in the State unless:

- (1) The practice is done under the supervision of and in partnership with an occupational therapist who is licensed to practice occupational therapy in the State; and
  - (2) The person possesses a valid license issued pursuant to this chapter to practice occupational therapy as an occupational therapy assistant.
- (e) No person shall use the title "occupational therapy assistant licensed", "licensed occupational therapy assistant", the letters "OTA/L" or "COTA/L", or any other words, letters, abbreviations, or insignia indicating or implying that the person is an occupational therapy assistant unless that person is appropriately licensed as an occupational therapy assistant under this chapter."

SECTION 5. Section 457G-2, Hawaii Revised Statutes, is amended to read as follows:

**"§457G-2 Qualifications of occupational therapists.** (a) [Occupational] To qualify for licensure in this state, occupational therapists shall have completed the educational requirements and supervised field work experience required for certification by the National Board for Certification in Occupational Therapy[;] and shall have passed a national certification examination administered by that association.

(b) In the case of foreign-trained persons, the applicant for an occupational therapy license shall have completed the National Board for Certification in Occupational Therapy eligibility determination process for occupational therapists and shall have passed a national certification examination administered by the National Board for Certification in Occupational Therapy."

SECTION 6. Section 457G-3, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 457G-4, Hawaii Revised Statutes, is repealed.

SECTION 8. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$70,000 or so much thereof as may be necessary for fiscal year 2014-2015 to implement an occupational therapy licensure program, including hiring of necessary personnel to assist with the implementation and continuing functions of chapter 457G, Hawaii Revised Statutes, as well as covering operating expenditures such as office supplies, postage, and other current expenses to carry out and maintain the new regulatory area within the purview of the director of commerce and consumer affairs; provided that the department of commerce and consumer affairs may employ necessary personnel without regard to chapter 76, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 9. Upon issuance of a new license and at each license renewal period, each licensee shall be assessed a surcharge of \$100 in addition to the other licensing fees. This surcharge shall cease once the amount collected from the surcharge imposed pursuant to this section is equal to the amount of the appropriation in section 8 of this Act.

SECTION 10. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect upon its approval; provided that section 8 shall take effect on July 1, 2014.

(Approved July 2, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 210**

H.B. NO. 2560

A Bill for an Act Relating to Family Child Care Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-15.35, Hawaii Revised Statutes, is amended to read as follows:

**"§46-15.35 Family child care homes; permitted use in residential areas[.] and agriculturally designated districts.** (a) For the purposes of zoning, family child care homes shall be [eonsidered]:

- (1) Considered a residential use of property and shall be a permitted use in all residentially designated zones, including but not limited to zones for single-family dwellings[.]; and
- (2) Considered a permitted use in all agriculturally designated districts; provided that the family child care home is located in a farm dwelling, notwithstanding sections 205-2 and 205-4.5.

No conditional use permit, variance, or special exception shall be required for residences used as family child care homes.

(b) For the purposes of this section, "family child care home" means a private residence, including an apartment, unit, or townhouse, as those terms are defined in section 502C-1, at which care may be provided for [three] one to no more than six children who are unrelated to the caregiver by blood, marriage, or adoption at any given time."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2014.

(Approved July 5, 2014.)

A Bill for an Act Relating to Liquor License Classes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to:

- (1) Remove the requirement that a class 14 brewpub licensee manufacture not more than thirty thousand barrels of malt beverages on the licensee's premises during the license year;
- (2) Prohibit brewpub and small craft producer pub licensees from selling intoxicating liquor purchased from a class 1 manufacturer licensee for consumption on the premises;
- (3) Amend the requirement that a class 16 winery licensee manufacture not more than twenty thousand, instead of ten thousand, barrels of wine on the licensee's premises during the license year;
- (4) Establish a new class 18 liquor license class for small craft producer pubs; and
- (5) Make conforming amendments relating to liquor license classes.

**SECTION 2.** Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of "retail licensee" to read as follows:

"Retail licensee" means any licensee holding a class 2, [or] class 4 through class 16, or class 18 license."

**SECTION 3.** Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

**“§281-31 Licenses, classes.** (a) Licenses may be granted by the liquor commission as provided in this section.

(b) Class 1. Manufacturer license. A license for the manufacture of liquor shall authorize the licensee to:

- (1) Manufacture the liquor therein specified;
- (2) Sell it in original packages to any wholesaler who holds a license to resell it; and
- (3) Sell beer, wine, or other specified liquor manufactured or distilled on the licensee's premises from fruits or other products grown in the State, in any quantity:
  - (A) At wholesale in original packages to any person who holds a license to resell it; and
  - (B) To any person for private use and consumption.

Under this license, no liquor shall be consumed on the premises, except as authorized by the commission. Of this class, there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Alcohol; and
- (4) Other specified liquor.

It shall be unlawful for any holder of a manufacturer license to have any interest whatsoever in the license or licensed premises of any other licensee. This subsection shall not prevent the holder of a manufacturer license under this chapter or under the law of another jurisdiction from maintaining any interest in the license or licensed premises of a wholesale dealer licensee under this chapter.

- (c) Class 2. Restaurant license.

- (1) A license under this class shall authorize the licensee to sell liquor specified in this subsection for consumption on the premises; provided that a restaurant licensee, with commission approval, may provide off-premises catering of food and liquor; provided further that the catering activity shall be directly related to the licensee's operation as a restaurant. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishment shall be as follows:
  - (A) A standard bar; or
  - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.
- (2) If a licensee under class 2 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.
- (3) Of this class, there shall be the following kinds:
  - (A) General (includes all liquor except alcohol);
  - (B) Beer and wine; and
  - (C) Beer.

Notwithstanding section 281-57, the commission may approve at one public hearing and without notice the change to a class 2 restaurant license of a licensee holding a class 5 dispenser license who meets the requirements of a class 2 license.

(d) Class 3. Wholesale dealer license. A license for the sale of liquor at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell the liquor specified by the license but are not by law required to hold a license; provided that a class 3 licensee may sell samples of liquor back to the manufacturer. Under a class 3 license, no liquor shall be consumed on the premises except as authorized by the commission. Of this class, there shall be the following kinds:

- (1) General (includes all liquor except alcohol);
- (2) Beer and wine; and
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where the dealer's place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer holds the dealer license. Nothing in this subsection shall prevent a wholesaler from selling liquor to post exchanges, ships' service stores, army or navy officers' clubs, or similar organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise subject to chapter 269 and engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

(e) Class 4. Retail dealer license. A license to sell liquor at retail or to class 10 licensees shall authorize the licensee to sell the liquor therein specified in their original packages. Under a class 4 license, no liquor shall be consumed on the premises except as authorized by the commission. Of this class, there shall be the following kinds:

- (1) General (includes all liquor except alcohol);
  - (2) Beer and wine; and
  - (3) Alcohol.
- (f) Class 5. Dispenser license.

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- (1) A license under this class shall authorize the licensee to sell liquor specified in this subsection for consumption on the premises. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:
  - (A) A standard bar;
  - (B) Premises in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
  - (C) Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by commission rules; or
  - (D) Premises in which employees or entertainers are compensated to sit with patrons, regardless of whether the employees or entertainers are consuming nonalcoholic beverages while in the company of the patrons pursuant to commission rules.
- (2) If a licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.
- (3) Of this class, there shall be the following kinds:
  - (A) General (includes all liquor except alcohol);
  - (B) Beer and wine; and
  - (C) Beer.

(g) Class 6. Club license. A club license shall be general only but shall exclude alcohol and shall authorize the licensee to sell liquor to members of the club and to guests of the club enjoying the privileges of membership for consumption only on the premises kept and operated by the club; provided that the license shall also authorize any club member to keep in the member's private locker on the premises a reasonable quantity of liquor owned by the member for the member's own personal use and not to be sold that may be consumed only on the premises. A club licensee shall be authorized to host charitable functions that are open to the general public only pursuant to commission rules.

The categories of establishment shall be as follows:

- (1) A standard bar; or
- (2) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

(h) Class 8. Transient vessel license. A general license may be granted to the owner of any vessel for the sale of liquor other than alcohol on board the vessel while en route within the jurisdictional limits of the State and within any port of the State. Sales shall be made only for consumption by passengers and their guests on board the vessel. The license shall be issuable in each county where the sales are to be made; provided that the application for the license may be made by any agent representing the owner.

(i) Class 9. Tour or cruise vessel license. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor other than alcohol on board the vessel while in the waters of the State; provided that sales be made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State, unless otherwise approved by the county where the license has been issued. The license shall be issuable in the county where the home port of the vessel is situated. If, on any vessel for which no license has been obtained under this chapter, any liquor is sold or served within three miles of the shore of any island of the State, it shall constitute a violation of this chapter.

The categories of establishment shall be as follows:

- (1) A standard bar; or
- (2) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

(j) Class 10. Special license. A special license may be granted for the sale of liquor for a period not to exceed three days and pursuant to commission rule may be approved by the administrator for fundraising events by nonprofit organizations, political candidates, and political parties; provided that any registered educational or charitable nonprofit organization may sell liquors in their original packages for off-premises consumption. Of this class, there shall be the following kinds:

- (1) General (includes all liquor except alcohol);
- (2) Beer and wine; and
- (3) Beer.

Liquor sold under a class 10 license shall be consumed on the premises.

(k) Class 11. Cabaret license. A cabaret license shall be general only but shall exclude alcohol and shall authorize the sale of liquor for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons including a dance floor are provided, and live or amplified recorded music or professional entertainment except professional entertainment by a person who performs or entertains unclothed is provided for the patrons; provided that professional entertainment by persons who perform or entertain unclothed shall be authorized by:

- (1) A cabaret license for premises where professional entertainment by persons who perform or entertain unclothed was presented on a regular and consistent basis immediately prior to June 15, 1990; or
- (2) A cabaret license that, pursuant to rules adopted by the liquor commission, permits professional entertainment by persons who perform or entertain unclothed.

A cabaret license under paragraph (1) or (2) authorizing professional entertainment by persons who perform or entertain unclothed shall be transferable through June 30, 2000. A cabaret license under paragraph (1) or (2) authorizing professional entertainment by persons who perform or entertain unclothed shall not be transferable after June 30, 2000, except upon approval by the liquor commission and pursuant to rules adopted by the commission. Notwithstanding any rule of the liquor commission to the contrary, cabarets in resort areas may be opened for the transaction of business until 4 a.m. throughout the entire week.

(l) Class 12. Hotel license. A license to sell liquor in a hotel shall authorize the licensee to provide entertainment and dancing on the hotel premises and to sell all liquor except alcohol for consumption on the premises; provided that a hotel licensee, with commission approval, may provide off-premises catering of food and liquor if the catering activity is directly related to the licensee's food service.

Procedures such as room service, self-service no-host minibars or similar service in guest rooms, and service at parties in areas that are the property of and contiguous to the hotel are permitted with commission approval.

Any licensee who would otherwise fall within the hotel license class but holds a different class of license may be required to apply for a hotel license.

If the licensee applies for a change of classification prior to July 30, 1992, the licensee shall not be subject to the requirements of sections 281-52, 281-54, and 281-57 through 281-59.

Any licensee holding a class 12 license on May 1, 2007 who would otherwise qualify for a class 15 license may apply to the liquor commission of the

county in which the licensee is seeking a change in liquor license for a change to a class 15 license; provided that the licensee shall not be subject to the requirements of section 281-54 and sections 281-57 to 281-60.

If a licensee holding a class 12 license on May 1, 2007 applies for a change to a class 15 license, the respective liquor commission shall hold a public hearing upon notice. On the day of hearing or any adjournment thereof, the liquor commission shall consider the application, accept all written or oral testimony for or against the application, and render its decision granting or refusing the application. If the application is denied, the class 12 license shall continue in effect in accordance with law.

(m) Class 13. Caterer license. A general license may be granted to any applicant who serves food as part of their operation for the sale of liquor other than alcohol while performing food catering functions off the premises.

No catering service for the sale of liquor shall be performed off the licensee's premises unless prior written notice of the service has been delivered to the office of the liquor commission of the county concerned. The notice shall state the date, time, and location of the proposed event and shall include a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and to inspection by investigators.

(n) Class 14. Brewpub license. A brewpub licensee:

- [①] Shall manufacture not more than thirty thousand barrels of malt beverages on the licensee's premises during the license year;
- [②] (1) May sell malt beverages manufactured on the licensee's premises for consumption on the premises;
- [③] (2) May sell malt beverages manufactured by the licensee in brewery-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;
- [④] (3) May sell intoxicating liquor purchased from a [class 1 manufacturer licensee or a] class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises. The categories of establishments shall be as follows:
  - (A) A standard bar; or
  - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules;
- [⑤] (4) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in brewery-sealed kegs and growlers for off-premises consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;
- [⑥] (5) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and are securely sealed on the licensee's premises to consumers for off-premises consumption;
- [⑦] (6) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages;
- [⑧] (7) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in brewery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees,

class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by county regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and

- [99] (8) May conduct the activities under paragraphs (1) to [8] (7) at one location other than the licensee's premises; provided that:
  - (A) The manufacturing takes place in Hawaii; and
  - (B) The other location is properly licensed under the same ownership.

(o) Class 15. Condominium hotel license. A license to sell liquor in a condominium hotel shall authorize the licensee to provide entertainment and dancing on the condominium hotel premises and to sell all liquor except alcohol for consumption on the premises; provided that a condominium hotel licensee, with commission approval, may provide off-premises catering; provided further that the catering activity is directly related to the licensee's operation as a condominium hotel.

Procedures such as room service, self-service no-host minibars or similar service in apartments, and service at private parties in areas that are the property of and contiguous to the condominium hotel are permitted with commission approval.

A condominium hotel licensee shall not sell liquor in the manner authorized by a class 4 retail dealer license.

Any licensee who would otherwise meet the criteria for the condominium hotel license class but holds a different class of license may be required to apply for a condominium hotel license.

- (p) Class 16. Winery license. A winery licensee:
  - (1) Shall manufacture not more than [ten] twenty thousand barrels of wine on the licensee's premises during the license year;
  - (2) May sell wine manufactured on the licensee's premises for consumption on the premises;
  - (3) May sell wine manufactured by the licensee in winery-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;
  - (4) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises in winery-sealed kegs and magnums to consumers for off-premises consumption; provided that for purposes of this paragraph, "magnum" means a glass container not to exceed one half-gallon, which may be securely sealed;
  - (5) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and are securely sealed on the licensee's premises to consumers for off-premises consumption;
  - (6) Shall comply with all rules pertaining to class 4 retail dealer licensees when engaging in the retail sale of wine; and
  - (7) May sell wine manufactured on the licensee's premises in winery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, [and] class 15 condominium

hotel licensees, and class 18 small craft producer pub licensees pursuant to conditions imposed by county planning and public works departments and rules governing class 3 wholesale dealer licensees.

(q) Class 17. Bring-your-own-beverage license. In counties having a population in excess of 500,000, there is established a class 17 license; provided that in a county having a population of 500,000 or less, the respective commission may establish a class 17 license to which this subsection shall apply.

(1) A general license of this class shall authorize the licensee to permit patrons to bring their own liquors for consumption on the premises between the hours of 6:00 a.m. to 2:00 a.m. the following day. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

- (A) Premises in which recorded music and live entertainment, including karaoke, are provided; or
- (B) Premises in which recorded music and live entertainment, including karaoke and dancing, are provided.

(2) If a licensee under this class desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

(3) A licensee under this class shall not be subject to liquor commission rules relating to percentage fees.

(r) Class 18. Small craft producer pub license. A small craft producer pub licensee:

(1) Shall manufacture not more than:

- (A) Sixty thousand barrels of malt beverages;
- (B) Twenty thousand barrels of wine; or
- (C) Seven thousand five hundred barrels of alcohol on the licensee's premises during the license year;

provided that for purposes of this paragraph, "barrel" means a container not exceeding thirty one gallons or wine gallons of liquor.

(2) May sell malt beverages, wine, or alcohol manufactured on the licensee's premises for consumption on the premises;

(3) May sell malt beverages, wine, or alcohol manufactured by the licensee in producer-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;

(4) May sell intoxicating liquor purchased from a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises. The categories of establishments shall be as follows:

- (A) A standard bar; or
- (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules;

(5) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in producer-sealed kegs and growlers for off-premises consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;

(6) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, or alcohol manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed:

- (A) One gallon per container for malt beverages and wine; and  
(B) One liter for alcohol; and  
are securely sealed on the licensee's premises to consumers for off-premises consumption;
- (7) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages, wine, and alcohol;
- (8) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, and alcohol manufactured on the licensee's premises in producer-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by county regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and
- (9) May conduct the activities under paragraphs (1) to (8) at one location other than the licensee's premises; provided that:
  - (A) The manufacturing takes place in Hawaii; and
  - (B) The other location is properly licensed under the same ownership.

[+] (s) Restaurants, retail dealers, dispensers, clubs, cabarets, hotels, caterers, brewpubs, condominium hotels, [and] bring-your-own-beverage establishments, and small craft producer pubs licensed under class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, class 15, [and] class 17, and class 18 shall maintain at all times liquor liability insurance coverage in an amount not less than \$1,000,000; provided that convenience minimarts holding a class 4 license shall not be required to maintain liquor liability insurance coverage in that amount. Proof of coverage shall be kept on the premises and shall be made available for inspection by the commission at any time during the licensee's regular business hours. In the event of a licensee's failure to obtain or maintain the required coverage, the commission shall refuse to issue or renew a license or shall suspend or terminate the license as appropriate. No license shall be granted, reinstated, or renewed until after the required insurance coverage is obtained.

[+] (t) It shall be unlawful for any retail licensee except a class 10 licensee to purchase or acquire liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

[+] (u) Any provision to the contrary notwithstanding, a patron may remove from any class of licensed premises any portion of wine, liquor, or beer that was purchased on or brought onto the premises of the licensee engaged in meal service for consumption with a meal; provided that it is recorked or resealed in its original container.

[+] (v) Sections 281-57 to 281-60 shall not apply to classes 8, 9, 10, and 13."

#### SECTION 4. Section 281-33.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
  - "(a) Any person holding:
    - (1) A general excise tax license from the department of taxation; and
    - (2) Either:

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- (A) A class 1 [~~or~~], class 16, or class 18 license to manufacture wine under section 281-31; or  
(B) A license to manufacture wine issued by another state, may pay any applicable fees and obtain a direct wine shipper permit from the liquor commission of the county to which the wine will be shipped authorizing the holder to directly ship wine to persons in the county pursuant to this section."

2. By amending subsection (c) to read:

- "(c) The holder of a license to manufacture wine issued by another state may annually renew a direct wine shipper permit by providing the liquor commission that issued the permit with a copy of the license and paying all required fees. The holder of a class 1 [~~or~~], class 16, or class 18 license to manufacture wine under section 281-31 may renew a direct wine shipper permit concurrently with the class 1 license by complying with all applicable laws and paying all required fees."

SECTION 5. Section 281-45, Hawaii Revised Statutes, is amended to read as follows:

**"§281-45 No license issued, when.** No license shall be issued under this chapter:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license; provided that the commission may grant a license under this chapter to a corporation that has been convicted of a felony where the commission finds that the corporation's officers and shareholders of twenty-five per cent or more of outstanding stock are fit and proper persons to have a license;
- (2) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (1) from obtaining the license individually, or a stockholder of which, owning or controlling twenty-five per cent or more of the outstanding capital stock, or to a general partnership, limited partnership, limited liability partnership, or limited liability company whose partner or member holding twenty-five per cent or more interest of which, or any of them would be disqualified under paragraph (1) from obtaining the license individually;
- (3) Unless the applicant for a license or a renewal of a license, or in the case of a transfer of a license, both the transferor and the transferee, present to the issuing agency a signed certificate from the director of taxation and from the Internal Revenue Service showing that the applicant or the transferor and transferee do not owe the state or federal governments any delinquent taxes, penalties, or interest; or that the applicant, or in the case of a transfer of a license, the transferor or transferee, has entered into an installment plan agreement with the department of taxation and the Internal Revenue Service for the payment of delinquent taxes in installments and that the applicant is or the transferor or transferee is, in the case of a transfer of a license, complying with the installment plan agreement; [~~or~~]
- (4) To an applicant for a class 2, class 4 except for convenience minimarts, class 5, class 6, class 11, class 12, class 13, class 14, class 15, [~~or~~] class 17, or class 18 license unless the applicant for issuance of a license or renewal of a license, or in the case of a transfer of a

license, both the transferor and the transferee, present to the issuing agency proof of liquor liability insurance coverage in an amount of \$1,000,000; or

- (5) To any applicant who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under this chapter."

**SECTION 6.** Section 281-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The commission or board shall deny renewal of a class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, class 15, [or] class 17, or class 18 license if the applicant for renewal fails to present proof of the liquor liability insurance required by section [281-31(r).] 281-31(s)."

**SECTION 7.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 8.** This Act shall take effect upon its approval.

(Approved July 5, 2014.)

## ACT 212

S.B. NO. 1249

A Bill for an Act Relating to the Compensation of Trustees.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to clarify current state law relating to trustee compensation. Certain ambiguities in the law have caused disputes between beneficiaries and trustees, which have resulted in litigation.

The purpose of this Act is to:

- (1) Clarify trustee compensation;
- (2) Provide a compensation system that is predictable and fair to beneficiaries and trustees;
- (3) Reduce issues that require court intervention; and
- (4) Minimize the legal fees and costs connected with court intervention.

**SECTION 2.** Section 607-18, Hawaii Revised Statutes, is amended to read as follows:

**§607-18 [Fees and expenses] Compensation of trustees.** (a) Unless the trust instrument otherwise provides, or the settlor and trustee otherwise agree, or, after the settlor's death, all the beneficiaries and the trustee otherwise agree, the trustee shall be entitled to the compensation set forth in this section and the compensation shall be deemed to be reasonable. For good cause shown, the court may also approve any other fee arrangement that it deems reasonable.

(b) Banks and trust companies serving as trustees shall be entitled to reasonable compensation, which may be set forth in their published fee schedules and may be amended from time to time; provided that advance written notice of any amendment to the fee schedule is provided to the settlor or, after the settlor's death, to all beneficiaries.

(c) Except as provided in subsection (a), individuals serving as trustees shall be entitled to the following compensation:

- (1) Compensation Upon Inception of the Trust:

- (A) One per cent based upon the gross fair market value of the trust assets on the date of the trustee's acceptance shall be payable to the first trustee who is not the settlor of the trust; and
- (B) One per cent based upon the gross fair market value of the trust assets of the trust created under the revocable living or administrative trust on the date of the trustee's acceptance shall be payable to the first trustee of any trust created under a revocable living trust after the settlor's death or other administrative trust; provided that the trustee shall not also be the trustee of the revocable living trust or administrative trust that is the source of funding for the newly-created trust;  
provided that if more than one individual serves as trustee, then the compensation shall be divided equally between the then-acting trustees unless otherwise agreed by the trustees. If one or more individuals are serving as co-trustees with a bank or trust company, then the individual trustees shall be entitled to fifty per cent of the compensation provided for under this paragraph described herein, which shall be divided among the then-serving individual co-trustees as they may agree. A bank or trust company serving as co-trustee shall be entitled to the compensation described in subsection (b).
- (2) Annual Compensation:
- [(a)] (A) Upon all moneys and other property received in the nature of revenue or income of the [estate,] trust, such as rents, interest, dividends, and general profits, [trustees, except trustees of a charitable trust, shall be allowed as commissions payable out] five per cent of the income received during each year[.] shall be payable to the trustee. [seven per cent for the first \$5,000 and five per cent for all over \$5,000 the commissions to be payable] as and when the income is received[, but not more often than once a year.];
- [(b)] (B) Upon the principal [of the estate, trustees shall be allowed as commissions one per cent on the value at the inception of the trust payable at the inception out of the principal, one per cent on the value of all or any part of the estate upon final distribution payable at the termination out of the principal, and two and one-half per cent upon all cash principal received after the inception of the trust and neither being nor representing principal upon which the two and one-half per cent has previously at any time been charged, payable at the receipt out of the principal, and two and one half per cent upon the final payment of any cash principal prior to the termination of the trust, payable at the final payment out of the principal, and in addition thereto five tenths of one per cent on the value at the expiration of each year during the continuance of the trust payable annually out of the principal; provided that such five-tenths of one per cent on the principal shall not apply to charitable trusts, nor to the extent the trustee has employed others to perform bookkeeping and clerical services at the expense of the estate as permitted by the trust document or as provided in section 554A-3. (c) Such further allowances] trust, the trustee shall be compensated no more than once per quarter, based on the following:
- (i) One-half of one per cent of the first \$5,000,000;  
 (ii) One-third of one per cent of the next \$3,000,000;

- (iii) One-fifth of one per cent of the next \$2,000,000; and  
 (iv) One-tenth of one per cent of assets in excess of \$10,000,000,  
based upon the gross fair market value of the principal assets as of the first business day of the trust's fiscal year;
- (C) Notwithstanding subparagraphs (A) and (B), a trustee shall be entitled to a minimum total annual compensation of \$3,000; and
- (D) The threshold dollar amounts in subparagraph (B) and the dollar amounts in subparagraph (C) shall be increased by an amount equal to (i) the dollar amount from subparagraph (B) or (C), as applicable, multiplied by (ii) a cost-of-living adjustment with changes in the Consumer Price Index (CPI) using the year 2014 as the base. The "CPI" means the Consumer Price Index (Annual Average) for All Urban Consumers (CPI-U); for the Honolulu area - All Items, reported by the Bureau of Labor Statistics, United States Department of Labor or its successor or, if the index is discontinued, an equivalent index reported by a federal authority. If no such index is reported, the term means the substitute index chosen by a court of competent jurisdiction. If any amount as adjusted is not a multiple of \$10,000, such amount shall be rounded down to the next lowest multiple of \$10,000;
- (3) Compensation Upon Termination of the Trust:  
One per cent based upon the gross fair market value of the trust assets as of the termination date of the trust pursuant to the terms of the trust, shall be payable to the trustee at any time after the termination date, up to and including the date the trust assets are finally distributed; and
- (4) Special Service Fees:  
Further compensation may be made as the court deems just and reasonable for services performed in connection with assuming the trusteeship, sales or leases of real estate, contested or litigated claims against the estate, the adjustment and payment of extensive or complicated estate or inheritance taxes, the preparation of estate and income tax returns, the carrying on of the decedent's business pursuant to an order of court or under the provisions of any will, litigation in regard to the property of the estate, and such other special services as may be necessary for the trustee to perform, prosecute, or defend[. All contracts between a trustee and a beneficiary other than the creator of the trust, for higher compensation than is allowed in this section shall be void.]; provided that if all of the beneficiaries agree to the trustee's special service fees, then court approval shall not be required.
- (d) For purposes of any agreement between the trustee and the beneficiaries regarding the trustee's compensation, the agreement shall be binding upon incapacitated, minor, unborn, and unascertained beneficiaries if the applicable provisions of section 560.1-403(2)(B) and (C) are satisfied.
- (e) The following terms, or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize compensation to the trustee under this section: "reasonable compensation", "compensation in accordance with applicable law", "compensation", "reasonable compensation commensurate with the services performed", and "statutory compensation".

## ACT 213

[~~(d)~~] ~~(f)~~ This section shall apply [as well] to future accounting in existing [estates] trusts as well as to new [estates.] trusts. This section shall not apply to charitable trusts."

SECTION 3. This Act shall not be construed to limit the rights of interested persons to petition the court for review under article VII of chapter 560, Hawaii Revised Statutes.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on January 1, 2015.

(Approved July 7, 2014.)

## ACT 213

S.B. NO. 2094

A Bill for an Act Relating to Computer Damage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IX to be appropriately designated and to read as follows:

**“§708- Computer damage in the third degree.** (1) A person commits the offense of computer damage in the third degree if the person knowingly accesses a computer, computer system, or computer network without authorization and thereby recklessly causes damage.

(2) Computer damage in the third degree is a class C felony.”

SECTION 2. Section 708-890, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Critical infrastructure” means publicly or privately owned or operated systems or assets vital to the defense, security, economic security, public health or safety, or any combination thereof, of the State or nation. “Critical infrastructure” includes:

- (1) Gas and oil production, storage, and delivery systems;
- (2) Water supply systems;
- (3) Telecommunications networks;
- (4) Electrical power delivery systems;
- (5) Finance and banking systems;
- (6) Emergency services, such as medical, police, fire, and rescue services;
- (7) Transportation systems and services, such as highways, mass transit, airlines, and airports; and
- (8) Government operations that provide essential services to the public.”

SECTION 3. Section 708-892, Hawaii Revised Statutes, is amended to read as follows:

**"[§708-892][ Computer damage in the first degree.** (1) [A person commits the offense of computer damage in the first degree if:

- (a) The person knowingly causes the transmission of a program, information, code, or command, and thereby knowingly causes unauthorized damage to a computer, computer system, or computer network; or
  - (b) The person intentionally accesses a computer, computer system, or computer network without authorization and thereby knowingly causes damage.
  - (2) As used in this section, the "damage" must:
    - (a) Result in a loss aggregating at least \$5,000 in value, including the costs associated with diagnosis, repair, replacement, or remediation, during any one-year period to one or more individuals;
    - (b) Result in the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of one or more individuals;
    - (c) Result in physical injury to any person;
    - (d) Threaten public health or safety; or
    - (e) Impair the administration of justice.] A person commits the offense of computer damage in the first degree if the person intentionally causes or attempts to cause damage to a computer, computer system, or computer network that manages or controls any critical infrastructure and the damage results in, or in the case of an attempt to cause damage would have resulted in if completed, the substantial impairment of:
      - (a) The operation of the computer, computer system, or computer network; or
      - (b) The critical infrastructure managed or controlled by the computer, computer system, or computer network.
- [3] (2) Computer damage in the first degree is a class [B] A felony."

SECTION 4. Section 708-892.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§708-892.5][ Computer damage in the second degree.** (1) [A person commits the offense of computer damage in the second degree if the person knowingly accesses a computer, computer system, or computer network without authorization and thereby recklessly causes damage.] A person commits the offense of computer damage in the second degree if:

- (a) The person knowingly causes the transmission of a program, information, code, or command, and thereby knowingly causes unauthorized damage to a computer, computer system, or computer network; or
- (b) The person intentionally accesses a computer, computer system, or computer network without authorization and thereby knowingly causes damage.
- (2) [Computer damage in the second degree is a class C felony.] As used in this section, "damage" means:
  - (a) A loss aggregating at least \$5,000 in value, including the costs associated with diagnosis, repair, replacement, or remediation, during any one-year period to one or more individuals;
  - (b) The modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of one or more individuals; or
  - (c) Impairment or disruption of government operations.

## **ACT 214**

(3) Computer damage in the second degree is a class B felony."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 214**

S.B. NO. 2869

A Bill for an Act Relating to Privacy of Health Care Information.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in 2012, when the Health Care Privacy Harmonization Act, chapter 323B, Hawaii Revised Statutes, was enacted, the legislature noted that Hawaii has over fifty different laws and rules that govern health care privacy. Those laws include section 333E-6, Hawaii Revised Statutes, relating to the privacy of developmental disabilities records, and section 334-5, Hawaii Revised Statutes, relating to the privacy of mental health records. These laws were passed prior to the enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Health Care Privacy Harmonization Act enabled HIPAA-covered entities to be deemed compliant with all state privacy laws if they are compliant with the HIPAA privacy rules. However, entities that are not considered HIPAA-covered entities remain subject to these two specific statutes. These two statutes do not have most of the necessary exceptions that are included in HIPAA, including the ability to share information for the purposes of treatment, payment, or health care operations without written consent from the patient.

The purpose of this Act is to repeal language in these two overly limiting confidentiality statutes and replace it with the requirements of the HIPAA privacy rule, and to make those sections applicable to all entities that hold developmental disabilities records and mental health records, whether or not they are considered HIPAA-covered entities.

SECTION 2. Chapter 333F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§333F- Confidentiality of records.** (a) All certificates, applications, records, and reports made for the purposes of this chapter that are maintained, used, or disclosed by health care providers as defined in chapter 334, health plans as defined in title 45 Code of Federal Regulations section 160.103, and health care clearinghouses as defined in title 45 Code of Federal Regulations section 160.103, and directly or indirectly identifying a person who receives services because of a developmental disability shall be kept confidential and shall not be

disclosed by any person except as allowed by title 45 Code of Federal Regulations part 164, subpart E.

(b) Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by title 42 Code of Federal Regulations part 2, relating to the confidentiality of alcohol and drug abuse patient records, or disclosure deemed necessary under the federal Developmental Disabilities Act of 1984, P.L. 98-527, to protect and advocate for the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities."

SECTION 3. Section 333E-6, Hawaii Revised Statutes, is amended to read as follows:

**"[§333E-6]** **Confidentiality of records.** (a) All certificates, applications, records, and reports made for the purposes of this chapter [and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed to any other person except so far (1) as the person identified, or the person's legal guardian, consents, or (2) as disclosure may be deemed necessary by the director of health to carry out this chapter, or (3) as disclosure may be deemed necessary under the federal Developmental Disabilities Act of 1984, Public Law 98-527, to protect and advocate the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities, or (4) as disclosure may be deemed necessary by the family court for any case pending before a court.] that are maintained, used, or disclosed by health care providers as defined in chapter 334, health plans as defined in title 45 Code of Federal Regulations section 160.103, and health care clearinghouses as defined in title 45 Code of Federal Regulations section 160.103, and directly or indirectly identifying a person who receives services because of a developmental disability shall be kept confidential and shall not be disclosed by any person except as allowed by title 45 Code of Federal Regulations part 164, subpart E.

(b) Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by title 42 Code of Federal Regulations part 2, relating to the confidentiality of alcohol and drug abuse patient records, or disclosure deemed necessary under the federal Developmental Disabilities Act of 1984, P.L. 98-527, to protect and advocate for the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities."

SECTION 4. Section 334-5, Hawaii Revised Statutes, is amended to read as follows:

**"§334-5 Confidentiality of records.** All certificates, applications, records, and reports made for the purposes of this chapter that are maintained, used, or disclosed by health care providers as defined in this chapter, health plans as defined in title 45 Code of Federal Regulations section 160.103, and health care clearinghouses as defined in title 45 Code of Federal Regulations section 160.103, and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except [so far as:

- (1) The person identified, or the person's legal guardian, consents;
- (2) Disclosure may be deemed necessary by the director of health or by the administrator of a private psychiatric or special treatment facility to carry out this chapter;

## ACT 214

- (3) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to the public interest;
- (4) Disclosure may be deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, to protect and advocate the rights of persons with mental illness who reside in facilities providing treatment or care;
- (5) Disclosure of a person's treatment summary from a previous five year period from one health care provider to another may be deemed necessary for the purpose of continued care and treatment of the person, or for health care operations; provided that the health care provider seeking disclosure makes reasonable efforts to obtain advance consent from the person; or
- (6) Disclosures are made between the person's health care provider and payor to obtain reimbursement for services rendered to the person; provided that disclosure shall be made only if the provider informs the person that a reimbursement claim will be made to the person's payor, the person is afforded an opportunity to pay the reimbursement directly, and the person does not pay.]

as allowed by title 45 Code of Federal Regulations part 164, subpart E. Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by [Title] title 42[, Part 2,] Code of Federal Regulations[,] part 2, relating to the confidentiality of alcohol and drug abuse patient records[. For the purposes of this section, "facilities" shall include but not be limited to hospitals, nursing homes, community facilities for mentally ill individuals, boarding homes, and care homes.

Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not clearly adverse to the interests of the patient, to the patient, the patient's family, legal guardian, or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purpose for which the information was furnished,], or disclosure deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, P.L. 99-319, to protect and advocate for the rights of persons with mental illness who reside in facilities providing treatment or care."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 215

S.B. NO. 2134

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the United States Court of Appeals for the Ninth Circuit recently held in *E.R.K. v. State of Hawaii Department of Education*, 728 F.3d 982 (9th Cir. 2013), that section 302A-1134(c), Hawaii Revised Statutes, which limits public school attendance to children who are twenty years of age or younger, violated the federal Individuals with Disabilities Education Act by denying public education to special needs students aged twenty to twenty-one.

The purpose of this Act is to bring Hawaii's law into compliance with the requirements of the federal Individuals with Disabilities Education Act.

SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of "exceptional children" to read as follows:

"Exceptional children" includes:

- (1) Persons under [twenty] twenty-two years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; provided that "exceptional children" shall not include "gifted and talented children";
- (2) Persons under [twenty] twenty-two years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and
- (3) Persons under [twenty] twenty-two years of age who are certified by a licensed physician eligible for membership in the state medical society as being emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods."

SECTION 3. Section 302A-1134, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) [~~No~~] Unless otherwise required by the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et. seq., no person who is twenty years of age or over on the first instructional day of the school year shall be eligible to attend a public school[. If]; provided that if a person reaches twenty years of age after the first instructional day of the school year, the person shall be eligible to attend public school for the full school year."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

**ACT 216****ACT 216**

H.B. NO. 2413

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 104-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall apply to every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party; provided that this chapter shall not apply to experimental and demonstration housing developed pursuant to section 46-15 or housing developed pursuant to chapter 201H if the cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

For the purposes of this subsection:

“Contract” includes but is not limited to any agreement, purchase order, or voucher in excess of \$2,000 for construction of a public work project.

“Governmental contracting agency” includes [any]:

- (1) Any person or entity that causes either directly or indirectly the building or development of a public work[-]; and
- (2) Any public-private partnership.

“Party” includes eligible bidders for and eligible developers of any public work and any housing under chapter 201H; provided that this subsection shall not apply to any housing developed under section 46-15 or chapter 201H if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

“Public work” means any project, including development of any housing pursuant to section 46-15 or chapter 201H and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, where the funds or resources required to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

**ACT 217**

S.B. NO. 2368

A Bill for an Act Relating to the Protection of Charitable Assets.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The attorney general’s role in providing oversight of Hawaii’s charitable organizations is recognized under common law and through various provisions of the Hawaii Revised Statutes, including provisions in chapters 323D, 414D, 431, 467B, 517E, and, 554, Hawaii Revised Statutes. The purpose of this Act is to codify section 3 of the Model Protection of Charitable Assets Act to grant the attorney general oversight over charitable assets regardless of the form in which they are held.

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§28- Protection of charitable assets; attorney general’s authority.** (a) The attorney general shall represent the public interest in the protection of charitable assets and may:

- (1) Enforce the application of a charitable asset in accordance with:
    - (A) The law and terms governing the use, management, investment, distribution, and expenditure of the charitable asset; and
    - (B) The charitable purpose of the person holding the asset;
  - (2) Act to prevent or remedy:
    - (A) The misapplication, diversion, or waste of a charitable asset; or
    - (B) A breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset; or
  - (3) Commence or intervene in an action to:
    - (A) Prevent, remedy, or obtain damages for:
      - (i) The misapplication, diversion, or waste of a charitable asset; or
      - (ii) A breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset; or
    - (B) Determine that an asset is a charitable asset.
- (b) If the attorney general has reason to believe an investigation is necessary to determine whether action is advisable under this section, the attorney general may conduct an investigation, including exercising administrative subpoena power under sections 28-2.5 and 467B-9.3.
- (c) This section shall not limit the powers and duties of the attorney general under the laws of this State.
- (d) As used in this section, “charitable asset” means property that is given, received, or held for a charitable purpose. The term does not include property acquired or held for a for-profit purpose.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 218**

S.B. NO. 632

A Bill for an Act Relating to the Environmental Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that environmental disputes are currently dealt with in a variety of courts. This organizational structure inadvertently promotes inconsistent application of the wide variety of environmental laws.

## **ACT 218**

The legislature also finds that the continued maintenance and improvement of Hawaii's environment requires constant vigilance and continued stewardship to ensure its lasting beauty, cleanliness, uniqueness, and the stability of its natural systems, all of which enhance the mental and physical well-being of Hawaii's people.

The legislature further finds that Hawaii's natural resources are compromised every day resulting in numerous violations of the law. An environmental court will better ensure that the State upholds its constitutional obligation to protect the public trust for the benefit of all beneficiaries.

The purpose of this Act is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER ENVIRONMENTAL COURTS"**

**§ -1 Environmental courts; establishment.** (a) The environmental courts shall be created as divisions of the circuit courts and district courts of the State and shall not be deemed to be other courts as that term is used in the state constitution. An environmental court shall be held at the courthouse in each circuit, or other duly designated place, by the judge or judges of the respective environmental courts.

(b) The chief justice of the supreme court shall designate an environmental judge or judges for each circuit and for a district court in each circuit, as may be necessary; provided that if the volume of environmental cases in the circuit or district in which an environmental judge presides is not adequate to provide an environmental court judge with a full time docket, the judge may hear cases arising from other areas of law. In any circuit that has more than one judge designated for the environmental court, the chief justice shall designate one of the judges as senior judge. The chief justice may temporarily assign an environmental court judge to preside in another circuit when the chief justice determines that the urgency of one or more cases in the circuit court or district court or the volume of the cases in the circuit court or district court so requires.

**§ -2 Jurisdiction.** (a) The environmental courts shall have exclusive, original jurisdiction over all proceedings, including judicial review of administrative proceedings and proceedings for declaratory judgment on the validity of agency rules authorized under chapter 91, arising under chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and title 12; provided that upon the motion of a party or sua sponte by the chief justice, the chief justice may assign to the environmental courts issues before the courts when the chief justice determines that due to their subject matter the assignment is required to ensure the uniform application of environmental laws throughout the State or to otherwise effectuate the purpose of this chapter.

(b) In any case in which it has jurisdiction, the environmental courts shall exercise general equity powers as authorized by law. Nothing in this chapter shall be construed to limit the jurisdiction and authority of any judge, designated as judge of an environmental court, to matters within the scope of this chapter.

**§ -3 Rules.** The supreme court shall adopt rules regarding the administration, operation, and procedures of the environmental courts."

SECTION 3. Section 91-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any interested person may obtain a judicial declaration as to the validity of an agency rule as provided in subsection (b) [herein] by bringing an action against the agency in the circuit court or, if applicable, the environmental court, of the county in which the petitioner resides or has its principal place of business. The action may be maintained whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question."

SECTION 4. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court or, if applicable, the environmental court, within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to rule of court, except where a statute provides for a direct appeal to the intermediate appellate court, subject to chapter 602. In such cases, the appeal shall be treated in the same manner as an appeal from the circuit court to the intermediate appellate court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion may permit other interested persons to intervene."

SECTION 5. Section 91-15, Hawaii Revised Statutes, is amended to read as follows:

**"§91-15 Appeals.** Review of any final judgment of the circuit court or, if applicable, the environmental court, under this chapter shall be governed by chapter 602."

SECTION 6. The judiciary shall conduct a study to determine the number of environmental-related cases filed in the circuit courts in each of the past five years. The judiciary shall report findings to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 7. The judiciary shall convene a working group, with members to be appointed by the chief justice of the supreme court, to make recommendations to the chief justice regarding the implementation of environmental courts within the circuit and district courts of the State. The judiciary shall prepare a report describing the implementation of environmental courts, including any further legislation that may be necessary, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 8. Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and title 12 of the Hawaii Revised Statutes are amended by substituting the term "environmental court", or like term, wherever the term "court", "circuit court", "district court", or like term, appears, as the context requires.

SECTION 9. Matters pending in any state court as of the effective date of this Act may be transferred to the environmental courts as directed by the chief justice of the supreme court, in the chief justice's sole discretion.

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SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2015; provided that sections 6 and 7 shall take effect upon approval.

(Approved July 7, 2014.)

## ACT 219

S.B. NO. 1015

A Bill for an Act Relating to Production of Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 806D-1, Hawaii Revised Statutes, is amended by amending the definition of "recipient" to read as follows:

"Recipient" means a person, as defined in section 701-118, or a business, as defined in section 487J-1, that has conducted business or engaged in transactions or activities occurring at least in part in [this State] the state from which process was issued upon whom [criminal] process [issued under this chapter] is properly served."

SECTION 2. Section 806D-4, Hawaii Revised Statutes, is amended to read as follows:

**[§806D-4]** **Service of process issued by or in another state.** (a) When a Hawaii recipient is properly served with process issued by or in another state[;]  
that commands the production of records in the actual or constructive possession of that person or business, and such process on its face purports to be a valid [criminal process,] process based on a pending criminal investigation or prosecution in that other state, the Hawaii recipient shall comply with that process as if that process had been issued by a Hawaii court[;]; provided that the issuing state has a statute authorizing the production of records held by out-of-state persons or businesses.

(b) The service of process issued by or in another state shall include the following information:

- (1) The name, office, business address, telephone number, and electronic mail address of the person applying for the issuance of the service of process;
- (2) The statute authorizing the production of records held by out-of-state persons or businesses; and
- (3) The relevant criminal statutes upon which the pending investigation or prosecution is based.

(c) As used in this section, "Hawaii recipient" means a recipient who is physically present in the State of Hawaii."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

## ACT 220

S.B. NO. 2223

## A Bill for an Act Relating to Change of Name.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor;
- (2) By a final order, decree, or judgment of the family court issued as follows:
  - (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree;
  - (B) When in a divorce proceeding either party to the proceeding requests to [resume]:
    - (i) Resume the middle name or names and the last name used by the party prior to the marriage or civil union or a middle name or names and last name declared and used during any prior marriage or civil union and the court includes the change of names in the divorce decree; or
    - (ii) Change the name of a minor child of one or more of the parties if the court determines that the change of name is in the child's best interest; or
  - (C) When in a proceeding for a change of name of a legitimate or legitimated minor initiated by one parent, the family court, upon proof that the parent initiating the name change has made all reasonable efforts to locate and notify the other parent of the name change proceeding but has not been able to locate, notify, or elicit a response from the other parent, and after an appropriate hearing, orders a change of name determined to be in the best interests of the minor; provided that the family court may waive the notice requirement to the non-initiating, noncustodial parent where the court finds that the waiver is necessary for the protection of the minor;
- (3) Upon marriage or civil union pursuant to section 574-1;
- (4) Upon legitimization pursuant to section 338-21; or
- (5) By an order or decree of any court of competent jurisdiction within any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, changing the name of a person born in this State.

Notwithstanding any law to the contrary, no person who is a covered offender subject to the registration requirements of section 846E-2 may obtain a name change, other than as provided in paragraph (2), (3), (4), or (5), unless a court determines that it is in the best interest of justice to grant the petition and that doing so will not adversely affect the public safety.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

A Bill for an Act Relating to Public Agency Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that county council members are hindered in communicating with constituents and understanding community concerns because they are subject to the sunshine law, restricting the number of members permitted to attend and discuss council business at community meetings or similar events. Constituents often do not understand that the limited number of council members attending is due to a restriction rather than to a lack of interest by members. At the same time, members of the public are concerned about the potential for abuse of the public's right to know and participate in the policy making process if protections provided by the sunshine law are removed.

The purpose of this Act is to balance these opposing interests and allow greater communication with the public, subject to appropriate limitations, through the establishment of a limited meeting where any number of county council members may attend a community group's meeting to discuss council business; provided that no decision or commitments to vote are made by the council members.

**SECTION 2.** Section 92-3.1, Hawaii Revised Statutes, is amended to read as follows:

**"§92-3.1 Limited meetings.** (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

- (1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;
- (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and
- (3) Notice of the limited meeting is provided in accordance with section 92-7.

**(b)** A county council may hold a limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of members in attendance or accept oral testimony; provided that:

- (1) Notice of the limited meeting shall be provided in accordance with section 92-7, shall indicate the board or community group whose meeting the council is attending, and shall not be required to include an agenda;
- (2) If the board or community group whose meeting the council is attending is subject to part I, chapter 92, then that board or community group shall comply with the notice, agenda, testimony, minutes, and other requirements of part I, chapter 92;
- (3) No more than one limited meeting per month shall be held by a county council for any one board or community group;
- (4) No limited meetings shall be held outside the State; and

(5) Limited meetings shall not be used to circumvent the purpose of part I, chapter 92.

[{b}] (c) At all limited meetings, the board shall:

- (1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;
- (2) Make the videotape available at the next regular meeting; and
- (3) Make no decisions at the meeting."

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval; provided that on June 30, 2016, section 2 of this Act shall be repealed and section 92-3.1, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 7, 2014.)

## ACT 222

S.B. NO. 2577

A Bill for an Act Relating to Naturopathic Physicians.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 455-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Continuing education courses" means courses approved by a professional association or organization representing a licensed profession whose program objectives are related to naturopathic medicine; provided that the professional association or organization is approved by the board."

**SECTION 2.** Section 455-8, Hawaii Revised Statutes, is amended to read as follows:

**§455-8 License to practice; biennial registration[.]; continuing education.**

(a) Licenses to practice naturopathic medicine shall be issued by the board to those who qualify according to this chapter. Naturopathic physicians licensed under this chapter shall observe and be subject to all state requirements relative to reporting births and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. These equal rights shall apply to all matters of public health, including the performance of medical examinations and evaluations.

(b) Every licensee shall renew the licensee's license on or before December 31 of each odd-numbered year. Failure to renew the license on or before December 31 of each odd-numbered year shall automatically constitute a forfeiture of the license; provided that the license shall be restored upon written application therefor together with payment of the renewal fee, all delinquent fees, [and] a penalty fee[.], and, beginning with the December 31, 2017, renewal, satisfactory proof of compliance with the continuing education requirements set forth in this section.

(c) Beginning with the December 31, 2017, renewal and prior to every biennial renewal thereafter, each licensee shall complete at least thirty-five hours of continuing education courses within the two-year period preceding the renew-

at date, including a minimum of fifteen hours of continuing education courses in pharmacology within every licensing biennium.

(d) A licensee who graduated from a school, university, or college of naturopathic medicine pursuant to section 455-3 within one year of the licensee's first renewal period shall not be subject to the continuing education requirement for the first license renewal.

(e) Each licensee shall be responsible for maintaining the licensee's continuing education records, including but not limited to certificates of completion of the continuing education courses.

(f) Prior to December 31 of each odd-numbered year, each licensee shall:

- (1) Complete the renewal form prescribed by the board and certify that the licensee has complied with the continuing education requirement of this section for the applicable renewal period; and
- (2) Submit evidence of completion of the continuing education courses taken during the applicable renewal period to the board, including but not limited to certificates of completion. At a minimum, documentation shall contain the following information:
  - (A) Name of the licensee;
  - (B) Title of the continuing education course taken;
  - (C) Date that the continuing education course was taken;
  - (D) Name of the professional association or organization that approved the continuing education course;
  - (E) Number of hours for the course; and
  - (F) Number of hours for the course in pharmacology."

SECTION 3. Section 455-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, the board shall have the power to deny, revoke, suspend, or refuse to renew any license to practice naturopathic medicine applied for or issued by the board in accordance with this chapter, and to fine or otherwise discipline a licensee for any cause authorized by law, including but not limited to the following:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;
  - [1] (2) Procuring, or aiding or abetting in procuring, a criminal abortion;
  - [2] (3) Employing any person to solicit patients;
  - [3] (4) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
  - [4] (5) Betraying a patient's confidence;
  - [5] (6) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;
  - [6] (7) False, fraudulent, or deceptive advertising;
  - [7] (8) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
  - [8] (9) Practicing naturopathic medicine while the ability to practice is impaired by alcohol, drug, physical disability, or mental instability;
  - [9] (10) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
  - [10] (11) Professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathic medicine;

- [11] (12) Conduct or practice contrary to recognized standard of ethics of the naturopathic profession;
- [12] (13) Using medical service or treatment which is inappropriate or unnecessary;
- [13] (14) Submitting to or filing with the board any notice, statement, or other document required under this chapter which is false or untrue or contains any material misstatement of fact[,], including any false certification of compliance with the continuing education requirement specified under section 455-8.
- [14] (15) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- [15] (16) Using the title "physician" without clearly identifying oneself as being a naturopathic physician;
- [16] (17) Prescribing, administering, and dispensing naturopathic formulary that are not included in the formulary established by the board under section 455-6; and
- [17] (18) Violation of any provision of this chapter or rules adopted under this chapter."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

## ACT 223

H.B. NO. 2179

A Bill for an Act Relating to Lower Hamakua Ditch.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the lower Hamakua ditch is a more-than-century-old agricultural water system that, at its historical high point, provided irrigation water to farmers in the Hamakua area at a maximum delivery capacity of approximately forty million gallons per day. A 2008 study by the department of natural resources and environmental management within the college of tropical agriculture and human resources at the University of Hawaii at Manoa found that use of water from the lower Hamakua ditch averaged twelve million gallons per day at that time.

In 1999, a federal watershed project grant provided funding and assistance for the restoration of the lower Hamakua ditch following years of neglect due to the closure of the sugar plantation which it had primarily served. Since then, diversified agricultural production has increased in the area served by the ditch and has been instrumental in the economic recovery of the region. The legislature finds that imposing a cap on water delivery fees for water provided by the lower Hamakua ditch further encourages use of that water, particularly by small family farmers, thereby supporting agricultural production and further increasing economic growth in the Hamakua area.

The purpose of this Act is to encourage agricultural production and economic growth by setting a limit on the water delivery fee for water provided by the lower Hamakua ditch irrigation system.

**SECTION 2.** Section 167-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The board of agriculture shall also have the power to:
- (1) Establish and certify the total amount of acreage assessments to be levied annually and collect the assessments within each project;
  - (2) Set and from time to time revise tolls that it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; provided that the toll for water provided by the lower Hamakua ditch shall not exceed 20 cents per one thousand gallons;
  - (3) Establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification;
  - (4) Govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with these priorities;
  - (5) Charge and collect water tolls, fees, and other charges established in connection herewith;
  - (6) Sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
  - (7) Hold, clear, and improve property;
  - (8) Borrow money for any of the purposes hereunder;
  - (9) Insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
  - (10) Include in any construction contract executed in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions that the federal government may have attached to its financial aid of the project;
  - (11) Delegate to the chairperson or employees of the department, subject to the board's control and responsibility, powers and duties as may be lawful or proper for the performance of the functions vested in the board;
  - (12) Set, charge, and collect interest and a service charge on delinquent payments due on water tolls, acreage assessments, or other related accounts; provided that the rate of interest shall not exceed one per cent per month and the service charge shall not exceed \$7 for each delinquent payment;
  - (13) Collect delinquent acreage assessments in accordance with sections 231-61 to 231-70; provided that the chairperson shall have all of the powers provided to the director of taxation or state tax collector under chapter 231 that may be necessary or convenient to collect delinquent acreage assessments;
  - (14) Accept a security interest in real or personal property for a debt restructured under a payment plan for delinquent water tolls, acreage assessments, or other related irrigation project accounts subject to the rate of interest set forth in paragraph (12); and
  - (15) Foreclose upon or otherwise enforce the security interest accepted under paragraph (14) by any method provided for by law and to hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of that personal or real property to recover the debt secured.”

**SECTION 3.** New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2015; provided that on June 30, 2025, this Act shall be repealed and section 167-6, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 7, 2014.)

## ACT 224

S.B. NO. 2629

A Bill for an Act Relating to Lobbyists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The following persons shall file a statement of expenditures with the state ethics commission on March 31, May 31, and January 31 of each year[.] and within thirty days after adjournment sine die of any special session of the legislature:

- (1) Each lobbyist[.];
  - (2) Each person who spends \$750 or more of the person's or any other person's money in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials; provided that any amounts expended for travel costs, including incidental meals and lodging, shall not be included in the tallying of the \$750[.]; and
  - (3) Each person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons. If the person is an industry, trade, or professional association, only the association is the employer of the lobbyist.
- (b) The March 31 report shall cover the period from January 1 through the last day of February. The May 31 report shall cover the period from March 1 through April 30. The January 31 report shall cover the period from May 1 through December 31 of the previous year. The report to be filed within thirty days after adjournment sine die of a special session of the legislature shall cover the period from May 1 through adjournment sine die of that special session and shall apply to and include only those expenditures and contributions that relate to legislative action considered during that special session."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

A Bill for an Act Relating to the Motor Vehicle Mechanic Certification Program.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437B-4, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-4 Powers and duties of board.** In addition to any other powers and duties authorized by law, the board, in accordance with this chapter and chapter 91 shall:

- (1) Establish such qualifications for the licensing of motor vehicle repair dealers and motor vehicle mechanics as may be necessary for the welfare of the public and the motor vehicle repair industry; provided that no [person] individual shall be licensed as a motor vehicle mechanic without first receiving certification as provided by this chapter;
- (2) Inquire into the practices and policies of the motor vehicle repair industry and make rules with respect to such practices and policies as may be deemed important and necessary by the board for the welfare of the public and the motor vehicle repair industry;
- (3) ~~[Contract and cooperate with the University of Hawaii in developing and administering]~~ Develop and administer the certification program provided for in this chapter;
- (4) Adopt, amend, and repeal such rules not inconsistent with this chapter, as the board deems appropriate for effectuating the purpose of this chapter and to ensure the welfare of the public;
- (5) Adopt rules pursuant to chapter 91 necessary to implement the provisions of this chapter relating to CFCs; and
- (6) Enforce this chapter and rules adopted pursuant thereto.”

SECTION 2. Section 437B-23, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-23 Certification program.** (a) ~~[The board shall contract with the University of Hawaii to develop and administer a certification program for motor vehicle mechanics.] The board, at its sole discretion, may enter into written agreements with entities, educational institutions, and other organizations to develop and administer a certification program for motor vehicle mechanics that will provide education and training in order to ensure that the mechanics' knowledge, skills, and abilities are current with industry standards. The entities, educational institutions, and other organizations shall have the range of expertise, knowledge, and structure to provide instruction, information, guidance, and services to assist mechanics in obtaining necessary competencies to engage in motor vehicle repairs in order to protect consumers. Alternatively, the board may accept certificates from a national certification program approved by the board without the need to contract with the organization that administers the national certification program.~~

(b) The certification program shall provide for issuing a certificate to mechanics generally skilled in the repair of motor vehicles and to mechanics who specialize in certain areas of motor vehicle repair. ~~[A person]~~ An individual may be certified as being generally skilled in the repair of motor vehicles, specially skilled in one or more areas of motor vehicle repair, or both ~~[generally and~~

~~specially skilled~~. Each area shall be separately tested and certified. The program shall provide for apprenticeship leading to certification as a mechanic. The program may be an apprenticeship program registered with the department of labor and industrial relations in accordance with [chapter 372.] applicable governing law. Nothing in this section or chapter shall prevent a student in a course leading to certification from repairing motor vehicles so long as the student is supervised by a mechanic[.] who is licensed in accordance with this chapter.

(c) The certification test shall be approved by the board and, if written, shall be given orally at the request of the [person] individual being tested. Each application for certification shall be accompanied by a nonrefundable examination fee as provided in rules adopted by the department pursuant to chapter 91.

(d) There shall be no limit on the number of times [a person] an individual may apply for certification; provided that [any person failing] an applicant who does not pass the examination [must] shall wait at least thirty calendar days before [retaking] being eligible to retake the test.

(e) All [persons] individuals who take and pass the certification test shall be awarded a certificate which shall be posted in a prominent place at [their] the individual's place of business or employment and a patch which may be worn on clothing apparel. The [University of Hawaii] entity, educational institution, or other organization who has entered into a written agreement with the board or been approved by the board pursuant to subsection (a) shall design and procure the certificate and patch."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

## ACT 226

H.B. NO. 1641

A Bill for an Act Relating to Governmental Access to Stored Communications.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 803-47.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication [that has been in electronic storage for one hundred and eighty days or less, where storage has taken place;] pursuant to a search warrant only. [A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication that has been in electronic storage for more than one hundred and eighty days by the means available under subsection (b) of this section.]

(b) A governmental entity may require a provider of remote computing services to disclose the contents of any electronic communication [to which this subsection is made applicable by subsection (e) of this section:]

(1) Without notice to the subscriber or customer, if a search warrant has been obtained; or

(2) With prior notice to the subscriber or customer, if a court order for disclosure under subsection (d) of this section has been obtained;

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~~except that delayed notice may be authorized by the order.] pursuant to a search warrant only.”~~

2. By amending subsections (d) and (e) to read:

- “(d)(1) A provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to, or customer of, the service (other than the contents of any electronic communication) to any person other than a governmental entity.
- (2) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to, or customer of, the service (other than the contents of an electronic communication) to a governmental entity only when:
- (A) Presented with a search warrant;
  - (B) Presented with a court order ~~[for]~~, which seeks the disclosure~~[:] of transactional records, other than real-time transactional records;~~
  - (C) The consent of the subscriber or customer to the disclosure has been obtained; or
  - (D) Presented with an administrative subpoena authorized by statute, an attorney general subpoena, or a grand jury or trial subpoena, which seeks the disclosure of information concerning electronic communication, including but not limited to the name, address, local and long distance telephone billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of the service, and the types of services the subscriber or customer utilized.
- (3) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.
- (e) A court order for disclosure under subsection ~~[(b) or (c) of this section]~~ ~~(d)~~ shall issue only if the governmental entity demonstrates probable cause that the ~~contents of a wire or electronic communication, or~~ records or other information sought, constitute or relate to the fruits, implements, or existence of a crime or are relevant to a legitimate law enforcement inquiry. An order may be quashed or modified if, upon a motion promptly made, the service provider shows that compliance would be unduly burdensome because of the voluminous nature of the information or records requested, or some other stated reason establishing such a hardship.”

SECTION 2. Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

## ACT 227

H.B. NO. 866

A Bill for an Act Relating to Sewer Systems Servicing on Hawaiian Home Lands.  
*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that the sewer transmission lines and other sewerage facilities servicing lots located on Hawaiian home lands are or will be in need of improvement, repair, and maintenance. Many sewer lines and facilities servicing Hawaiian home lands are further integrated into the counties' overall sewer systems, and transmit sewage from properties located on and off Hawaiian home lands. Counties have also constructed certain sewer systems on Hawaiian home lands, including the sewer system that services Hawaiian home lands lots in Papakolea on the island of Oahu.

In the past, the sewer systems servicing Hawaiian home lands that were constructed by the department of Hawaiian home lands have been licensed to the counties. In these cases, the relevant county reviewed the plans for the systems, inspected construction of the systems, and gave final approval for the systems prior to accepting the responsibility to operate, improve, repair, and maintain the systems.

The legislature also finds that the counties have historically collected and continue to collect sewer fees and other charges from lessees of Hawaiian home lands.

The legislature further finds that the counties are uniquely positioned to operate, improve, repair, maintain, and replace sewer transmission lines and other sewerage facilities.

This Act clarifies and confirms the counties' ownership of and obligation to operate, improve, repair, maintain, and replace existing sewer systems servicing Hawaiian home lands that the counties developed, constructed, operated, improved, or maintained, or for which the counties otherwise have obligations to operate, improve, repair, maintain, or replace.

This Act further requires the counties to accept dedication or license of and responsibility for other sewer systems servicing Hawaiian home lands upon demand by the department of Hawaiian home lands upon meeting certain conditions.

**SECTION 2.** Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§46- County ownership of sewer transmission lines and facilities servicing Hawaiian home lands.** (a) All sewer transmission lines and other sewerage facilities servicing Hawaiian home lands existing on the effective date of this Act that were developed, constructed, operated, improved, or maintained by a county, or for which a county otherwise has an obligation to operate, improve, repair, maintain, or replace, are confirmed to be owned by the county in which the sewer lines and facilities are located, including those lines and facilities located on Hawaiian home lands.

(b) Upon demand by the department of Hawaiian home lands, each county shall accept the license or dedication and ownership of any and all sewer transmission lines and other sewerage facilities servicing Hawaiian home lands and that are not subject to subsection (a), as may be identified by the department of Hawaiian home lands; provided that:

- (1) Any sewer lines or other sewerage facilities:
  - (A) Not subject to subsection (a);

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- (B) Existing before the effective date of this Act; and  
(C) That the appropriate county determines are not in substantial compliance with environmental laws, rules, and regulations pertaining to the dedication or license of the sewers to the counties at the time of their construction, shall be brought into compliance with those laws, rules, and regulations by the department of Hawaiian home lands prior to acceptance by the county; and
- (2) Sewer transmission lines and other sewerage facilities completed after the effective date of this Act shall comply with all applicable federal, state, and county environmental, design, and construction requirements prior to acceptance by a county.
- (c) Each county shall operate, improve, repair, maintain, and replace, as necessary, the sewer transmission lines and other sewerage facilities that are subject to subsection (a) or (b).
- (d) No county shall abandon or terminate the service of sewer transmission lines and other sewerage facilities subject to this section without the approval of the department of Hawaiian home lands; provided that the department shall not unreasonably withhold approval if abandonment or termination is necessary. If sewer transmission lines or other sewerage facilities are abandoned or terminated, the appropriate county shall make alternate sewer transmission lines and other facilities available to service the affected Hawaiian home lands.”

**SECTION 3.** The revisor of statutes shall insert the appropriate effective date of this Act in section 2 of this Act.

**SECTION 4.** New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect upon its approval.

(Approved July 7, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 228**

H.B. NO. 2019

A Bill for an Act Relating to Time Share.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that under chapter 514E, Hawaii Revised Statutes, prospective purchasers of time share interests must be provided a copy of a disclosure statement. When this chapter was originally enacted, receipt of paper documents was common practice. However, recent years have witnessed the rise of electronic commerce and the widespread distribution of information through electronic means. Many consumers and purchasers now prefer an option of receiving important documents electronically.

The legislature further finds that time share registrations are required to be renewed every other year. Developers are currently required to disclose the number of time share units and the number of time share interests in each unit during the renewal process. However, although some time share plans continue

to divide time share units into time share interests, the modern trend is for time share plans to use a points system.

The legislature additionally finds that developers of time shares are also required to provide title reports in connection with renewal registrations. Some non-deeded time share plans may include property in dozens or more locations, and furnishing title reports on each unit in a time share plan is burdensome and expensive. Furthermore, there are already existing lien protections for non-deeded time share plans; these are designed so that the encumbrances recorded after the blanket lien protections are established will not impair the rights of time share purchasers.

The legislature also finds that developers are required to file a financial statement in connection with renewal registration. Many developers are subsidiaries of publicly traded companies, and preparation of financial statements for the subsidiaries has proven burdensome for developers while providing little to no perceived benefit to consumers.

The purpose of this Act is to:

- (1) Permit prospective purchasers of time share interests to receive printed or electronic copies of the disclosure statement on the time share plan; and
- (2) Amend the renewal process for time share registrations by:
  - (A) Permitting the developer to disclose either the total number of time share interests registered for sale in each unit or the total number of points registered for sale in each property;
  - (B) Eliminating the requirement that developers provide title insurance and reports; and
  - (C) Eliminating the requirement that developers file a financial statement.

SECTION 2. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§514E- Disclosure statement; prospective purchasers.** The purchaser of a time share interest shall be provided a copy of the disclosure statement filed with and accepted by the director concurrently with the execution of a sales contract. The disclosure statement shall be provided in printed form unless the purchaser indicates in a separate writing the purchaser's election to receive the disclosure statement through means of a computer disc, electronic mail, download from an internet site, thumb drive, any other media that may require the use of a device or a machine to be viewed or heard, or by any other means contemplated by chapter 489E. The separate writing shall include, above the signature line in bold type and capital letters, the following statement: “ANY PURCHASER HAS UNDER THE LAW A SEVEN-DAY RIGHT OF RESCISSION OF ANY TIME SHARING SALES CONTRACT. PURCHASERS SHOULD READ THE DISCLOSURE STATEMENT BEFORE THE SEVEN-DAY RIGHT OF RESCISSION PERIOD EXPIRES.””

SECTION 3. Section 514E-10, Hawaii Revised Statutes, is amended to read as follows:

**“§514E-10 Registration required; developer, acquisition agent, plan manager, and exchange agent[-]; registration renewal.** (a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director pursuant to the time specified in this chapter, or the development is exempt from filing, and the time share plan to be offered by the developer is accepted by the director for

registration under this chapter. The director shall not accept a developer's time share plan if the developer does not possess a history of honesty, truthfulness, financial integrity, and fair dealing.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall register under this chapter by filing with the director a statement setting forth the time sharing plan for which it is providing prospective purchasers, its address, the telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the acquisition agent is not a natural person, the name of the responsible managing employee; provided that an acquisition agent licensed under chapter 467 as a real estate broker shall not be required to register under this chapter. All acquisition agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any acquisition agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The acquisition agent shall furnish evidence that the acquisition agent is bonded as required by rules adopted by the director pursuant to chapter 91 to cover any violation by the acquisition agent of any solicitation ordinance or other regulation governing the use of the premise or premises in which the time share plan is promoted; provided that the acquisition agent shall be separately bonded for each time share plan for which it is providing prospective purchases.

(c) A plan manager (including the developer if it is also the plan manager) shall register under this chapter by filing with the director a statement setting forth the time sharing plan that it is managing, its principal office address, telephone number, and responsible managing employee. The plan manager shall furnish evidence that the plan manager is bonded as required by rules adopted by the director pursuant to chapter 91 to cover any default of the plan manager and any of its employees of their duties and responsibilities; provided that the plan manager shall be separately bonded for each time share plan under the management of the plan manager.

(d) An exchange agent (including the developer if it is also an exchange agent) shall register under this chapter by filing with the director a statement setting forth the time sharing plan for which it is offering exchange services, its principal office address and telephone number, and designate its responsible managing employee.

(e) Any plan manager or developer registration required in this section shall be renewed by December 31 of each even-numbered year, and any acquisition agent or exchange agent registration required in this section shall be renewed on December 31 of each odd-numbered year; provided that this subsection shall not relieve the person required to register from the obligation to notify the director promptly of any material change in any information submitted to the director, nor shall it relieve the developer of its obligation to promptly file amendments or supplements to the disclosure statement, and to promptly supply the amendments or supplements to purchasers of time share interests.

(f) An application for renewal of a developer registration shall be on a form prescribed by the director and shall include:

- (1) A current disclosure statement that meets the requirements of section 514E-9 and section 16-106-3, Hawaii Administrative Rules, if not already on file;
- (2) A statement that is certified by the developer to be true and correct in all respects and that identifies, as appropriate:
  - (A) The time share units in the time share plan registered pursuant to this chapter; the total number of time share interests registered for sale in each unit pursuant to this chapter; and the total number of time share interests that have not yet been sold

- as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification; or
- (B) The property in the time share plan registered pursuant to this chapter; the total number of points registered for sale in each property pursuant to this chapter; and the total number of points in the time share plan that have not yet been sold as of the date specified in the developer's certification, which date shall not be more than sixty days prior to the date of the developer's certification;
- (3) If the developer is a corporation, partnership, joint venture, limited liability company, or limited liability partnership, an original certificate of good standing issued by the business registration division of the department of commerce and consumer affairs not more than forty-five days before the date of submission of the renewal application; and
- (4) The biennial renewal fee.
- (g) Developers shall not be required to include the following in an application for renewal of a developer registration of a time share plan:
- (1) A financial statement of the developer; or
- (2) A policy of title insurance, a preliminary title report, abstract of title, or certificate of title on the units or time share interests in the time share plan."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 229

S.B. NO. 2742

A Bill for an Act Relating to Establishment of the Pacific-Asia Institute for Resilience and Sustainability.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to facilitate the establishment of a revolutionary and innovative public and private partnership to be known as the Pacific-Asia institute for resilience and sustainability. The institute is envisioned to provide an opportunity for a new generation of leaders to emerge who have the ability to learn from emerging trends and to meet global challenges. The institute's multi-disciplinary and multi-sector approach to community resilience addresses a blind spot in the global discourse of how nations and the people in each nation respond to a wave of disruptive change that permeates throughout the world.

SECTION 2. The purpose of the Pacific-Asia institute for resilience and sustainability is to develop the next generation of leaders to address the world's

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most difficult problems, including climate change, environmental degradation, public health, sustainable use of natural resources, critical infrastructure protection, and cyber resilience.

The institute may have an interdisciplinary and educational function that integrates science, social transformation, and leadership into a coherent regional framework to achieve community resilience. The institute may focus on organizing all academic disciplines, including physical sciences, social sciences, and applied sciences to address future needs. The institute may address the physical, social, and economic risks and vulnerabilities of the Pacific-Asia region that may have a global impact; provided that the institute may address other issues as it deems appropriate or necessary.

**SECTION 3.** (a) Upon the establishment of the Pacific-Asia institute for resilience and sustainability, the office of the lieutenant governor shall act as the State's liaison, assisting the institute to:

- (1) Form partnerships with various entities from the public, private, and non-military sectors, including but not limited to international governmental and nongovernmental organizations, businesses, universities, research institutes, and foundations; and
  - (2) Facilitate three core initiatives, as follows:
    - (A) Sustainability and the environment, including issues concerning energy, water, food security, and climate change adaptation;
    - (B) Global leadership and capacity building, including international leadership, disaster risk reduction, and public health systems; and
    - (C) Critical community continuity, including cyber security, information assurance, security technology business and policy, and all levels of security awareness.
- (b) The institute may engage in the following activities to facilitate the achievement of the three core initiatives, using a multi-sector integration approach, as follows:
- (1) Establishment of a named fellowship program for resilience and sustainability that provides a graduate-level course study for accomplished mid- and senior-level professionals from Hawaii and the Pacific-Asia region;
  - (2) Establishment of an interdisciplinary executive master's degree program to exemplify an approach that is inclusive of all of society to address the three core initiatives; and
  - (3) Formation of innovative hubs to provide a platform for applied research and analysis, consensus building, and problem solving on a wide variety of issues as may be identified from time to time by the institute. The hubs shall be established throughout the Pacific-Asia region. The hubs shall promote the integration of diverse expertise, research, and the development of innovative projects to solve verifiable problems of each country in the Pacific-Asia region.
- (c) The institute may pursue funding from the public and private sectors, nongovernmental organizations, and research institutes. The institute shall be eligible for grants and subsidies under chapter 42F, Hawaii Revised Statutes.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved July 7, 2014.)

## ACT 230

S.B. NO. 2682

A Bill for an Act Relating to Financial Disclosure Statements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. State board and commission members are required to file annual disclosure statements with the state ethics commission. These records are generally kept confidential. Unfortunately, due to limited resources, the state ethics commission does not have the ability to search these records for potential conflicts of interest. The legislature finds that the public is in the best position to identify conflicts of interest.

The purpose of this Act is to require that the financial disclosure statements of members of certain statutorily established boards and commissions are made available for public inspection and duplication.

SECTION 2. Section 84-17, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:  
“(d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:
  - (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;
  - (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;
  - (3) The administrative director of the State;
  - (4) The president, the vice presidents, the assistant vice presidents, the chancellors, members of the board of regents, and the provosts of the University of Hawaii;
  - (5) The members of the board of education and the superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;
  - (6) The administrative director and the deputy director of the courts;  
[and]
  - (7) The administrator and the assistant administrator of the office of Hawaiian affairs[-]; and
  - (8) The members of the following state boards, commissions, and agencies:
    - (A) The board of directors of the agribusiness development corporation established under section 163D-3;
    - (B) The board of agriculture established under section 26-16;
    - (C) The state ethics commission established under section 84-21;
    - (D) The Hawaii community development authority established under section 206E-3;
    - (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
    - (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;

- (G) The board of land and natural resources established under section 171-4;
- (H) The state land use commission established under section 205-1;
- (I) The legacy land conservation commission established under section 173A-2.4;
- (J) The natural area reserves system commission established under section 195-6;
- (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
- (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
- (M) The public utilities commission established under section 269-2; and
- (N) The commission on water resource management established under section 174C-7.”

2. By amending subsection (f) to read:

“(f) Candidates for state elective offices, including candidates for election to the constitutional convention, shall only be required to disclose their own financial interests. The disclosures of financial interests of all other persons designated in subsection (c) shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children. All disclosures shall include:

- (1) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year and the nature of the services rendered; provided that required disclosure under this paragraph for the income source of the spouse or dependent child of a person subject to subsection (d) shall be limited to the name of the business or other qualifying source of income, and need not include the income source's address; provided further that other information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed;
- (2) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business having a value of \$5,000 or more or equal to ten per cent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed;
- (3) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation;
- (4) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed;
- (5) The street address and, if available, the tax map key number, and the value of any real property in which the person holds an interest

- whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that disclosure shall not be required of the street address and tax map key number of the person's residence;
- (6) The names of clients personally represented before state agencies, except in ministerial matters, for a fee or compensation during the disclosure period and the names of the state agencies involved; and
  - (7) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.”

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 231

S.B. NO. 2365

A Bill for an Act Relating to Insurance Claims.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that Hawaii's existing reimbursement rates for pharmaceuticals in workers' compensation and motor vehicle claims are among the highest in the nation for both brand name and generic products. The legislature further finds that regulating the pricing of prescription medications will help control the cost of prescription and compounded prescription drugs in the State's workers' compensation and motor vehicle insurance systems.

The legislature additionally finds that motor vehicle personal injury protection charges follow the workers' compensation medical fee schedule. Motor vehicle insurance benefits should automatically adopt the drug pricing protections afforded by this Act unless otherwise modified by the insurance commissioner through rulemaking authority subsequent to the enactment of this Act.

Accordingly, the purpose of this Act is to limit reimbursement of prescription medications in order to prevent drug prices from becoming an unreasonable cost driver of health care in workers' compensation and motor vehicle insurance claims, while ensuring the same standard of service and care intended for both injured employees under the workers' compensation law and injured individuals under the motor vehicle insurance law. This Act does not restrict and is not intended to restrict the ability of any physician, hospital, pharmacy, or provider of service other than a physician to dispense, bill for, and receive payment for prescription drugs that are reasonably needed as the nature of the injury requires.

**SECTION 2.** Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§386- Prescription drugs; pharmaceuticals.** (a) Notwithstanding any other provision to the contrary, immediately after a work injury is sustained by

an employee and so long as reasonably needed, the employer shall furnish to the employee all prescription drugs as the nature of the injury requires. The liability for the prescription drugs shall be subject to the deductible under section 386-100.

(b) Payment for all forms of prescription drugs including repackaged and relabeled drugs shall be one hundred forty per cent of the average wholesale price set by the original manufacturer of the dispensed prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of dispensing, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or the provider's assignee for a lower amount.

(c) Payment for compounded prescription drugs shall be the sum of one hundred forty per cent of the average wholesale price by gram weight of each underlying prescription drug contained in the compounded prescription drug. For compounded prescription drugs, the average wholesale price shall be that set by the original manufacturer of the underlying prescription drug as identified by its National Drug Code and as published in the Red Book: Pharmacy's Fundamental Reference as of the date of compounding, except where the employer or carrier, or any entity acting on behalf of the employer or carrier, directly contracts with the provider or the provider's assignee for a lower amount.

(d) All pharmaceutical claims submitted for repackaged, relabeled, or compounded prescription drugs shall include the National Drug Code of the original manufacturer. If the original manufacturer of the underlying drug product used in repackaged, relabeled, or compounded prescription drugs is not provided or is unknown, then reimbursement shall be one hundred forty per cent of the average wholesale price for the original manufacturer's National Drug Code number as listed in the Red Book: Pharmacy's Fundamental Reference of the prescription drug that is most closely related to the underlying drug product.

(e) Notwithstanding any other provision in this section to the contrary, equivalent generic drug products shall be substituted for brand name pharmaceuticals unless the prescribing physician certifies that no substitution shall be prescribed because the injured employee's condition does not tolerate an equivalent generic drug product.

(f) For purposes of this section, "equivalent generic drug product" has the same meaning as provided in section 328-91."

SECTION 3. Section 431:10C-308.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The charges and frequency of treatment for services specified in section 431:10C-103.5(a), except for emergency services provided within seventy-two hours following a motor vehicle accident resulting in injury, shall not exceed the charges and frequency of treatment permissible under the workers' compensation supplemental medical fee schedule. Charges for independent medical examinations, including record reviews, physical examinations, history taking, and reports, to be conducted by a licensed Hawaii provider unless the insured consents to an out-of-state provider, shall not exceed the charges permissible under the appropriate codes in the workers' compensation supplemental medical fee schedule. The workers' compensation supplemental medical fee schedule shall not apply to independent medical examinations conducted by out-of-state providers if the charges for the examination are reasonable. The independent medical examiner shall be selected by mutual agreement between the insurer and claimant; provided that if no agreement is reached, the selection may be submitted to the commissioner, arbitration or circuit court. The independent medical examiner shall be of the same specialty as the provider whose treatment is being

reviewed, unless otherwise agreed by the insurer and claimant. All records and charges relating to an independent medical examination shall be made available to the claimant upon request. The commissioner may adopt administrative rules relating to fees or frequency of treatment for injuries covered by personal injury protection benefits. If adopted, these administrative rules shall prevail to the extent that they are inconsistent with the workers' compensation supplemental medical fee schedule[.]; provided that the fees set forth in the administrative rules adopted by the commissioner shall not exceed the charges permissible under sections 386-21 and 386-.”

**SECTION 4.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 232**

S.B. NO. 2288

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** In 2012, the legislature passed Act 133, Session Laws of Hawaii 2012, which sought to add clarity to or resolve conflicting or inconsistent language among different sections of law and to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes.

The purpose of this Act is to continue to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes, that:

- (1) Have been accomplished and are no longer necessary;
- (2) Impede rather than assist the department of education in meeting its core mission;
- (3) Fall under the purview of the board of education, such as policy, staffing, and programmatic decisions;
- (4) Are covered by federal law and do not require codification in state law; or
- (5) Are covered by another section of the Hawaii Revised Statutes, administrative rules, or board of education policy.

**SECTION 2.** Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;

- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136; [and
- [(28)] Deposit beverage container deposit special fund under section 342G-104[.];
- (29) Hawaii 3R's school repair and maintenance fund under section 302A-1502.4; and
- (30) After-school plus program revolving fund under section 302A-1149.5,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 3. Section 36-32, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The department of education shall [submit an annual report to the legislature that shall include] annually post on the department's website information related to a financial statement of the special fund, the lease payments for schools account established under subsection (b), and the status of projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session."

SECTION 4. Section 36-36, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

~~"(e) The [superintendent of education shall submit an annual report to the legislature, which shall include] department shall annually post on its website information related to a financial statement of the account and the status of school repair and preventive maintenance projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session. The department of education shall also post the following [reports electronically on the Internet] information on its website and update [them] the information quarterly:~~

- (1) Expenditures for school repair and preventive maintenance projects undertaken pursuant to this section, shall be posted within thirty days of each project's completion; and
- (2) A list of each school's repair and maintenance needs to be undertaken."

SECTION 5. Section 302A-101, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

~~"“Attend” or “attendance” means a student is physically present in school after enrollment.~~

~~“Enroll” or “enrollment” means a student has met all of the department’s requirements for entrance and is formally placed on a school’s roll.”~~

SECTION 6. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “charter schools” to read as follows:

~~“Charter schools” [means public schools holding charters to operate as charter schools under chapter [302D], including start up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.] has the same meaning as in section 302D-1.”~~

SECTION 7. Section 302A-102, Hawaii Revised Statutes, is amended to read as follows:

~~“[§§302A-102][] Smoking prohibited; exception.~~ [(a)] All public schools within the State, from kindergarten through grade twelve, shall prohibit the use of tobacco at public schools or at public school functions.

~~[(b)] The department shall provide affected public employees with breaks throughout the work day during which they may smoke at locations off campus. The number and duration of such breaks shall be subject to collective bargaining.~~

~~(c) The department shall provide a smoking cessation program for public employees who are interested in participating; provided that issues relating to the costs of the program shall be subject to collective bargaining.~~

~~(d) This section shall not be subject to part II of chapter 328K.]”~~

SECTION 8. Section 302A-605, Hawaii Revised Statutes, is amended to read as follows:

~~“§302A-605 Principals and vice-principals.~~ [(a)] Principals ~~and vice-principals~~ shall meet the department’s certification requirements ~~[and shall have at least five years of appropriate school-level experience, including at least three years as a teacher, or equivalent experience, as determined by the department]~~.

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(b) Vice principals shall meet the department's certification requirements and shall have appropriate school level or equivalent experience, as determined by the department.

(c) The department shall establish alternative routes to certification for principals and vice principals pursuant to rules adopted under chapter 91.

(d) For purposes of this section, "alternative routes to certification" has the same meaning as determined by United States Department of Education regulations for state applications for Race to the Top fund allocations under section 14001 of the federal American Recovery and Reinvestment Act of 2009, as amended]."

SECTION 9. Section 302A-1004, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The department shall [submit to the legislature, the governor, and the board of education at least twenty days prior to the convening of each regular legislative session a report of] annually post on the department's website information on the specifics of the implementation of the comprehensive accountability system, as well as the fiscal requirements and legislative actions necessary to maintain and improve the accountability system.

(c) The department shall [submit to the legislature and to the governor, at least twenty days prior to the convening of each regular session, an educational status report] also annually post on its website information that includes but is not limited to the following:

- (1) Results of school-by-school assessments of educational outcomes;
- (2) Summaries of each school's standards implementation design;
- (3) Summary descriptions of the demographic makeup of the schools, with indications of the range of these conditions among schools within Hawaii;
- (4) Comparisons of conditions affecting Hawaii's schools with the conditions of schools in other states;
- (5) Other such assessments as may be deemed appropriate by the board; and
- (6) Any other reports required by this section."

SECTION 10. Section 302A-1145, Hawaii Revised Statutes, is amended to read as follows:

**"[§302A-1145] Transfer to another school.** No school shall receive any child under eighteen years of age, who has attended another school of the same class in the same [district] complex area, unless the child produces to the school to be [entered] enrolled, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one [district] complex area desiring to enter a school in another [district] complex area may be received or [admitted] enrolled upon producing a certificate of release from the school last attended in the other [district] complex area."

SECTION 11. Section 302A-1154, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**"§302A-1154 Immunization upon [entering] attending school; tuberculosis clearance."**

2. By amending subsection (b) to read:

"(b) No child shall [be admitted to] attend any school for the first time in the State unless the child presents to the appropriate school official documentation satisfactory to the department of health that the child has been examined and tested according to the rules of the department, and is free from tuberculosis in a communicable form."

SECTION 12. Section 302A-1155, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1155 Provisional [entrance-to] attendance at school.** (a) A child may [enter] attend school provisionally upon submitting written documentation from a licensed physician, physician assistant, advanced practice registered nurse, or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further documentation showing that the required immunizations have been completed shall be submitted to the appropriate school official no later than three months after the child first [entered] attends the school. If all of the required immunizations cannot be completed within three months due to the length of the minimum intervals between doses of a particular vaccine required by the department of health, provisional [admission] attendance may be extended so long as the child's parent or guardian provides documentation that appointments for required immunizations have been made and that progress toward completing the immunizations continues in accordance with the requirements of the department of health.

(b) Provisional [entrance-to] attendance at school may be suspended by the department of health when there is danger of an epidemic from any of the communicable diseases for which immunization is required."

SECTION 13. Section 302A-1159, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1159 Physical examination required.** No child shall [be admitted to] attend any school for the first time in the State unless the child presents to the appropriate school official a report from a licensed physician or advanced practice registered nurse of the results of a physical examination performed within a year of the date of [entry into] attendance at school. A child may [enter] attend school provisionally upon submitting written documentation from a licensed physician, advanced practice registered nurse, or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further documentation showing that the required physical examination has been completed shall be submitted to the appropriate school official no later than three months after the child first [entered] attends the school."

SECTION 14. Section 302A-1161, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1161 Notification for noncompliance.** If a child does not complete the immunizations required under section 302A-1154 or the physical examination required under section 302A-1159 within the period provided by section 302A-1155 after provisional [entry into] attendance at school, the administrator of the school shall cause a notice to be sent to the parent or guardian of the child stating that if the required immunizations or physical examination is not

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completed within thirty days of the date of the notice, the child shall not be [admitted] permitted to attend school."

SECTION 15. Section 302A-1301, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1301 School system financial accountability.** (a) Beginning with the 1995-1997 fiscal biennium, the department's administrative expenditures shall not exceed 6.5 per cent of the total department operating budget, excluding expenditures for agencies administratively attached to the department, unless approved by the legislature.

(b) Not less than seventy per cent of appropriations for the total budget of the department, excluding debt service and capital improvement programs[,] and appropriations for agencies administratively attached to the department, shall be expended by principals."

SECTION 16. Section 302A-1312, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) For the purposes of this section, the superintendent of education shall develop and implement appropriate planning procedures and follow-up accountability reports to ensure sound planning, control, and accountability in the use of moneys allocated by the legislature. The department of education shall [submit an annual report to the legislature] annually post on the department's website information that shall include:

- (1) List of projects initiated by the department of education; and
- (2) List of projects completed with associated actual cost."

SECTION 17. Section 302A-1103, Hawaii Revised Statutes, is repealed.

SECTION 18. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval; provided that the amendments made to section 36-27(a), Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 233**

S.B. NO. 2470

A Bill for an Act Relating to the Hawaii Health Connector.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Health insurance exchanges are a central component of the federal Patient Protection and Affordable Care Act, and the federal act gives states broad discretion in establishing the structure and governance of their own exchanges. The legislature finds that the Hawaii health connector was established

by Act 205, Session Laws of Hawaii 2011, as Hawaii's health insurance exchange and was charged with the responsibility of implementing applicable parts of the federal act.

The successful and efficient operation of the Hawaii health connector is essential for the State, health insurers, and insured persons in Hawaii to comply with the new requirements of the federal act. The legislature also finds that the Hawaii health connector was established as a private nonprofit entity, rather than a state agency, to provide the connector with a certain degree of freedom and autonomy in establishing and operating the State's health insurance exchange.

However, the legislature believes that evolving federal health care regulations and the need for greater transparency and oversight over Hawaii's health insurance exchange necessitate that the State revise the structure of the Hawaii health connector's board of directors. The legislature also believes that it should take a proactive oversight role to monitor the connector and review its financial and operational plans.

The legislature finds that the Hawaii health connector is the health insurance exchange for the State. The legislature also finds and declares that financial support of the Hawaii health connector as a state exchange to preserve the Hawaii Prepaid Health Care Act of 1974 is a compelling interest for the public health, safety, and general welfare of the State. It is, therefore, the desire of the legislature that the Hawaii health connector be officially designated as the State of Hawaii health insurance exchange.

The designation shall not impinge on the autonomy of the Hawaii health connector, nor imply state control over its programs or policies, except as specifically provided.

The purpose of this Act is to:

- (1) Provide for greater transparency, stakeholder engagement, and legislative involvement in the activities of the Hawaii health connector; and
- (2) Appropriate general funds to provide for the sustainability of the Hawaii health connector.

**SECTION 2.** Chapter 435H, Hawaii Revised Statutes, is amended by adding five new sections to be appropriately designated and to read as follows:

**“§435H-A Hawaii health connector.** The official designation of the Hawaii health connector shall be the State of Hawaii health insurance exchange. The qualifying standards and conditions relating to the receipt of funds contained in chapter 42F shall apply to the funds received by the State of Hawaii health insurance exchange.

**§435H-B Connector legislative oversight committee.** (a) There is established the connector legislative oversight committee.

(b) The oversight committee shall consist of eight members who shall include:

- (1) The chair of the house standing committee on consumer protection and commerce;
- (2) The chair of the house standing committee on health;
- (3) The chair of the house standing committee on finance;
- (4) The chair of the senate standing committee on commerce and consumer protection;
- (5) The chair of the senate standing committee on health;
- (6) The chair of the senate standing committee on ways and means;

- (7) One member of the minority party of the house, to be selected by the minority party leader; and
  - (8) One member of the minority party of the senate, to be selected by the minority party leader.
- (c) The chairs of the house committee on consumer protection and commerce and the senate committee on commerce and consumer protection shall serve as the co-chairs of the committee.
- (d) The committee shall meet at least annually as agreed upon by the co-chairs; provided that the committee shall meet no later than December 1 of each year.
- (e) The committee shall annually review the report pursuant to section 435H-C and the sustainability plan pursuant to section 435H-D that are submitted by the board and shall make recommendations as needed to the house committee on finance and the senate committee on ways and means.

**§435H-C Reports; submission to the connector legislative oversight committee.** (a) No later than twenty days prior to the convening of the regular session of 2015, the board shall prepare and submit a report to the connector legislative oversight committee with updates on the sustainability plan of the connector, including specific efforts to reduce costs related to contracted services and other actions.

(b) No later than twenty days prior to the convening of the regular session of 2016 and the convening of each regular session thereafter, the board shall prepare and submit a report to the connector legislative oversight committee updating the committee on the connector's sustainability plan and the results of efforts to reduce costs related to contracted services and other actions.

(c) No later than twenty days prior to the start of each fiscal year of the connector, the board shall submit a copy of any federal audit reports to the connector legislative oversight committee; provided that if a federal audit report cannot be provided by this date, the board shall submit a copy of the federal audit report as soon as the federal audit report is complete.

(d) No later than twenty days prior to the start of each fiscal year of the connector, the board shall submit a copy of the annual financial statements of the connector to the connector legislative oversight committee.

**§435H-D Hawaii health connector annual sustainability plan.** (a) Until June 30, 2018, the board shall submit a sustainability plan to the connector legislative oversight committee no later than ninety days prior to the start of each fiscal year of the connector. The sustainability plan shall specify the amount of funding required to finance the operations and cash reserve of the connector for each ensuing fiscal year beginning on July 1; provided that the balance of the cash reserves shall not exceed the value of the cost of six months of administering and operating the connector.

(b) The sustainability plan submitted pursuant to subsection (a) shall include:

- (1) A detailed itemized budget based upon zero-based budgeting principles for the upcoming fiscal year; and
- (2) A detailed sustainability plan that includes a three-year budget projection for the upcoming three fiscal years.

For the purposes of formulating the budget, "zero-based budgeting principles" means that the Hawaii health connector shall justify all projected allocations and expenditures, starting with an initial balance of zero dollars to spend.

(c) After June 30, 2018, the board shall not be required to file a sustainability plan pursuant to subsection (a).

**§435H-E Agents and brokers.** (a) Connector-certified insurance agents and brokers may enroll individuals and employers in qualified plans through the connector and assist individuals and employers in applying for applicable premium tax credits and cost-sharing reductions for which they may be eligible.

(b) If a health insurance plan utilizes and compensates an insurance agent or broker, the Hawaii health connector shall not be responsible for any compensation to that agent or broker that sells a qualified health plan through the connector. The issuer of the qualified health plan shall bear all compensation to an agent or broker that sells a qualified health plan through the connector."

SECTION 3. Section 435H-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) There is established the Hawaii health insurance exchange to be known as the Hawaii health connector. The connector shall not be an agency of the State and shall not be subject to laws or rules regulating rulemaking, public employment, or public procurement. The connector shall be a Hawaii nonprofit corporation organized and governed pursuant to chapter 414D, the Hawaii nonprofit corporations act. The debts and liabilities of the connector shall not constitute the debts and liabilities of the State.

(b) The purposes of the connector shall include:

- (1) Facilitating the purchase and sale of qualified plans and qualified dental plans;
- (2) Connecting consumers to the information necessary to make informed health care choices; [and]
- (3) Enabling consumers to purchase coverage and manage health and dental plans electronically[-]; and
- (4) Performing any and all other duties required of a health insurance exchange pursuant to the Federal Act."

2. By amending subsection (d) to read:

"(d) The connector shall be audited annually by the state auditor who shall submit the results of each annual audit to the commissioner and the legislature no later than thirty days after the connector receives the results. The audit shall comply with standard accounting practices for reviewing nonprofit corporations. The connector shall provide the state auditor with the opportunity to inspect and make copies of documents for the purposes of providing a financial audit for the legislature. The connector shall retain all annual audits on file, along with any documents, papers, books, records, and other evidence that is pertinent to its budget and operations for a period of ten years and shall permit the state auditor, the commissioner, the state legislature, or their authorized representatives to have access to, inspect, and make copies of any documents retained pursuant to this subsection."

SECTION 4. Section 435H-3, Hawaii Revised Statutes, is amended to read as follows:

**[§435H-3]** **Funding.** (a) The connector may receive contributions, grants, endowments, fees, or gifts in cash or otherwise from public and private sources including corporations, businesses, foundations, governments, individuals, and other sources subject to rules adopted by the board. The State may appropriate moneys to the connector. As required by section 1311(d)(5)(A) of the Federal Act, the connector shall be self-sustaining by January 1, 2015, and may charge assessments or user fees to participating health and dental carriers, or may otherwise generate non-insurer based funding to support its opera-

tions. Moneys received by or under the supervision of the connector shall not be placed into the state treasury and the State shall not administer any moneys of the connector nor be responsible for the financial operations or solvency of the connector.

(b) In addition to any other means of generating revenue pursuant to subsections (a) and (c), the connector may sell or lease its information technology infrastructure and services to other separate non-connector programs; provided that the sale or lease is in compliance with federal regulations.

(c) In addition to any other means of generating revenue pursuant to subsections (a) and (b), the connector may also charge fees for displaying advertisements for ancillary services on the connector's website.

(d) All plans to generate revenue for the connector shall be in compliance with federal law."

SECTION 5. Section 435H-4, Hawaii Revised Statutes, is amended to read as follows:

**"§435H-4 Board of directors; composition; operation.** (a) The Hawaii health connector shall be a nonprofit entity governed by a board of directors that shall [comprise fifteen members appointed by the governor and with the advice and consent of the senate pursuant to section 26-34; provided that the governor shall submit nominations to the senate for advice and consent no later than February 1, 2012; and provided further that the senate shall timely advise and consent to nominations for terms to begin July 1, 2012. Members of the interim board shall be eligible for appointment to the board.] be composed of nine voting members and five ex officio members. There shall be no board members representing insurers or dental benefit providers; provided that the board may establish a subcommittee of representatives from all providers of health care insurance and dental benefits to provide technical assistance and other information to the connector on relevant insurance matters. The board may establish other subcommittees to assist the connector with implementation of the Federal Act, as appropriate.

(b) For each vacant position on the board, the board, speaker of the house of representatives, and the president of the senate shall each submit to the governor the names of two qualified nominees. The governor shall appoint members of the board, subject to the advice and consent of the senate and pursuant to section 26-34, from this list of qualified nominees. Board members whose terms are expiring may be reappointed for an additional term to assist with continuity of the board.

[(b)] (c) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders [including consumers, employers, insurers, and dental benefit providers]. Each person appointed to the board shall have education, training, or professional experience in at least one of the following areas:

- (1) Health care policy;
- (2) Health benefits plan administration, including medicaid administration;
- (3) Health insurance; provided that no employee of an insurer shall be appointed to the board;
- (4) Health care financing and purchasing;
- (5) Labor-management committee organization;
- (6) Information technology;
- (7) Native Hawaiian health care organizations;
- (8) Public health; or

(9) Health care policy issues related to the small group and individual markets and the uninsured.

In making appointments, the appointing authorities shall consider the background and expertise of all members of the board and the geographic, socioeconomic, and other characteristics of the State, so that the board's composition reflects a diversity of expertise, skills, and backgrounds relevant to the State; provided that the representative designated by the governor pursuant to subsection (d) shall be the only state employee to serve as a voting member of the board.

(d) The governor shall designate one representative to serve as the State's official representative on the board from among the following: the director of commerce and consumer affairs [or the director's designee], the director of health [or the director's designee], the director of human services [or the director's designee], [and] the director of labor and industrial relations [or the director's designee], a representative from the office of healthcare transformation, or a representative from the office of information management and technology.

The governor's designated representative shall be an ex officio voting member of the board. The remaining state officials shall be ex officio[ - voting] nonvoting members of the board. The governor shall notify the chair of the connector regarding the selection of the designated voting and nonvoting state members of the board.

The director of commerce and consumer affairs, the director of health, the director of human services, and the director of labor and industrial relations may select a designee for a specified meeting or meetings. Such selection of the designee shall be submitted in writing to the board of directors prior to or at the meeting in which the designee will serve.

[e] (e) Board members shall serve staggered terms and the interim board shall recommend an appropriate schedule for staggered terms; provided that this subsection shall not apply to ex officio members, who shall serve during their entire term of office[-] or until the governor names a replacement.

(f) Any changes to the board structure and governance shall be in compliance with federal law.

[d] (g) The board shall adopt policies prohibiting conflicts of interest and procedures for recusal of a member in the case of an actual or potential conflict of interest, including policies prohibiting a member from taking part in official action on any matter in which the member had any financial involvement or interest prior to the commencement of service on the board. Members of the board may retain private counsel for matters relating to service on the board according to rules recommended by the board.

[e] (h) The board shall manage the budget of the connector according to generally accepted accounting principles and a plan for financial organization adopted by the legislature based on recommendations of the interim board.

[f] (i) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature based on recommendations of the interim board."

SECTION 6. Section 435H-7, Hawaii Revised Statutes, is repealed.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the operations of the Hawaii health connector.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act; provided that the department

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of commerce and consumer affairs shall only expend the appropriated sum subsequent to the department of commerce and consumer affairs' receipt and approval of all of the Hawaii health connector's amended articles of incorporation or amended bylaws and necessary corporate resolutions and resignations, each of which shall bring the Hawaii health connector into full compliance with section 435H-4, Hawaii Revised Statutes.

SECTION 8. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2014; provided that section 5 shall take effect on October 1, 2014.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 234

S.B. NO. 2821

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. Section 431:4A-101, Hawaii Revised Statutes, is amended to read as follows:

**"§431:4A-101 Credit allowed a domestic ceding insurer.** (a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a [deduction] reduction from liability on [the domestic ceding insurer's financial statements on] account of reinsurance ceded only when the reinsurer meets the requirements of [paragraph (1), (2), (3), (4), or (5)]. The requirements of paragraph (6) must also be met if the reinsurer attempts to meet the requirements of paragraph (3) or (4).] subsection (b), (c), (d), (e), or (f). Credit shall be allowed under subsection (b) or (c) only as respects cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subsection (c) or (d) only if the applicable requirements of subsection (g) have been satisfied.

[+] (b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that], or is accredited by the commissioner as a reinsurer in this State. [An accredited reinsurer is one that:] To be eligible for accreditation, a reinsurer shall:

- [**(A)**] **Files** (1) File with the commissioner evidence of its submission to this State's jurisdiction;
- [**(B)**] **Submits** (2) Submit to this State's authority to examine its books and records;
- [**(C)**] **Is** (3) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, [is] be entered through and licensed to transact insurance or reinsurance in at least one state;
- [**(D)**] **Files** (4) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and [either:
  - (i) Maintains a surplus as regards policyholders in an amount that is not less than \$20,000,000 and whose accreditation has not been denied by the commissioner within ninety days of its submission; or
  - (ii) Maintains a surplus as regards policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the commissioner.

~~No credit shall be allowed a domestic ceding insurer, if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing.]~~

- (5) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and its accreditation has not been denied by the commissioner within ninety days after submission of its application.

[**(3)**] (c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled [and licensed] in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance equal to or exceeding those applicable under this article and the assuming insurer or United States branch of an alien assuming insurer:

- [**(A)**] (1) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and
- [**(B)**] (2) Submits to the authority of this State to examine its books and records;

provided that [the requirement of subparagraph (A)] paragraph (1) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

- [**(4)**] (d) Credit shall be allowed as follows:

- [**(A)**] (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 431:4A-103(b), for the payment of the valid claims of its United States [policyholders and] ceding insurers, their assigns[,] and successors in interest. [The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of] To enable

the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination;

- (2) Credit for reinsurance shall not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

- (A) The commissioner of the state where the trust is domiciled; or  
 (B) The commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

The form of the trust and any trust amendments shall also be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States.

The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31;

- (3) The following requirements shall apply to these categories of assuming insurers:

- (A) The trust fund for a single assuming insurer[, the trust] shall consist of [a trustee account representing the] funds in trust in an amount not less than the assuming insurer's liabilities attributable to [business written in the United States] reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000[.], except as provided in subparagraph (B);

- (B) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved,

the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusted surplus may not be reduced to an amount less than thirty per cent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust;

(C) In the case of a group including incorporated and individual unincorporated underwriters[, the trust shall consist of a trusted account representing the group's liabilities attributable to business written in the United States and, in addition,]:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this article, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trusted surplus of which \$100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group[; the] for all years of account.

The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of [solveney] regulation and solvency control by the group's domiciliary regulator as are the unincorporated members[; and].

Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall [make available] provide to the commissioner an annual certification [of the solvency of each underwriter] by the group's domiciliary regulator [and its] of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants[;], of each underwriter member of the group;

[B] (D) In the case of a group of incorporated [insurers] underwriters under common administration [that complies with the filing requirements contained in subparagraph (A), and that has], the group shall:

(i) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation[, and that submits to this State's authority to examine its books and records and bears the expense of the examination, and that has];

- (ii) Maintain aggregate policyholders' surplus of at least \$10,000,000,000[, the];
- (iii) Maintain a trust [shall be] fund in an amount [equal to] not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; [and the group shall maintain]
- (iv) Maintain a joint trusted surplus[,] of which \$100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for [any such] these liabilities[, and each member of the group shall]; and
- (v) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of [the] each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant[;
- (C) The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and
- (D) No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31].
- (e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this State and secures its obligations in accordance with the requirements of this subsection as follows:
  - (1) To be eligible for certification, the assuming insurer shall:
    - (A) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to paragraph (3);
    - (B) Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the rules adopted by the commissioner;
    - (C) Maintain financial strength ratings from two or more rating agencies deemed acceptable by the rules adopted by the commissioner;
    - (D) Agree to submit to the jurisdiction of this State, appoint the commissioner as its agent for service of process in this State, and agree to provide security for one hundred per cent of the

- assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;
- (E) Agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and
- (F) Satisfy any other requirements for certification deemed relevant by the commissioner;
- (2) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. To be eligible for certification, in addition to satisfying the requirements of paragraph (1):
- (A) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;
- (B) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and
- (C) Within ninety days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member, or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association;
- (3) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in a qualified jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer. In addition:
- (A) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner;
- (B) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners committee process. The commissioner shall consider this list in deter-

- mining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under rules adopted by the commissioner:
- (C) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners financial regulation standards and accreditation program shall be recognized as qualified jurisdictions; and
- (D) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation;
- (4) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable pursuant to rules adopted by the commissioner. The commissioner shall publish a list of all certified reinsurers and their ratings;
- (5) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with its rating, as specified in rules adopted by the commissioner. In addition:
- (A) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with section 431:4A-102, or in a multibeneficiary trust in accordance with subsection (d), except as otherwise provided in this subsection;
- (B) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection (d), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subsection (d). It shall be a condition to the grant of certification under this subsection that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account;
- (C) The minimum trustee surplus requirements provided in subsection (d) shall not be applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trustee surplus of \$10,000,000;
- (D) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is

a material risk that the certified reinsurer's obligations will not be paid in full when due; and

(E) For purposes of this subsection:

- (i) A certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred per cent of its obligations;
- (ii) "Terminated" means revoked, suspended, voluntarily surrendered, or placed on inactive status; and
- (iii) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement shall not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended;
- (6) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this State; and
- (7) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

[§5] (f) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of [paragraph (1), (2), (3), or (4),] subsection (b), (c), (d), or (e), but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

[§6] (g) If the assuming insurer is not licensed [~~or~~], accredited, or certified to transact insurance or reinsurance in this State, the credit permitted by [paragraphs (3) and (4)] subsections (c) and (d) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A) (1) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, [will] shall comply with all requirements necessary to give [that] the court jurisdiction, and [will] shall abide by the final decision of that court or of any appellate court in the event of an appeal; and

(B) (2) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding [company] insurer.

This [paragraph] subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if [such an] this obligation is created in the agreement.

(h) If the assuming insurer does not meet the requirements of subsection (b) or (c), the credit permitted by subsection (d) or (e) shall not be allowed

unless the assuming insurer agrees in the trust agreements to the following conditions:

- (1) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subsection (d)(3), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of any court of competent jurisdiction in any state of the United States directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund;
- (2) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;
- (3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and
- (4) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.
  - (i) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification. In addition:
    - (1) The commissioner shall give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the commissioner's order after a hearing, unless:
      - (A) The reinsurer waives its right to a hearing;
      - (B) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection (e)(6); or
      - (C) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.
    - (2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with section 431:4A-102. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (e)(5) or section 431:4A-102.
  - (j) A ceding insurer shall take steps to:
    - (1) Manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty days after reinsurance recoverables from any single

assuming insurer, or group of affiliated assuming insurers, exceed fifty per cent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, are likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer; and

- (2) Diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty per cent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer."

SECTION 2. Section 431:4A-102, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:4A-102] Reduction]** Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer. [A] An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 431:4A-101 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if that security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution[-] as defined in section 431:4A-103(b). This security may be in the form of:

- (1) Cash;
- (2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the securities valuation office, and qualifying as admitted assets;
- (3) Clean, irrevocable, and unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in section 431:4A-103, effective no later than December [31st in respect] 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding [company] insurer on or before the filing date of its annual statement[-];
- (4) Letters of credit [issued by issuing (or confirming) institutions] meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or
- [4] (5) Any other form of security acceptable to the commissioner."

SECTION 3. Section 431:4A-105, Hawaii Revised Statutes, is repealed.

**PART II**

SECTION 4. Section 431:5-307, Hawaii Revised Statutes, is amended to read as follows:

**"§431:5-307 Standard valuation law; life.** (a) This section shall be known as the standard valuation law.

(b) [Reserve valuation:]

(1) For policies and contracts issued prior to the operative date of the valuation manual:

(A) The commissioner[, annually, shall value,] shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance[,] policies and annuity[;] and pure endowment contracts of every life [insurer] insurance company doing business in this State[.] The commissioner may certify the amount of any reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or others) used in the calculation of the reserves.] issued on or after January 1, 1956, and prior to the operative date of the valuation manual. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required [under this section of any] of a foreign or alien [insurer] company, the commissioner may accept [any] a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction, when the valuation complies with the minimum standard under this section[, and if the official of that state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when the certification states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction;]

(2) The actual cost of making valuations under this section shall be assessed on the insurer, whose policies are so valued, by the commissioner; and

(3) Any insurer, at any time, that has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided, with the approval of the commissioner, may adopt any lower standard of valuation, but not lower than the minimum provided in this section.];

(B) Subsections (e) to (n) shall apply to all policies and contracts, as appropriate, subject to this section issued on or after January 1, 1956, and prior to the operative date of the valuation manual; provided that subsections (o) and (p) shall not apply to those policies and contracts;

(C) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1956, shall be that provided by the laws in effect immediately prior to that date;

(2) For policies and contracts issued on or after the operative date of the valuation manual:

(A) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all out-

standing life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section; and

- (B) Subsections (o) and (p) shall apply to all policies and contracts issued on or after the operative date of the valuation manual.
- (c) For an actuarial opinion prior to the operative date of the valuation manual:
- (1) Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rules are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of this State. The commissioner shall define by rules the specifics of this opinion and add any other items deemed to be necessary to its scope;
- (2) For actuarial analysis of reserves and assets supporting the reserves:
- (A) Every life insurance company, except as exempted by rules, shall also include annually in the opinion required by paragraph (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rules, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts; and
- (B) The commissioner may provide by rules for a transition period for establishing any higher reserves that the qualified actuary may deem necessary to render the opinion required by this section;
- (3) Each opinion required by paragraph (2) shall be governed by the following:
- (A) A memorandum, in form and substance acceptable to the commissioner as specified by rules, shall be prepared to support each actuarial opinion; and
- (B) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rules, or if the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by rules, or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurance company to review the opinion and the basis for the opinion and

- prepare the supporting memorandum required by the commissioner; and
- (4) Every opinion required by paragraph (1) shall be governed by the following:
- (A) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1995;
- (B) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rules;
- (C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor and on any additional standards as the commissioner may prescribe by rules;
- (D) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State;
- (E) For the purposes of this subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulations adopted by the American Academy of Actuaries;
- (F) Except in cases of fraud or wilful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion;
- (G) Disciplinary action by the commissioner against the company or the qualified actuary shall be as defined by rules;
- (H) Except as provided in subparagraphs (L), (M), and (N), documents, materials, or other information in the possession or control of the insurance division that are part of a memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be disclosable under chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties;
- (I) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subparagraph (H);
- (J) To assist in the performance of the commissioner's duties, the commissioner:
- (i) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subparagraph (H) with

other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities; provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information; and

- (ii) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(K) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subparagraph (J);

(L) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this subsection or related rules adopted by the commissioner;

(M) The memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material; and

(N) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(d) For actuarial opinions of reserves after the operative date of the valuation manual:

- (1) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this State and subject to regulation by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this State. The valuation manual shall prescribe the specifics of this opinion including any items deemed to be necessary to its scope;

- (2) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this State and subject to regulation by the commissioner, except as exempted in the valuation manual, also shall annually include in the opinion required by paragraph (1), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including but not limited to the benefits under and expenses associated with the policies and contracts;
- (3) Each opinion required by this subsection shall be governed by the following provisions:
- (A) A memorandum, in form and substance as specified in the valuation manual and acceptable to the commissioner, shall be prepared to support each actuarial opinion; and
- (B) If the company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual, or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurance company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner; and
- (4) Every opinion subject to this subsection shall be governed by the following provisions:
- (A) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner;
- (B) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual;
- (C) The opinion shall apply to all policies and contracts subject to paragraph (2), plus other actuarial liabilities as may be specified in the valuation manual;
- (D) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor and on such additional standards as may be prescribed in the valuation manual;
- (E) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State;
- (F) Except in cases of fraud or wilful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any

act, error, omission, decision, or conduct with respect to the appointed actuary's opinion; and

(G) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined by rules adopted by the commissioner.

[e] Computation of minimum standard:

(1) Old policies: (e) Except as otherwise provided in [paragraph (3), subsections (f), (g), and (n)], the minimum standard for the valuation of [all] policies and contracts issued prior to [the operative date of section 431:10D-104, January 1, 1956, shall be that provided by the laws in effect immediately prior to January 1, 1956].

(2) Except as otherwise provided in [paragraph (3), subsections (f), (g), and (n)], the minimum standard for the valuation of all policies and contracts issued on or after [the operative date of section 431:10D-104, January 1, 1956, shall be the commissioner's reserve valuation methods defined in subsections (d), (e), and (h), (i), (l), and (n), three and one-half per cent interest[, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1976, four per cent interest[, for [the] policies issued prior to June 1, 1979, five and one-half per cent interest for single premium life insurance policies, and four and one-half per cent interest for all other policies issued on or after June 1, 1979, and the following tables:

(A) (1) For [all] ordinary policies of life insurance issued on the standard basis, excluding any accident and health [or sickness] and accidental death benefits in the policies[—]; the Commissioners 1941 Standard Ordinary Mortality Table for the policies issued prior to the operative date of section [431:10D-104(e)(8), and] 431:10D-104(e)(6), the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date[+] of section 431:10D-104(e)(6) and prior to the operative date of section 431:10D(e)(8); provided that for any category of the policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and for the policies issued on or after the operative date of section 431:10D-104(e)(8)[, the]:

(A) The Commissioners 1980 Standard Ordinary Mortality Table[, or at];

(B) At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors[, or any];

(C) Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for the policies;

(B) (2) For [all] industrial life insurance policies issued on the standard basis, excluding any accident and health [or sickness] and accidental death benefits in the policies[—]; the 1941 Standard Industrial Mortality Table for the policies issued prior to the operative date of section 431:10D-104(e)(7), and for [the] policies issued on or after the operative date[,] of section 431:10D-104(e)(7), the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners[,] that is approved by rules adopted by

- the commissioner for use in determining the minimum standard of valuation for [these] the policies;
- [E)] (3) For individual annuity and pure endowment contracts, excluding any accident and health [or sickness] and accidental death benefits in the policies[—]; the 1937 Standard Annuity Mortality Table, or[,] at the option of the [insurer,] company, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner;
  - [D)] (4) For group annuity and pure endowment contracts, excluding any accident and health [or sickness] and accidental death benefits in the policies[—]; the Group Annuity Mortality Table for 1951, [any] a modification of the table approved by the commissioner, or[,] at the option of the [insurer,] company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;
  - [E)] (5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts[—]; for policies or contracts issued after December 31, 1965, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates[,] adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for [the] those policies; for policies or contracts issued after December 31, 1960, and prior to January 1, 1966, either the tables or, at the option of the [insurer,] company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any table, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;
  - [F)] (6) For accidental death benefits in or supplementary to policies[— for policies] issued after December 31, 1965[,]; the 1959 Accidental Death Benefits Table or any accidental death benefits table[,] adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for [the] those policies[,], for policies issued after December 31, 1960, and prior to January 1, 1966, either [the] that table or, at the option of the [insurer,] company, the Inter-company Double Indemnity Mortality Table[, and for policies issued prior to January 1, 1961, the Inter-company Double Indemnity Mortality Table]. Either table shall be combined with a mortality table [permitted] for calculating the reserves for life insurance policies; and
  - [G)] (7) For group life insurance, life insurance issued on the standard basis, and other special benefits[—any]: tables [that may be] approved by the commissioner[.].
- [3] (f) Except as provided in [paragraph (4),] subsection (g), the minimum standard [for the] of valuation [of all] for individual annuity and pure endowment contracts issued on or after the operative date of this [paragraph,] subsection and for [all] annuities and pure [endowments] endowment contracts purchased on or after the operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in subsections [(d) and (e)] (h) and (i) and the following tables and interest rates:

- [A] (1) For individual annuity and pure endowment contracts issued prior to June 1, 1979, excluding any accident and health [or sickness] and accidental death benefits in the contracts[—]; the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts;
- [B] (2) For individual single premium immediate annuity contracts issued on or after June 1, 1979, excluding any accident and health [or sickness] and accidental death benefits in the contracts[—]; the 1971 Individual Annuity Mortality Table[,] or any individual annuity mortality table[,] adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for [the] these contracts, or any modification of these tables approved by the commissioner, and seven and one-half per cent interest;
- [C] (3) For individual annuity and pure endowment contracts issued on or after June 1, 1979, other than single premium immediate annuity contracts, excluding any accident and health [or sickness] and accidental death benefits in [the] those contracts[—]; the 1971 Individual Annuity Mortality Table or any individual annuity mortality table[,] adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for [the] those contracts, or any modification of these tables approved by the commissioner, and five and one-half per cent interest for single premium deferred annuity and pure endowment contracts and four and one-half per cent interest for all other individual annuity and pure endowment contracts; [and]
- (4) For annuities and pure endowment contracts purchased prior to June 1, 1979, under group annuity and pure endowment contracts, excluding any accident and health and accidental death benefits purchased under those contracts: the 1971 Group Annuity Mortality Table or any modification of this table approved by the commissioner, and six per cent interest; and
- [D] (5) For [all] annuities and pure [endowments] endowment contracts purchased on or after June 1, 1979, under group annuity and pure endowment contracts, excluding any accident and health [or sickness] and accidental death benefits [in the] purchased under those contracts[—]; the 1971 Group Annuity Mortality Table, or any group annuity mortality table[,] adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rules adopted by the commissioner for use in determining the minimum standard of valuation for the annuities and pure [endowments;] endowment contracts, or any modification of these tables approved by the commissioner, and seven and one-half per cent interest.

After June 1, 1976, any [insurer] company may file with the commissioner a written notice of its election to comply with this [paragraph] subsection after a specified date before January 1, 1979, which shall be the operative date of this [paragraph] subsection for [the insurer; provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts:] that company. If

~~[an insurer] a company makes no election, the operative date of this [paragraph] subsection for [the insurer] that company shall be January 1, 1979[; and~~

(4) ~~Applicability of this section:~~

- (A) ~~The interest rates used in determining the minimum for the valuation of:~~
- (i) ~~All life insurance policies issued in a particular calendar year, on or after the operative date of section 431:10D-104(e)(8);~~
  - (ii) ~~All individual annuity and pure endowment contracts issued in a particular calendar year after December 31, 1982;~~
  - (iii) ~~All annuities and pure endowments purchased in a particular calendar year after December 31, 1982, under group annuity and pure endowment contracts; and~~
  - (iv) ~~The net increase, if any, in a particular calendar year after 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation rates as defined in this paragraph;]~~

(g)(1) ~~The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:~~

- (A) ~~Life insurance policies issued in a particular calendar year, on or after the operative date of section 431:10D-104(e)(8);~~
- (B) ~~Individual annuity and pure endowment contracts issued in a particular calendar year after December 31, 1982;~~
- (C) ~~Annuities and pure endowment contracts purchased in a particular calendar year after December 31, 1982, under group annuity and pure endowment contracts; and~~
- (D) ~~The net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts.~~

[B] (2) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one per cent:

[(i)] (A) For life insurance,

$$I = .03 + W (R_1 - .03) + \frac{W}{2} (R_2 - .09);$$

[(ii)] (B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where  $R_1$  is the lesser of R and .09,  $R_2$  is the greater of R and .09, R is the reference interest rate defined in this [section] subsection, and W is the weighting factor defined in this [section] subsection;

[(iii)] (C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in [elause (ii),] subparagraph (B), the formula for life insurance stated in [elause (i)] subparagraph (A) shall apply to annuities and guaranteed interest contracts with guarantee durations in

- excess of ten years[,] and the formula for single premium immediate annuities stated in [clause (ii)] subparagraph (B) shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;
- [(iv)] (D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in [clause (ii)] subparagraph (B) shall apply; and
- [(v)] (E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in [clause (ii)] subparagraph (B) shall apply[.].
- [(C)] However, if If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this [sentenee] subsection differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one per cent, the calendar year statutory valuation interest rate for [those] the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when section 431:10D-104(e)(8) becomes operative;
- [(D)] (3) The weighting factors referred to in the formulas stated [above] in paragraph (2) are given in the following tables:

- [(i)] (A) Weighting factors for life insurance:

Guarantee Duration <u>(Years)</u>	Weighting Factors
10 or [ <u>fewer</u> ] (less)	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy[,] or under options to convert to plans of life insurance with premium rates or nonforfeiture values[,] or both, which are guaranteed in the original policy;

- [(ii)] (B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80; and
- [(iii)] (C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in [clause (ii)], subparagraph (B), shall be as specified in the tables below, according to the rules and definitions stated below:

Table I:

For annuities and guaranteed interest contracts valued on an issue year basis[<sup>5</sup>]:

Guarantee Duration (Years)	Weighting Factor For Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

Table II:

For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in [clause (i)]

Table I increased by:

Plan Type		
A	B	C
.15	.25	.05

Table III:

For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) [~~which~~] that do not guarantee interest on considerations received more than one year after issue or purchase[<sup>5</sup>] and for annuities and guaranteed interest contracts valued on a change in fund basis [~~which~~] that do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in Table I or derived in

Table II increased by:

Plan Type		
A	B	C
.05	.05	.05

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time the policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; (2) without an adjustment, but in installments over five years or more; (3) as an immediate life annuity; or (4) no withdrawal permitted;

Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; (2) without an adjustment, but in

installments over five years or more; or (3) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without adjustment in a single sum or in installments over less than five years;

Plan Type C: The policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or in installments over less than five years either: (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options shall be valued on an issue year basis. As used in this [section, an issue year basis of valuation refers to] subsection, "issue year basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and [the change in fund basis of valuation refers to] "change in fund basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund;

- [{(B)} (4) The reference interest rate referred to in paragraph [(4)(B)] (2) shall be defined as follows:
  - [{(i)} (A) For [all] life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year [next] preceding the year of issue, of [Moody's Corporate Bond Yield Average Monthly Average Corporates,] the monthly average of composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;
  - [{(ii)} (B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, [of Moody's Corporate Bond Yield Average Monthly Average Corporates,] of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;
  - [{(iii)} (C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on [a year of issue] an issue year basis, except as stated in [clause (ii),] subparagraph (B), with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, [of Moody's Corporate Bond Yield Average Monthly Average Corporates,] of the monthly average of the composite yield on

- seasoned corporate bonds, as published by Moody's Investors Service, Inc.;
- [**(iv)**] (D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on [a year of issue] an issue year basis, except as stated in [clause (ii),] subparagraph (B), with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, [~~of Moody's Corporate Bond Yield Average Monthly Average Corporates,~~] of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;
- [**(v)**] (E) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, [~~of Moody's Corporate Bond Yield Average Monthly Average Corporates,~~] of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.; and
- [**(vi)**] (F) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in [clause (ii),] subparagraph (B), the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, [~~of Moody's Corporate Bond Yield Average Monthly Average Corporates,~~] of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.; and
- [**(F)**] Alternative method for determining references interest rates:
- [**(5)**] In the event that [~~Moody's Corporate Bond Yield Average Monthly Average Corporates~~] the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that [~~Moody's Corporate Bond Yield Average Monthly Average Corporates as published~~] the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate[, which is] adopted by the National Association of Insurance Commissioners and approved by rules adopted by the commissioner[,] may be substituted.
- [**(d)**] Commissioner's reserve valuation methods:
- [**(1)**] (h)(1) Except as otherwise provided in subsections [(e) and (h,)] (i), (l), and (n), reserves, according to the commissioner's reserve valuation [~~methods~~] method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for [any such] a policy shall be the uniform percentage of the respective contract premiums for the benefits [~~excluding extra premiums on a substandard policy~~] such that the present value,

at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of subparagraph (A) over subparagraph (B) as follows:

- (A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one [a-year] per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; provided that the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age of issue of the policy; and
  - (B) A net one-year term premium for the benefits provided for in the first policy year[; provided that for any];
- (2) For a life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year, and for which no comparable additional benefit is provided in the first year for the excess, [which] and that provides an endowment benefit, a cash surrender value, or a combination thereof, in an amount greater than the excess premium, the reserve, according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, except as otherwise provided in subsection [(A),] (1), shall be the greater of the reserve as of the policy anniversary calculated [as described above] pursuant to this paragraph and the reserve as of the policy anniversary calculated as described, but with:
- [i)] (A) The value defined in [subparagraph (A)] paragraph (1) being reduced by fifteen per cent of the amount of the excess first year premium;
  - [ii)] (B) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;
  - [iii)] (C) The policy being assumed to mature on that date as an endowment; and
  - [iv)] (D) The cash surrender value provided on that date being considered as an endowment benefit.
- In making the above comparison, the mortality and interest bases stated in [subsection (e)(2) and (3)] subsections (e) and (g) shall be used; and
- (2) Reserve] (3) Reserves according to the commissioner's reserve valuation [methods for:] method shall be calculated by a method consistent with the principles of paragraphs (1) and (2) for:
- (A) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;
  - (B) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement ac-

counts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;

(C) Accident and health or sickness and accidental death benefits in all policies and contracts; and

(D) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts[; shall be calculated by a method consistent with the principles of this subsection].

[**(e)**] **(i)** This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any accident and health or sickness and accidental death benefits in [these] the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by [these] the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable prior to the end of [such] the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

[**(f)**] Minimum aggregate reserves: [**(j)**] In no event shall [an insurer's] a company's aggregate reserves for all life insurance policies, excluding accident and health [or sickness] and accidental death benefits, issued on or after [the operative date of section 431:10D-104,] January 1, 1956, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections [(d), (e), (h), and (i);] (h), (i), (l), and (m), and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for those policies. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the [qualified] appointed actuary to be necessary to render the opinion required by [subsection (j).] subsections (c) and (d).

[**(g)**] Optional reserves bases: [**(k)**] With regard to optional reserve calculation:

**(1)** Reserves for [any category of] policies[,] and contracts[,] or benefits as established by the commissioner, issued on or after the operative date of section 431:10D-104,] issued prior to January 1, 1956, may be calculated, at the option of the [insurer,] company, according to any standards [which] that produce greater aggregate reserves for [the category than those calculated according to the minimum standard herein provided. The rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rates of interest used in calculating any nonforfeiture benefits provided for therein. Any] all such

policies and contracts than the minimum reserves required by the laws in effect immediately prior to that date;

(2) Reserves for any category of policies, contracts, or benefits established by the commissioner, issued on or after January 1, 1956, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided herein, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies or contracts; and

(3) A company, which adopts at any time [shall have adopted any] a standard valuation producing greater aggregate reserves than those calculated according to the minimum standard [herein] provided[; under this section, may adopt a lower standard of valuation with the approval of the commissioner, [may adopt any lower standard of valuation,] but not lower than the minimum [herein] provided[; herein; provided that for the purposes of this section, the holding of additional reserves previously determined by [a qualified] the appointed actuary to be necessary to render the opinion required by [subsection (j)] subsections (c) and (d) shall not be deemed to be the adoption of a higher standard of valuation.

[(h) Minimum reserve:] (1) If in any contract year the gross premium charged by [any life insurer] a company on [any] a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve [thereon] but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for [that] the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract, but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this [section] subsection are those standards stated in [subsection (e)(1), (2), and (4); provided that for any] subsections (e) and (g). For a life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and [which] that provides an endowment benefit or a cash surrender value, or a combination thereof, in an amount greater than the excess premium, this subsection shall be applied as if the method actually used in calculating the reserve for the policy were the method described in subsection [(d)] (h), ignoring [the second paragraph of that] subsection[-] (h)(2). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection [(d)] (h), including subsection [(d)(2)] (h)(2) and the minimum reserve calculated in accordance with this subsection.

[(t) (m)] In the case of any plan of life insurance [which] that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity [which] that is of such a nature that the minimum reserves cannot be determined by the methods described in

subsections [(d), (e), and] (h), (i), and (l), the reserves [which] that are held under [any such] the plan [must] shall:

- (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and
- (2) Be computed by a method [which] that is consistent with the principles of this section, as determined by rules adopted by the commissioner.

[f)] The actuarial opinion of reserves and this subsection shall become effective December 31, 1995.

- (1) Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, by rules, are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of this State. The commissioner, by rules, shall define the specifics of this opinion and add any other items deemed to be necessary to its scope;
- (2) Actuarial analysis of reserves and assets supporting the reserves:
  - (A) Every life insurance company, except as exempted by or pursuant to rules, also shall include annually in the opinion required by paragraph (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rules, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under, and expenses associated with, the policies and contracts; and
  - (B) The commissioner may provide, by rules, for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section;
- (3) Each opinion required by paragraph (2) shall be governed by the following:
  - (A) A memorandum, in form and substance acceptable to the commissioner as specified by rules, shall be prepared to support each actuarial opinion; and
  - (B) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rules or if the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare any supporting memorandum that is required by the commissioner; and
- (4) Every opinion shall be governed by the following:
  - (A) The opinion shall be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1995;

- (B) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rules;
- (C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any [additional] standards that the commissioner may prescribe by rules;
- (D) In the case of an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this State;
- (E) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulations adopted by the American Academy of Actuaries;
- (F) Except in cases of fraud or wilful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurer and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion;
- (G) Any memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section, or by rules adopted hereunder; provided that the memorandum or other material may otherwise be released by the commissioner with the written consent of the insurer or be released to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the insurer in its marketing material or is cited before any governmental agency, other than a state insurance department, or is released by the insurer to the news media, all portions of the confidential memorandum shall no longer be confidential.]

(n) For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (b)(2). For accident and health or sickness insurance contracts issued on or after January 1, 1956, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

- (o)(1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (b)(2), except as provided under paragraph (5) or (7) of this subsection;
- (2) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

- (A) The valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater;
  - (B) The Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five per cent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements; and
  - (C) The Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico;
- (3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:
- (A) The change to the valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:
    - (i) At least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and
    - (ii) Members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than seventy-five per cent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in clause (i): life, accident and health annual statements; health annual statements; or fraternal annual statements; and
  - (B) The valuation manual becomes effective pursuant to rules adopted by the commissioner;
- (4) The valuation manual shall specify all of the following:
- (A) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (b)(2). These minimum valuation standards shall be:
    - (i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (b)(2);
    - (ii) The commissioner's annuity reserve valuation method for annuity contracts subject to subsection (b)(2); and
    - (iii) Minimum reserves for all other policies or contracts subject to subsection (b)(2);
  - (B) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (p)(1) and the minimum valuation standards consistent with those requirements;
  - (C) For policies and contracts subject to a principle-based valuation under subsection (p):

- (i) Requirements for the format of reports to the commissioner under subsection (p)(2)(C) that shall include information necessary to determine if the valuation is appropriate and in compliance with this section;
  - (ii) Assumptions shall be prescribed for risks over which the company does not have significant control or influence; and
  - (iii) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;
  - (D) For policies not subject to a principle-based valuation under subsection (p), the minimum valuation standard shall either:
    - (i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
    - (ii) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;
  - (E) Other requirements including but not limited to those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; and
  - (F) The data and form of the data required under subsection (q), with whom the data shall be submitted, and may specify other requirements including data analyses and reporting of analyses;
  - (5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this section, then the company shall, with respect to these requirements, comply with minimum valuation standards prescribed by the commissioner by rule;
  - (6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this paragraph, "engage" includes employment and contracting; and
  - (7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary to comply with the requirements of the valuation manual or this section, and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to this chapter.
- (p)(1) A company shall establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

- (A) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the valuation shall reflect conditions appropriately adverse to quantify the tail risk;
  - (B) Incorporate assumptions, risk analysis methods and financial models, and management techniques that are consistent with, but not necessarily identical to, those used within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;
  - (C) Incorporate assumptions that are prescribed in the valuation manual, or for assumptions that are not prescribed, the assumptions shall:
    - (i) Be established using the company's available experience, to the extent it is relevant and statistically credible; or
    - (ii) To the extent that company data is not available, relevant, or statistically credible, be established using other relevant, statistically credible experience; and
  - (D) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve;
- (2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:
- (A) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;
  - (B) Provide to the commissioner and to the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. These controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year; and
  - (C) Develop and file with the commissioner, upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual; and
- (3) A principle-based valuation may include a prescribed formulaic reserve component.
- (q) On or after the operative date of the valuation manual, a company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.
- (r)(1) With respect to privilege for, and confidentiality of, confidential information:
- (A) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be disclosable under chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; provided that the commis-

- sioner may use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties;
- (B) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information;
- (C) To assist in the performance of the commissioner's duties, the commissioner may share confidential information:
- (i) With other state, federal, and international regulatory agencies and with the National Association of Insurance Commissioners and its affiliates and subsidiaries; and
  - (ii) In the case of confidential information specified in paragraph (3)(A)(i) and (iv) only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with the state, federal, and international law enforcement officials in the case of this clause and clause (i); provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner;
- (D) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information;
- (E) The commissioner may enter into agreements governing the sharing and use of information consistent with this paragraph;
- (F) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subparagraph (C); and
- (G) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this paragraph shall be available and enforced in any proceeding in, and in any court of, this State;
- (2) Notwithstanding paragraph (1), any confidential information specified in paragraph (3)(A)(i) and (iv):
- (A) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsections (c) and (d) or principle-based valuation report developed under subsection (p)(2)(C) by reason of an action required by this section or by rules adopted hereunder;

- (B) May otherwise be released by the commissioner with the written consent of the company; and
  - (C) Once any portion of a memorandum in support of an opinion submitted under subsections (c) and (d) or a principle-based valuation report developed under subsection (p)(2)(C) is cited by the company in its marketing, is publicly volunteered to or before a governmental agency other than a state insurance department, or is released by the company to the news media, all portions of the memorandum or report shall no longer be confidential; and
- (3) For purposes of this section:
- (A) "Confidential information" means:
    - (i) A memorandum in support of an opinion submitted under subsections (c) and (d) and any other documents, materials, and other information, including but not limited to all working papers and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;
    - (ii) All documents, materials, and other information, including but not limited to all working papers and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subsection (o)(6); provided that if an examination report or other material prepared in connection with an examination made under section 431:2-302 is not held as private and confidential information under section 431:2-305, an examination report or other material prepared in connection with an examination made under subsection (o)(6) shall not be "confidential information" to the same extent as if the examination report or other material had been prepared under section 431:2-305;
    - (iii) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under subsection (p)(2)(B) evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including but not limited to all working papers and copies thereof, created, produced, or obtained by, or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;
    - (iv) Any principle-based valuation report developed under subsection (p)(2)(C) and any other documents, materials, and other information, including but not limited to all working papers and copies thereof, created, produced, or obtained by, or disclosed to the commissioner or any other person in connection with the report; and
    - (v) Any documents, materials, data, and other information submitted by a company under subsection (q) (collectively, "experience data") and any other documents, materials, data, and other information, including but not limited to all working papers and copies thereof, created or

produced in connection with the experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data", the "experience materials") and any other documents, materials, data, and other information, including but not limited to all working papers and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the experience materials; and

(B) "Regulatory agency", "law enforcement agency", and "National Association of Insurance Commissioners" include but shall not be limited to their employees, agents, consultants, and contractors.

(s) The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of subsection (o); provided that:

- (1) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and
- (2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule.

For any company granted an exemption under this subsection, subsections (c) to (n) shall be applicable. With respect to any company applying this exemption, any reference to subsection (o) found in subsections (c) to (n) shall not be applicable.

(t) As used in this section, the following definitions shall apply on or after the operative date of the valuation manual:

"Accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

"Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (d).

"Company" means an entity that:

- (1) Has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this State and has at least one such policy in force or on claim; or
- (2) Has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this State.

"Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

"Life insurance" means a contract that incorporates mortality risk, including an annuity and a pure endowment contract, and as may be specified in the valuation manual.

"Policyholder behavior" means any action that a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including but

not limited to lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

"Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (p) as specified in the valuation manual.

"Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing the statement and who meets the requirements specified in the valuation manual.

"Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

"Valuation manual" means the manual of valuation instructions adopted by the National Association of Insurance Commissioners as specified in this section or as subsequently amended."

### PART III

SECTION 5. Section 431:10D-104, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10D-104 Standard nonforfeiture law[;] for life insurance [contracts].**

(a) This section shall be known as the Standard Nonforfeiture Law for Life Insurance.

(b) [Nonforfeiture provisions—life:] With regard to nonforfeiture benefits of life insurance:

(1) In the case of policies issued on or after the operative date of this section as defined in subsection (i), no policy of life insurance, except as stated in subsection (h), shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions [which] that in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (g):

(A) That, in the event of default in any premium payment, the [insurer will] company shall grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of [such value] an amount as may be hereinafter specified. In lieu of [such] the stipulated paid-up nonforfeiture benefit, the [insurer] company may substitute, upon proper request no later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit [which] that provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(B) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the [insurer will] company shall pay, in lieu of any

- paid-up nonforfeiture benefit, a cash surrender value of [such] an amount as may be hereinafter specified.
- (C) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.
- (D) That, if the policy has been [paid-up] paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit [which] that became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the [insurer will] company shall pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of [such] an amount as may be hereinafter specified.
- (E) In the case of policies [which] that cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or [which] that provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, [such] the values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the [insurer] company on the policy.
- (F) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the jurisdiction in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the [insurer] company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that the method of computation has been filed with the insurance supervisory official of the jurisdiction in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and a paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which [such] values and benefits are consecutively shown in the policy.
- (2) Any of the [foregoing] provisions in paragraph (1) or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

- (3) The [insurer] company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.
- (c) [~~Cash surrender value — life:~~] With regard to the computation of cash surrender value:
- (1) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, [whether or not required by] regardless of subsection (b), shall be an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits that would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:
    - (A) The then present value of the adjusted premiums as defined in subsection (e) corresponding to premiums that would have fallen due on and after the anniversary; and
    - (B) The amount of any indebtedness to the [insurer] company on [account of or secured by] the policy[; provided that:  
④].
  - (2) For any policy issued on or after the operative date of subsection (e)(8) that provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in [this] paragraph (1) shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without [such] the rider or supplemental policy provision and the cash surrender value as defined in paragraph (1) for a policy that provides only the benefits otherwise provided by [such] the rider or supplemental policy provision[; and].
    - [③] For any family policy issued on or after the operative date of subsection (e)(8) that defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's seventy-first birthday, the cash surrender value referred to in [this] paragraph (1) shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without [such] term insurance on the life of the spouse and the cash surrender value [for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value] as defined in paragraph (1) for a policy that provides only the benefits otherwise provided by [such] term insurance on the life of the spouse.
    - [④] Any cash surrender value available within thirty days after any policy anniversary[, of the future guaranteed benefits provided for by the policy including any existing paid-up additions, shall be decreased by any indebtedness to the insurer on account of or secured by the policy.] under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, regardless of subsection (b), shall be an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.
  - (d) [~~Paid-up nonforfeiture benefit — life:~~ Any] With regard to the computation of paid-up nonforfeiture benefits, for any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on

any policy anniversary shall be such that its present value as of the anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value [which] that would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(e) [The adjusted premium—life:

(f) This paragraph] With regard to the calculation of adjusted premiums:

(1) This section shall not apply to policies issued on or after the operative date of paragraph (8) [as defined therein]. Except as provided in paragraph (4), the adjusted premiums for any policy shall be calculated on an annual basis and shall be [such] a uniform percentage of the respective premiums specified in the policy for each policy year, excluding [extra premiums on a substandard policy, that the present value, at the date of issue of the policy,] amounts stated in the policy as extra premiums to cover impairments or special hazards of the present value at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

- (A) The then present value of the future guaranteed benefits provided for by the policy;
- (B) Two per cent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;
- (C) Forty per cent of the adjusted premium for the first policy year; and
- (D) Twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) [This paragraph shall not apply to policies issued on or after the operative date of paragraph (8).] In applying the percentages specified in paragraph (1)(C) and (D), no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or [uniform] level amount equivalent [thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy]. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(3) [This paragraph shall not apply to policies issued on or after the operative date of paragraph (8).] In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent [uniform] level amount [thereof] for the purpose of this [paragraph] subsection shall be deemed to be the [uniform] level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the [date of issue as the benefits under the policy. In the ease of a policy providing a varying amount of insurance issued on

~~the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten was the amount provided by the policy at age ten.~~

- (4) ~~This paragraph shall not apply to policies issued on or after the operative date of paragraph (8).] inception of the insurance as the benefits under the policy.~~
- (4) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to [the]:
  - (A) ~~The adjusted premiums for an otherwise similar policy issued at the same age without [such] the term insurance benefits, increased, during the period for which premiums for [such] the term insurance benefits are payable, by [the]~~
  - (B) ~~The adjusted premiums for the term insurance.~~  
~~The foregoing amounts in [paragraph (1)(A)] subparagraphs (A) and (B) being calculated separately and as specified in paragraphs (1), (2), and (3), except that, for the purposes of paragraph (1)(B), (C), and (D), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in paragraph (1)(B) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in [paragraph (1)(A).] subparagraph (A).~~
- (5) ~~[This paragraph shall not apply to policies issued on or after the operative date of paragraph (8).] Except as otherwise provided in paragraphs (6) and (7), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table; provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to [an] any age not more than three years younger than the actual age of the insured[,] and [such] the calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent a year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits.~~

In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent of the rates of mortality according to the applicable table.

For insurance issued on a substandard basis, the calculation of any [such] adjusted premiums and present values may be based on [such] any other table of mortality as may be specified by the [insurer] company and approved by the commissioner.

- (6) This paragraph shall not apply to ordinary policies issued on or after the operative date of paragraph (8). In the case of ordinary policies issued on or after the operative date of this paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table[.]

The] and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that the rate of interest shall not exceed three and one-half per cent a year, except that:

- (A) A rate of interest not exceeding four per cent a year may be used for policies issued after June 1, 1976, and prior to June 1, 1979;
- (B) A rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979; and
- (C) For any single premium whole life or endowment insurance policy, a rate of interest not exceeding six and one-half per cent a year may be used.

For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured.

In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table.

For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the [insurer] company and approved by the commissioner.

After June 1, 1959, any [insurer] company may file with the commissioner a written notice of its election to comply with [the provisions of] this paragraph after a specified date before January 1, 1966. After the filing of such notice, [then] upon [such] the specified date (which shall be the operative date of this paragraph for [such insurer],] that company), this paragraph shall become operative with respect to the ordinary policies thereafter issued by [such insurer.] the company. If [an insurer] a company makes no such election, the operative date of this paragraph for [such insurer] the company shall be January 1, 1966.

- (7) This paragraph shall not apply to industrial policies issued on or after the operative date of paragraph (8). In the case of industrial policies issued on or after the operative date of this paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table.

The] and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that the rate of interest shall not exceed three and one-half per cent a year, except that:

- (A) A rate of interest not exceeding four per cent a year may be used for policies issued on or after June 1, 1976, and prior to June 1, 1979;
- (B) A rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979; and

- (C) For any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent a year may be used.

In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table.

For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the [insurer] company and approved by the commissioner.

After May 8, 1965, any [insurer] company may file with the commissioner a written notice of its election to comply with [the provisions of] this paragraph after a specified date before January 1, 1968. After the filing of [such] the notice, [then] upon [such] the specified date (which shall be the operative date of this paragraph for [such insurer],) that company, this paragraph shall become operative with respect to the industrial policies thereafter issued by [such insurer] the company. If [an insurer] a company makes no such election, the operative date of this paragraph for [such insurer] the company shall be January 1, 1968.

- (8) (A) This paragraph shall apply to all policies issued on or after the operative date of this paragraph. Except as provided in subparagraph (G), the adjusted premiums for any policy shall be calculated on an annual basis and shall be [such] a uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

- (i) The then present value of the future guaranteed benefits provided for by the policy;
- (ii) One per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
- (iii) One hundred twenty-five per cent of the nonforfeiture net level premium as hereinafter defined.

In applying the percentage specified in clause (iii), no nonforfeiture net level premium shall be deemed to exceed four per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this paragraph shall be the date as of which the rated age of the insured is determined.

- (B) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per an-

num payable on the date of issue of the policy and on each anniversary of [such] the policy on which a premium falls due.

- (C) In the case of policies that cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or that provide an option for changes in benefits or premiums, other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy [immediately after the change]. At the time of any such change in the benefit or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.
- (D) Except as otherwise provided in subparagraph (G), the recalculated future adjusted premiums for any [such] policy shall be [such] the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all [such] the future adjusted premiums shall be equal to the excess of the sum of:
- (i) The then present value of the then future guaranteed benefits provided for by the policy; and
  - (ii) The additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.
- (E) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:
- (i) One per cent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and
  - (ii) One hundred twenty-five per cent of the increase, if positive, in the nonforfeiture net level premium.
- (F) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing the value defined in clause (i) by the value defined in clause (ii):
- (i) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the charges on which a premium would have fallen due had the change not occurred, plus the present value of the increase in future guaranteed benefits provided for by the policy; and

- (ii) The present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of charge on which a premium falls due.
- (G) Notwithstanding any other provision of this paragraph to the contrary, in the case of a policy issued on a substandard basis that provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis that provides higher uniform amounts of insurance, adjusted premiums and present values for [such] the substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.
- (H) All adjusted premiums and present values referred to in this section shall: for all policies of ordinary insurance be calculated on the basis of either the Commissioners 1980 Standard Ordinary Mortality Table[,] or, at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this paragraph for policies issued in that calendar year; provided that:
  - (i) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding nonforfeiture interest rate, as defined in this paragraph, for policies issued in the immediately preceding calendar year;
  - (ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, ~~[whether or not required by]~~ regardless of subsection (b), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any;
  - (iii) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;
  - (iv) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance;
  - (v) For insurance issued on a substandard basis, the calculation of any [such] adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables;

(vi) [Any] For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table[; and]

For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner approves by rule any commissioners standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual; and

(vii) [Any] For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner approves by rule any commissioners standard industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(I) [The nonforfeiture interest rate per annum for any policy issued in a particular calendar year] As used in this paragraph, "nonforfeiture interest rate" means:

- (i) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five per cent of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one quarter of one per cent; provided that the nonforfeiture interest rate shall not be less than four per cent; and
- (ii) For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be as provided by the valuation manual.
- (J) Notwithstanding any other provision in this [eode] chapter to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form that involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.
- (K) After the effective date of this paragraph, any company may file with the commissioner a written notice of its election to comply with this paragraph after a specified date before January 1, 1989, which shall be the operative date of this paragraph for [such] the company. If a company makes no [such] election, the operative date of this paragraph for [such] the company shall be January 1, 1989.
- (L) In the case of any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on [then] estimates of future experience, or in the case of any plan of life insurance that is of such a nature that minimum values cannot be determined by the methods described in this subsection and subsections (b)[, (e),] to (d)[, and (e)], then:
  - (i) The commissioner shall be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (b)[, (e),] to (d)[,] and [(e);] this subsection;
  - (ii) The commissioner shall be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and
  - (iii) The cash surrender values and paid-up nonforfeiture benefits provided by [such] the plan shall not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by rules adopted by the commissioner.
- (f) [Calculation of values—life:] Any cash surrender value and [any paid-up value and] any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (c), (d), and (e) may be calculated upon the assumption that any death benefit is payable at the end of the policy

year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding subsection (c)[to the contrary], additional benefits payable:

- (1) In the event of death or dismemberment by accident or accidental means;
- (2) In the event of total and permanent disability;
- (3) As reversionary annuity or deferred reversionary annuity benefits;
- (4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;
- (5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if [such] the term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child; and
- (6) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(g) This subsection, in addition to all other applicable subsections [~~of this section~~], shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount that does not differ by more than two-tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of the greater of zero and the basic cash value hereinafter specified, and the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on [such] the anniversary, of the future guaranteed benefits that would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums that would have fallen due on and after [such] the anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (c) or (e)(1), (2), (3), (4), and (5), whichever is applicable, shall be the same as are the effects specified in subsection (c) or (e)(1), (2), (3), (4), and (5), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (e)(1), (2), (3), (4), and (5) or subsection (e)(8), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, [such] the percentage:

- (1) Shall be the same for each policy year between the second policy anniversary and the later of:
  - (A) The fifth policy anniversary; and
  - (B) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the aver-

age amount of insurance at the beginning of each of the first ten policy years; and

- (2) Shall be such that no percentage after the later of the two policy anniversaries specified in paragraph (1) may apply to fewer than five consecutive policy years.

No basic cash value may be less than the value that would be obtained if the adjusted premiums for the policy, as defined in [subsection (e)(1), (2), (3), (4), and (5) or] subsection (e)(8), [whichever is applicable,] were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with [the other subsections of] this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (b), (c), (d), (e)(8), and (f). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed [as paragraphs (1) through (6)] in subsection [(f)] (f)(1) to (6) shall conform with the principles of this subsection.

- (h) [Exceptions.] This section shall not apply to any of the following:
- (1) Reinsurance;
- (2) Group insurance;
- (3) Pure endowment;
- (4) Annuity or reversionary annuity contract;
- (5) Term policy uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (6) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, [issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;] on which each adjusted premium, calculated as specified in subsection (e), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (7) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year calculated as specified in subsections (c), (d), and (e), exceeds two and one-half per cent of the amount [~~or~~] of insurance at the beginning of the policy year; and
- (8) Policy [which] that shall be delivered outside this State through a producer or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(i) [Operative date.] After January 1, 1956, any [insurer] company may file with the commissioner a written notice of its election to comply with [the provisions of] this section after a specified date within six months from January 1, 1956. After the filing of [such] the notice, then upon [such] the specified date (which shall be the operative date for [such insurer],) the company, this section shall become operative with respect to the policies thereafter issued by [such insurer,] the company. If [an insurer] a company makes no [such] election, the operative date of this section for [such insurer] the company shall be six months from January 1, 1956.

(j) As used in this section, "operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual, as defined in section 431:5-307(t), is effective."

## PART IV

SECTION 6. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 11 to be appropriately designated and to read as follows:

**"§431:11- Supervisory colleges.** (a) With respect to any insurer registered under section 431:11-105, and in accordance with subsection (c), the commissioner may participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations to determine compliance by the insurer with this article. The powers of the commissioner with respect to supervisory colleges shall include but not be limited to:

- (1) Initiating the establishment of a supervisory college;
- (2) Clarifying the membership and participation of other supervisors in the supervisory college;
- (3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
- (5) Establishing a crisis management plan.

(b) Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection (c), including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(c) To assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with section 431:11-107, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 431:11-108 providing the basis for cooperation between the commissioner and the other regulatory agen-

cies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within the commissioner's jurisdiction."

SECTION 7. Section 431:11-102, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Domestic insurance holding company system" means an insurance holding company system that consists of an ultimate controlling person formed in this State prior to January 1, 2000, and its insurer affiliates, all of which are domestic insurers authorized to transact insurance business only in this State.

"Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including but not limited to anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 431:3-403 or would cause the insurer to be in hazardous financial condition as pursuant to section 431:15-103.5."

2. By amending the definition of "person" to read:

"Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, and any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property, or a securities broker performing only the usual and customary broker's function."

SECTION 8. Section 431:11-104, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

(a) The following are filing requirements for the acquisition of control of or merger with a domestic insurer:

(1) No person other than the issuer shall make a tender offer or a request or invitation for tenders[of] or enter into any agreement to exchange securities[, or] seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person, directly or indirectly (by conversion or by exercise of any right to acquire), would be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time any offer, request, or invitation is made or [any] the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a statement containing the information required by [subsection (b)] this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner [hereinafter] prescribed[in this article].

(2) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to

the insurer, a confidential notice of its proposed divestiture at least thirty days prior to the cessation of control. The commissioner shall determine those instances in which the party seeking to divest or to acquire a controlling interest in an insurer will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in paragraph (1) is otherwise filed, this paragraph shall not apply.

- (3) With respect to a transaction subject to this section, the acquiring person shall also file a preacquisition notification with the commissioner containing the information set forth in section 431:11-104.3(b). Failure to file the notification may subject the acquiring person to penalties specified in section 431:11-104.5(f).

- (4) For purposes of this section[-a domestic insurer]:  
"Domestic insurer" includes any person controlling a domestic insurer unless the commissioner determines that the person, directly or through its affiliates, is primarily engaged in business other than the business of insurance. [Such a person shall file a preacquisition notification with the commissioner containing the information set forth in section 431:11-104.3(b) thirty days prior to the proposed effective date of the acquisition. Failure to file is subject to section 431:11-104.5(f). This section does]

"Person" shall not [apply to] include any securities broker holding, in the usual and customary broker's function, less than twenty per cent of the voting securities of an insurance company or of any person who controls an insurance company.

- (b) The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

- (1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected (hereinafter called "acquiring party"), and:
- (A) If the person is an individual, the principal occupation and all offices and positions held by the individual during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; or
- (B) If the person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of [such] the person, or who perform or will perform functions appropriate to the positions. The list shall include for each individual the information required by [subparagraph (A);
- (2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any purpose (including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates), and the identity of persons furnishing the consideration; provided that where a source of the consideration is a loan made in the lender's or-

- dinary course of business, the identity of the lender shall remain confidential, if the person filing the statement requests confidentiality;
- (3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years (or for the lesser period as the acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement;
  - (4) Any plans or proposals [which] that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;
  - (5) The number of shares of any security referred to in subsection (a) [which] that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at;
  - (6) The amount of each class of any security referred to in subsection (a) [which] that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;
  - (7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved[,] including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements, or understandings have been entered into;
  - (8) A description of the purchase of any security referred to in subsection (a) during the twelve calendar months preceding the filing of the statement[,] by any acquiring party, including the dates of purchase, names of the purchasers, and considerations paid or agreed to be paid therefore;
  - (9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve calendar months preceding the filing of the statement[,] by any acquiring party, or by anyone based upon interviews or at the suggestion of [such] the acquiring party;
  - (10) Copies of all tender offers[,] for, requests[,] or invitation for tenders[,] or of exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (a), and (if distributed) of additional soliciting material relating thereto;
  - (11) The term of any agreement, contract, or understanding made with or proposed to be made with any [broker/dealer] broker-dealer as to solicitation of securities referred to in subsection (a) for tender, and the amount of any fees, commissions, or other compensation to be paid to [brokers/dealers] broker-dealers with regard thereto; [and]
  - (12) An agreement by the person required to file the statement referred to in subsection (a) that the person will provide the annual report, specified in section 431:11-105(l), for so long as control exists;
  - (13) An acknowledgement by the person required to file the statement referred to in subsection (a) that the person and all subsidiaries within the person's control in the insurance holding company sys-

tem will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer; and

- [12] (14) Any additional information as the commissioner may by rule [or regulation] prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, or other group, the commissioner may require that the information called for by [items] paragraphs (1) through [12] (14) shall be given with respect to each partner of the partnership or limited partnership, each member of the group, and each person who controls such partner or member. If any partner, member, or person is a corporation or the person required to file the statement referred to in subsection (a) is a corporation, the commissioner may require that the information called for by [items] paragraphs (1) through [12] (14) shall be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten per cent of the outstanding voting securities of the corporation.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the person learns of the change. The insurer shall send the amendment to its shareholders."

2. By amending subsection (d) to read:

- "(d) (1) The commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing thereon, the commissioner finds that:
  - (A) After the change of control, the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;
  - (B) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly therein[;]. In applying the competitive standard in this subparagraph:
    - (i) The informational requirements of section 431:11-104.3(b) and the standards of section 431:11-104.4(b) shall apply;
    - (ii) The merger or other acquisition shall not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by section 431:11-104.4(c) exist; and
    - (iii) The commissioner may condition the approval of the merger or other acquisition on the removal of the grounds for disapproval within a specified period of time;
  - (C) The financial condition of any acquiring party might jeopardize the financial stability of the insurer[;] or prejudice the interest of its policyholders;
  - (D) The plans or proposals [which] that the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer [and] or not in the public interest;

- (E) The competence, experience, and integrity of those persons who would control the operation of the insurer would not be in the interest of policyholders of the insurer [and] or not in the public interest; or
- (F) The acquisition is likely to be hazardous or prejudicial to the [insurance buying] insurance-buying public.
- (2) The public hearing referred to in paragraph (1) shall commence within [sixty] thirty days after the statement required by subsection (a) is filed, except that the hearing may commence within such additional time as agreed to by the commissioner, the acquiring party, and the person to be acquired, and at least twenty days notice of the scheduled public hearing shall be given by the commissioner to the person filing the statement. Not less than seven days notice of the public hearing shall be given by the person filing the statement to the insurer and to any other persons as may be designated by the commissioner. The insurer shall give notice to its security holders. The commissioner shall make a determination within [thirty days after the conclusion of the hearing.] the sixty-day period preceding the effective date of the proposed transaction. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in chapter 91. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.
- (3) If the proposed acquisition of control requires the approval of more than one commissioner, the public hearing referred to in paragraph (2) may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (a). The person shall file the statement referred to in subsection (a) with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt-out within ten days of the receipt of the statement referred to in subsection (a). A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person or by telecommunication.
- (4) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and rules of this State shall be made not later than sixty days after the date of notification of the change in control submitted pursuant to subsection (a)(1).
- [3] (5) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control."
- 3. By amending subsection (g) to read:
- "(g) The following shall be violations of this article:

- (1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsections (a) or (b); or
- (2) The effectuation or any attempt to effectuate an acquisition of, control of, divestiture of, or merger with, a domestic insurer unless [approval is given by] the commissioner[.] has given approval."

SECTION 9. Section 431:11-104.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) This section and sections 431:11-104.3 through 431:11-104.6 shall not apply to the following:

- [①] An acquisition subject to approval by the commissioner pursuant to section 431:11-104;
- [②] (1) A purchase of securities solely for investment purposes, so long as those securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this State. If a purchase of securities results in a presumption of control as defined in section 431:11-102, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner;
- [③] (2) The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with section 431:11-104.3 thirty days prior to the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section and sections 431:11-104.3 through 431:11-104.6 if the acquisition would otherwise be excluded by any other paragraph of this subsection;
- [④] (3) The acquisition of affiliated persons;
- [⑤] (4) An acquisition if, as an immediate result of the acquisition:
  - (A) In no market would the combined market share of the involved insurers exceed five per cent of the total market;
  - (B) There would be no increase in any market share; or
  - (C) In no market would:
    - (i) The combined market share of the involved insurers exceed twelve per cent of the total market; and
    - (ii) The market share increase by more than two per cent of the total market.

For the purpose of this paragraph, [a market] "market" means direct written insurance premiums in this State for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this State;

- [⑥] (5) An acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; and
- [⑦] (6) An acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition; there is a lack of feasible alternative to improving such condition; the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening

competition; and those findings are communicated by the domiciliary commissioner to the commissioner[.] of this State."

SECTION 10. Section 431:11-105, Hawaii Revised Statutes, is amended to read as follows:

**"§431:11-105 Registration of insurers.** (a) Every insurer [who] that is authorized to do business in this State and [who] is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section and section 431:11-106(a)(1), (b), and (d). The insurer shall file a copy of the summary of its registration statement as required by subsection (c) in each state in which that insurer is authorized to do business if requested by the commissioner of that state. Any insurer [who] that is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by March 15 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any insurer [who] authorized to do business in the state that is a member of [a] an insurance holding company system [who], and that is not subject to registration under this section, to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(b) Every insurer subject to registration shall file the registration statement with the commissioner on a form and in a format prescribed by the National Association of Insurance Commissioners, which shall contain the following current information:

- (1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;
- (2) The identity and relationship of every member of the insurance holding company system;
- (3) The following agreements in force, and transactions currently outstanding or [which] that have occurred during the last calendar year between [such] the insurer and its affiliates:
  - (A) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;
  - (B) Purchases, sales, or exchange of assets;
  - (C) Transactions not in the ordinary course of business;
  - (D) Guarantees or undertakings for the benefit of an affiliate [which] that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;
  - (E) All management agreements, all service contracts, and all cost-sharing arrangements;
  - (F) Reinsurance agreements;
  - (G) Dividends and other distributions to shareholders; and
  - (H) Consolidated tax allocation agreements;
- (4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; [and]
- (5) If requested by the commissioner, financial statements of an insurance holding company system. Financial statements may include

but are not limited to annual audited financial statements filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner with the most recently filed financial statements of the parent corporation that have been filed with the Securities and Exchange Commission;

- [~~(5)~~] (6) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner[.]; and
- (7) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

(c) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one per cent or less of an insurer's admitted assets as of the [thirty-first day of] December 31 next preceding shall not be deemed material for purposes of this section.

(e) Subject to section 431:11-106(b), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen business days following the declaration thereof.

(f) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with the provisions of this article.

(g) The commissioner shall terminate the registration of any insurer [~~which~~] that demonstrates that it no longer is a member of an insurance holding company system.

(h) The commissioner may require or allow two or more affiliated insurers subject to registration to file a consolidated registration statement.

(i) The commissioner may allow an insurer [~~who~~] that is authorized to do business in this State and [~~who~~] is part of an insurance holding company system to register on behalf of any affiliated insurer [~~who~~] that is required to register under subsection (a) and to file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule or order shall exempt the same from the provisions of this section.

(k) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. [After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commis-

sioner shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.] A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(I) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The ultimate controlling person of a domestic insurance holding company system shall be exempt from this requirement. The report shall identify, to the best of the ultimate controlling person's knowledge and belief, the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

[~~(H)~~] (m) The failure to file a registration statement [~~or~~], any summary of the registration statement, or enterprise risk filing required by this section within the time specified for [such] the filing shall be a violation of this section."

SECTION 11. Section 431:11-106, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
  - "(a) (1) Transactions within [~~a~~] an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:
    - (A) The terms shall be fair and reasonable;
    - (B) Agreements for cost sharing services and management shall include provisions as required by rule adopted by the commissioner;
    - [~~(C)~~] () Charges or fees for services performed shall be reasonable;
    - [~~(D)~~] () Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;
    - [~~(E)~~] () The books, accounts, and records of each party to all transactions shall be maintained so as to clearly and accurately disclose the nature and details of the transactions including the accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and
    - [~~(F)~~] () The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;
  - (2) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards found in subparagraphs (A) through (G), shall not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least thirty days prior to the transaction, or a shorter period as the commissioner may permit, and the commissioner has not disapproved the transaction within

that period[-]; provided that the notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer; provided further that informal notice shall be reported within thirty days after a termination of a previously filed agreement to the commissioner for determination of the type of filing required, if any:

- (A) Sales, purchases, exchanges, loans [or], extensions of credit, [guarantees,] or investments; provided that the transactions are equal to or exceed:
  - (i) With respect to nonlife insurers, the lesser of three per cent of the insurer's admitted assets or twenty-five per cent of surplus as regards policyholders [each] as of the [thirty-first day of] December 31 next preceding; or
  - (ii) With respect to life insurers, three per cent of the insurer's admitted assets as of the [thirty-first day of] December 31 next preceding;
- (B) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit; provided that the transactions are equal to or exceed:
  - (i) With respect to nonlife insurers, the lesser of three per cent of the insurer's admitted assets or twenty-five per cent of surplus as regards policyholders [each] as of the [thirty-first day of] December 31 next preceding; or
  - (ii) With respect to life insurers, three per cent of the insurer's admitted assets as of the [thirty-first day of] December 31 next preceding;
- (C) Reinsurance agreements or modifications to reinsurance agreements, including:
  - (i) All reinsurance pooling agreements;
  - (ii) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five per cent of the insurer's surplus as regards policyholders, as of the [thirty-first day of] December 31 next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;
- (D) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements; [and]
- (E) Guarantees when made by a domestic insurer; provided that a guarantee that is quantifiable as to amount shall not be subject to the notice requirements of this paragraph unless it exceeds the lesser of one-half of one per cent of the insurer's admitted assets or ten per cent of surplus as regards policyholders as of the December 31 next preceding. All guarantees that are

- not quantifiable as to amount are subject to the notice requirements of this paragraph;
- (F) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in such investments, exceeds two and one-half per cent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 431:11-103, or in nonsubsidiary insurance affiliates that are subject to this article, are exempt from this requirement; and
- [E] (G) Any material transactions, specified by rule, [which] that the commissioner determines may adversely affect the interests of the insurer's policyholders.
- Nothing in this [section] paragraph shall be deemed to authorize or permit any transactions [which] that, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law;
- (3) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would otherwise occur; provided that the commissioner determines that the separate transactions were entered into over any twelve-month period for that purpose, the commissioner may exercise the commissioner's authority under section 431:11-111;
- (4) The commissioner, in reviewing transactions pursuant to [subsection (a)(2),] paragraph (2), shall consider whether the transactions comply with the standards set forth in [subsection (a)(1)] paragraph (1) and whether the transactions may adversely affect the interests of policyholders; and
- (5) The commissioner shall be notified within thirty days of any investment of the domestic insurer in any one [person] corporation if the total investment in the [person] corporation by the insurance holding company system exceeds ten per cent of the [person's] corporation's voting securities [or the domestic insurer possesses control of the person as the term "control" is defined in section 431:11-102]."
2. By amending subsection (c) to read:
- "(c) (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject to by law. The insurer shall be managed so as to assure its separate operating identity consistent with this article.
- (2) Nothing [herein] in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (a)(1).
- (3) At least one-third of the directors of a domestic insurer, and at least one-third of the members of each committee of the board of directors of any domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person shall be included in any

- quorum for the transaction of business at any meeting of the board of directors or any committee thereof.
- (4) The board of directors of a domestic insurer shall establish one or more committees composed solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.
- (5) Paragraphs (3) and (4) shall not apply to:
- (A) A domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of paragraphs (3) and (4) with respect to the controlling entity; or
- (B) A domestic insurance holding company system.
- (6) An insurer may make application to the commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program, is less than \$300,000,000. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The commissioner may consider various factors including but not limited to the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity."

SECTION 12. Section 431:11-107, Hawaii Revised Statutes, is amended to read as follows:

**"§431:11-107 Examination.** (a) Subject to the limitation contained in this section and in addition to the powers [which] that the commissioner has under article 2 relating to the examination of insurers, the commissioner [shall also have the power to order] may examine any insurer registered under section 431:11-105 [to produce records, books, or other information papers in the possession of the insurer or its affiliates] as [are] reasonably necessary to ascertain the financial condition of the insurer [or to determine compliance with this article. In the event the insurer fails to comply with the order, the commissioner shall have the power to examine the insurer's affiliates to obtain the information.], including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(b) To evaluate whether the operations of an ultimate controlling person, affiliate, or any combination of entities within the insurance holding company system may adversely and materially affect the operations, management, or financial condition of an insurer, the commissioner may order any insurer registered under section 431:11-105 to:

- (1) Produce the records, books, or other information in the possession of the insurer or its affiliates that are reasonably necessary to determine compliance with this article; and
- (2) Determine compliance with this article, produce information not in the possession of the insurer if the insurer can obtain access to that information pursuant to contractual relationships, statutory obligations, or other methods. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of not less than \$100 and not more than \$500 for each day's delay, or may suspend or revoke the insurer's license.

[~~(b)~~] (~~c~~) The commissioner may retain at the registered insurer's expense attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under [subsection (a)] subsections (a) and (e). Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

[~~(e)~~] (~~d~~) Each registered insurer producing for examination records, books, and papers pursuant to [subsection (a)] subsections (a) and (e) shall be liable for and shall pay the expense of the examination in accordance with article 2.

- (e) In the event that:
  - (1) An insurer fails to comply with an order pursuant to subsection (b); or
  - (2) The commissioner, upon evaluating whether the operations of an ultimate controlling person, affiliate, or any combination of entities within the insurance holding company system pursuant to subsection (b), has reasonable cause to believe that:
    - (A) The operations of the ultimate controlling person, affiliate, or any combination of entities within the insurance holding company system may adversely and materially affect the operations, management, or financial condition of an insurer; or
    - (B) The commissioner is unable to obtain relevant information from the controlled insurer,  
the commissioner may examine the ultimate controlling person, affiliate, or any combination of entities within the insurance holding company system.

The commissioner may also issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the State. Every person shall be entitled to the same fees and mileage, if claimed, as a witness in a court of record, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

(f) An examination of affiliates by the commissioner under subsection (e) shall specify the grounds for the examination and shall be confined to those specified grounds."

SECTION 13. Section 431:11-108, Hawaii Revised Statutes, is amended to read as follows:

**"§431:11-108 Confidential treatment.** [All information, documents, and copies thereof] (a) Documents, materials, or other information in the possession or control of the insurance division that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 431:11-107 and all information reported pursuant to [section] sections 431:11-104(b)(12) and (13), 431:11-105, and [section] 431:11-106, shall be [given] confidential [treatment,] by law and privileged, shall not be disclosable under chapter 92F, shall not be subject to subpoena, and shall not be [made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of the policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate.] subject to discovery or admissible in evidence in any private civil action. The commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of the policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.

(b) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

(c) To assist in the performance of the commissioner's duties, the commissioner:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a), with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 431:11- : provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) Notwithstanding paragraph (1) to the contrary, may only share confidential and privileged documents, material, or information report-

- ed pursuant to section 431:11-105(l) with commissioners of states having statutes or regulations substantially similar to subsection (a) and who have agreed in writing not to disclose such information;
- (3) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and
- (4) Shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this article and consistent with this subsection that shall:
- (A) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this article, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;
- (B) Specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this article remains with and for use by the commissioner and the National Association of Insurance Commissioners and is subject to the direction of the commissioner;
- (C) Require that prompt notice be given to an insurer whose confidential information is in the possession of the National Association of Insurance Commissioners pursuant to this article and require that the insurer is subject to a request or subpoena from the National Association of Insurance Commissioners for disclosure or production; and
- (D) Require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared pursuant to this article.
- (d) The sharing of information by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner shall be solely responsible for the administration, execution, and enforcement of this article.
- (e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (c).
- (f) Documents, materials, or information in the possession or control of the National Association of Insurance Commissioners pursuant to this article shall be confidential by law and privileged, shall not be disclosable under

chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.”

SECTION 14. Section 431:11-111, Hawaii Revised Statutes, is amended to read as follows:

**“§431:11-111 Sanctions.** (a) Any insurer failing, without just cause, to file any registration statement as required in this article shall be [liable for] required, after notice and hearing, to pay a fine in an amount of not less than \$100 and not more than \$500 for each [day of delinquency,] day's delay, to be recovered by the commissioner, and the penalty so recovered shall be paid into the compliance resolution fund. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(b) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in any transactions or make investments that have not been properly reported or submitted pursuant to [sections] section 431:11-105(a), 431:11-106(a)(2), or 431:11-106(b), or [who] that violates this article, shall [be subject to a fine] pay, in their individual capacity, a civil forfeiture of not less than \$100 and not more than \$10,000 per violation[-], after notice and hearing before the commissioner. In determining the amount of the [fine,] civil forfeiture, the commissioner shall take into account the appropriateness of the [fine] civil forfeiture with respect to the gravity of the violation, the history of previous violations, and [such] other matters as justice may require.

(c) Whenever it appears to the commissioner that any insurer subject to this article or any director, officer, employee, or agent thereof has engaged in any transaction or entered into a contract [which] that is subject to section 431:11-106 and [which] that would not have been approved had the approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void any of the contracts and restore the status quo if that action is in the best interest of the policyholders, creditors, or the public.

(d) Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent thereof has committed a wilful violation of this article, the commissioner may cause criminal proceedings to be instituted against the insurer or the responsible director, officer, employee, or agent thereof. Any insurer [who] that wilfully violates this article [shall be subject to a fine of] may be fined not less than \$100 and not more than \$10,000 per violation. Any individual who wilfully violates this article [shall be subject to a fine in the individual's capacity of] may be fined in the person's individual capacity not less than \$100 and not more than \$10,000 per violation[;] or be imprisoned for not more than one year[;], or both.

(e) Any officer, director, or employee of an insurance holding company system who wilfully and knowingly subscribes to or makes, or causes to be made, any false statements, false reports, or false filings with the intent to deceive the commissioner in the performance of the commissioner's duties under this article, upon conviction thereof, shall be imprisoned for not more than one year[;] or fined \$5,000, or both. Any fines imposed shall be paid by the officer, director, or employee in the person's individual capacity.

(f) Whenever it appears to the commissioner that any person has committed a violation of section 431:11-104 and that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding com-

## **ACT 235**

pany system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with part 2 of article 15.”

### **PART V**

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 16. This Act shall take effect on July 1, 2014; provided that Part I shall take effect on January 1, 2015; provided further that Part IV shall take effect on January 1, 2016.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

#### **Note**

1. Edited pursuant to HRS §23G-16.5.

## **ACT 235**

S.B. NO. 2483

A Bill for an Act Relating to Condominium Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

### **PART I**

SECTION 1. The legislature finds that section 514B-146, Hawaii Revised Statutes, was amended during the regular session of 2013 to address, in part, the timing of the payment to a condominium association of the six-month special assessment for unpaid common expenses pursuant to section 514B-146(g) and (h), Hawaii Revised Statutes. However, the term “other purchaser” was inadvertently left out of the amended statute, and needs to be added back in to section 514B-146(g), Hawaii Revised Statutes, in order to clarify, correct, and mitigate disputes resulting from the absence of this term.

The legislature further finds that section 514B-146(a)(1), Hawaii Revised Statutes, provides, in part, that taxes take priority over a condominium association’s assessments and related lien for such assessments. However, the term taxes referenced in section 514B-146(a)(1), Hawaii Revised Statutes, may have only been intended to include real property taxes, rather than all taxes owed by the unit owner.

The purpose of this part is to make housekeeping amendments to state condominium laws.

SECTION 2. Section 514B-146, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) All sums assessed by the association but unpaid for the share of the common expenses chargeable to any unit shall constitute a lien on the unit with priority over all other liens, except:

- (1) Liens for real property taxes and assessments lawfully imposed by governmental authority against the unit; and

- (2) Except as provided in subsection (g), all sums unpaid on any mortgage of record that was recorded prior to the recordation of a notice of a lien by the association, and costs and expenses including attorneys' fees provided in such mortgages;

provided that a lien recorded by an association for unpaid assessments shall expire six years from the date of recordation unless proceedings to enforce the lien are instituted prior to the expiration of the lien; provided further that the expiration of a recorded lien shall in no way affect the association's automatic lien that arises pursuant to this subsection or the declaration or bylaws. Any proceedings to enforce an association's lien for any assessment shall be instituted within six years after the assessment became due; provided that if the owner of a unit subject to a lien of the association files a petition for relief under the United States Bankruptcy Code (11 U.S.C. §101 et seq.), the period of time for instituting proceedings to enforce the association's lien shall be tolled until thirty days after the automatic stay of proceedings under section 362 of the United States Bankruptcy Code (11 U.S.C. §362) is lifted.

The lien of the association may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board, acting on behalf of the association and in the name of the association; provided that no association may exercise the nonjudicial or power of sale remedies provided in chapter 667 to foreclose a lien against any unit that arises solely from fines, penalties, legal fees, or late fees, and the foreclosure of any such lien shall be filed in court pursuant to part IA of chapter 667.

In any such foreclosure, the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws or the law, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed by the unit owner or any tenant of the unit. If the association is the plaintiff, it may request that its managing agent be appointed as receiver to collect the rent from the tenant. The managing agent or board, acting on behalf of the association and in the name of the association, unless prohibited by the declaration, may bid on the unit at foreclosure sale, and acquire and hold, lease, mortgage, and convey the unit. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the unpaid common expenses owed."

2. By amending subsection (g) to read:

"(g) Subject to this subsection, and subsections (h) and (i), the board may specially assess the amount of the unpaid regular monthly common assessments for common expenses against a mortgagee or other purchaser who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent unit; provided that the mortgagee or other purchaser may require the association to provide at no charge a notice of the association's intent to claim lien against the delinquent unit for the amount of the special assessment, prior to the subsequent purchaser's acquisition of title to the delinquent unit. The notice shall state the amount of the special assessment, how that amount was calculated, and the legal description of the unit."

## PART II

SECTION 3. Section 514B-106, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board may not act on behalf of the association to amend the declaration or bylaws (sections 514B-32(a)(11) and 514B-108(b)(7)), to remove the condominium from the provisions of this chapter (section 514B-47), or to elect members of the board or determine the qualifications, powers and duties,

## **ACT 235**

or terms of office of board members (subsection (e)); provided that nothing in this subsection shall be construed to prohibit board members from voting proxies (section 514B-123) to elect members of the board; and provided further that notwithstanding anything to the contrary in the declaration or bylaws, the board may only fill vacancies in its membership to serve until the next annual or duly noticed special association meeting. Notice of a special association meeting to fill vacancies shall include notice of the election. Any special association meeting to fill vacancies shall be held on a date that allows sufficient time for owners to declare their intention to run for election and to solicit proxies for that purpose."

### **PART III**

**SECTION 4.** New statutory material is underscored.

**SECTION 5.** This Act shall take effect on July 1, 2014.

(Became law on July 8, 2014, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

# **PROPOSED CONSTITUTIONAL AMENDMENTS**

**H.B. NO. 420**

A Bill for an Act Proposing an Amendment to the Hawaii State Constitution to Require Disclosure of the Names of Judicial Nominees.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to require the judicial selection commission to publicly disclose the names of all nominees to fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court, circuit courts, or district courts when presenting those names to the governor or the chief justice.

**SECTION 2.** Article VI, section 3, of the Constitution of the State of Hawaii is amended to read as follows:

## **"APPOINTMENT OF JUSTICES AND JUDGES"**

**Section 3.** The governor, with the consent of the senate, shall fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than four, and not more than six, nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice, with the consent of the senate, shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial selection commission. If the chief justice fails to make the appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. The senate shall hold a public hearing and vote on each appointment within thirty days of any appointment. If the senate fails to do so, the nomination shall be returned to the commission and the commission shall make the appointment from the list without senate consent. The chief justice shall appoint per diem district court judges as provided by law.

The judicial selection commission shall disclose to the public the list of nominees for each vacancy concurrently with the presentation of each list to the governor or the chief justice, as applicable.

## **QUALIFICATIONS FOR APPOINTMENT**

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the

## **PROPOSED CONSTITUTIONAL AMENDMENTS**

supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

### **TENURE; RETIREMENT**

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period provided by this section or by law.

Justices and judges shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State."

### **SECTION 3.** The question to be printed on the ballot shall be as follows:

"Shall the judicial selection commission, when presenting a list of nominees to the governor or the chief justice to fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court, circuit courts or district courts, be required, at the same time, to disclose that list to the public?"

### **SECTION 4.** New constitutional material is underscored.

**SECTION 5.** This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

### **H.B. NO. 748**

A Bill for an Act Proposing an Amendment to the Hawaii Constitution to Authorize the Issuance of Special Purpose Revenue Bonds to Assist Agricultural Enterprises.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to propose an amendment to article VII, section 12, of the Constitution of the State of Hawaii to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises on any type of land.

**SECTION 2.** Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

### **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

**Section 12.** For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.

## PROPOSED CONSTITUTIONAL AMENDMENTS

2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from:

- a. A public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of the public undertaking, improvement or system, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made; or
- b. Any payments or return on security under a loan program or a loan thereunder, after the costs of operation and administration of the loan program, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made.

4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; provided that insurance premium payments, assessments and surcharges, shall constitute rates, rentals and charges of a state property insurance program.

6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system; provided that mortgage recording taxes shall constitute user taxes of a state property insurance program.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivi-

## PROPOSED CONSTITUTIONAL AMENDMENTS

sions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist:

1. Manufacturing, processing, or industrial enterprises;
2. Utilities serving the general public;
3. Health care facilities provided to the general public by not-for-profit corporations;
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations;
5. Low and moderate income government housing programs;
6. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities; or
7. Agricultural enterprises [serving important agricultural lands],

each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature; and provided further that the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, and agricultural enterprises, separately authorized as aforesaid, in the total amount [~~or~~] not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person or persons under contract or from any security for such contract or contracts or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

### SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises on any type of land, rather than only important agricultural lands?"

### SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

## PROPOSED CONSTITUTIONAL AMENDMENTS

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

### S.B. NO. 2876

A Bill for an Act Proposing an Amendment to Article VII, Section 12, of the Hawaii State Constitution to Assist Dam and Reservoir Owners.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to article VII, section 12, of the Hawaii State Constitution to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

### "DEFINITIONS; ISSUANCE OF INDEBTEDNESS

**Section 12.** For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.

2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from:

a. A public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of the public undertaking, improvement or system, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made; or

b. Any payments or return on security under a loan program or a loan thereunder, after the costs of operation and administration of the loan program, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made.

4. The term "dam and reservoir owner" means any person who has a right to, title to, or an interest in, a dam, a reservoir, or the property upon which a dam, a reservoir, or appurtenant work is located or proposed to be located.

[4.] 5. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

[5.] 6. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; provided that insurance premium payments, assessments and surcharges, shall constitute rates, rentals and charges of a state property insurance program.

[6.] 7. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from

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which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

[7.] 8. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

[8.] 9. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

[9.] 10. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system; provided that mortgage recording taxes shall constitute user taxes of a state property insurance program.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist:

1. Manufacturing, processing[; or industrial enterprises;
2. Utilities serving the general public;
3. Health care facilities provided to the general public by not-for-profit corporations;
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations;
5. Low and moderate income government housing programs;
6. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities; [or]
7. Agricultural enterprises serving important agricultural lands[; or]
8. Dam and reservoir owners; provided that the bonds are issued for and the proceeds are used to offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.

each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill,

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may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature; and provided further that the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist [net for profit]:

(1) Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities[;]; or

(2) Dam and reservoir owners,

separately authorized as aforesaid, in the total amount [of] not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person or persons under contract or from any security for such contract or contracts or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary.”

**SECTION 3.** The question to be printed on the ballot shall be as follows:

“Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to offer loans to qualifying dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources?”

**SECTION 4.** Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

**SECTION 5.** This Act shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

**COMMITTEE REPORTS ON BILLS ENACTED  
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SB2136	016	2035	1340-14	
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SB2138	023	2143	1385-14	
SB2175	056	2373, 2531	1205-14, 1527-14	
SB2196	107	2216, 2645	1179-14, 1645-14	104-14
SB2223	220	2492	1123-14, 1579-14	52-14
SB2229	022	2027, 2532	990-14, 1377-14	
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SB2315	147	2212, 2623	1034-14, 1568-14	139-14
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SB2331	039	2308, 2512	1358-14	
SB2345	152	2412, 2705	1110-14, 1529-14	86-14
SB2346	151	2198, 2625	1130-14, 1638-14	99-14
SB2365	231	2439, 2577	953-14, 1146-14, 1562-14	106-14
SB2368	217	2249, 2758	1079-14, 1580-14	45-14
SB2391	145	2290, 2630	1007-14, 1597-14	10-14
SB2410	135	2458	1508-14	58-14
SB2411	096	2473	1509-14	63-14
SB2420	018	2097, 2589	1017-14, 1376-14	
SB2465	187	2049, 2797	1029-14, 1387-14	
SB2466	028	2050, 2566	1343-14	
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SB2469	159	2324, 2510	951-14, 1148-14, 1642-14	50-14
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SB2472	209	2377, 2615	950-14, 1216-14, 1613-14	48-14
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SB2483	235	2088, 2716	1108-14, 1518-14	68-14
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SB2583	171	2107, 2735	1055-14, 1540-14	138-14
SB2591	121	2210, 2581	1360-14	32-14
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SB2634	144	2596	986-14, 1556-14	132-14
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SB2742	229	2422, 2712	1012-14, 1603-14	14-14
SB2768	076	2311, 2819	1051-14, 1545-14	4-14
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SB2779	136	2536	1517-14	64-14
SB2803	021	2460	1054-14	
SB2809	095	2215, 2803	1199-14, 1534-14	8-14
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SB2820	186	2176, 2794	958-14, 1214-14, 1649-14	65-14
SB2821	234	2155, 2692	1202-14, 1535-14	134-14
SB2822	038	2131, 2588	989-14, 1364-14	
SB2839	014	2519	982-14, 1362-14	
SB2853	203	2278, 2637	1165-14, 1525-14	
SB2866	079	2225, 2655	1129-14, 1639-14	103-14
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SB2877	084	2468	1006-14, 1599-14	11-14
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SB2886	088	2540	1512-14	
SB2887	044	2190	1514-14	
SB2890	043	2457	1515-14	
SB2895	089	2188	1513-14	62-14
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SB2898	072	2345, 2511	1024-14, 1663-14	
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SB2953	170	2392, 2781	940-14, 1155-14, 1601-14	18-14
SB2981	133	2403, 2690	917-14, 1541-14	61-14
SB3038	008	2099	1218-14	
SB3042	211	2178, 2563	1201-14	83-14
SB3074	031	2523	1501-14	
SB3093	167	2334, 2731	1116-14, 1635-14	79-14
SB3099	181	2329, 2825	1190-14, 1564-14	105-14
SB3121	146	2391, 2789	1009-14, 1602-14	19-14
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#### **Notes**

1. See also Senate Floor Amendment 8.
2. Became law without the Governor's signature.
3. Became law without the Governor's signature.
4. See also House Floor Amendment 8 and Senate Floor Amendment 9.
5. Became law without the Governor's signature.
6. See also Senate Floor Amendment 2.
7. See also Senate Floor Amendment 7.
8. See also House Floor Amendment 9 and Senate Floor Amendment 10.

## **TABLES SHOWING EFFECT OF ACTS**

Twenty-Seventh State Legislature  
2013 Second Special and 2014 Regular Session

**Key:** Am = Amended \_\_\_\_\_ = Section number  
N = New to be assigned in  
R = Repealed HRS Supplement  
Sp = Special Session

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8-—	N	7	97-3	Am	144
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11-—	N	166	102-2	Am	9
11-25	Am	166	103-53	Am	141
11-156	Am	139	103D-102	Am	96
11-359	Am	48	103F-101, 409	Am	96
11-391	Am	128	104-—	N	130
11-424	R	140	104-1	Am	130
11-426	Am	140	104-2	Am	130
15-7	Am	166			216
19-3	Am	128	104-22 to 25	Am	130
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26-14.6	Am	111			
26-15	Am	104			
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26-52	Am	90	121-9, 30, 34.5	Am	111
28-—	N	217	C 127	R	111
36-27	Am	123	C 128	R	111
		124	128D-1	Am	218
		232	128D-2	Am	107
36-30	Am	123	128D-6, 8, 9, 17, 18,	Am	218
		124	20, 21		
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37-43, 68	Am	135	132-3	Am	164
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39A-311	Am	103	132D-2, 8	Am	11
39A-312 (heading)	Am	103	134-—	N	87
39A-316	Am	103	134-7.2, 16	Am	111
C 42F (heading)	Am	96	141-10	Am	107
42F-101 to 106	Am	96	149A-13.5	Am	105
			157-29	Am	176
			167-6	Am	223
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46-—	N	227	171-—	N	86
46-4	Am	193	171-4	Am	104
46-15.1	Am	96	171-17	Am	168
46-15.35	Am	210	171-18.5	Am	218
52D-3.5	Am	121	171-19.5	R	132
76-16	Am	181	171-50, 50.2	Am	146
84-17	Am	230	171-64.7	Am	61
88-119	Am	35	171-99, 100, 134, 154	Am	218
89-5	Am	8	172-3, 5, 7	Am	218
		74	173A-4	Am	218
			174C-60, 86	Am	218

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179D-30	Am	111	241-	N	200
181-6, 7, 8, 9	Am	218	243-3.5	Am	107
182-7	Am	170	246-31	Am	45
182-13	Am	218	247-7	Am	163
183C-7, 8	Am	218	C 251 (heading)	Am	110
183D-5, 22	Am	218	251-	N	110
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195D-32	Am	218	269-2, 3, 5	Am	108
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196-7	Am	106	269-16.3	Am	111
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198-4, 5	Am	218	269-134	Am	95
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		84			57
200-14, 16, 18, 25	Am	218			211
200-37	Am	21	281-31, 33.6, 45, 61	Am	211
200-47	Am	218	286-	N	71
200D-2, 3	Am	85	286-2	Am	23
			286-64 to 67	Am	111
			286-107	Am	45
			286-108	Am	40
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201B-16	Am	81	286-238.5	R	72
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		55	291C-123	Am	120
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205A-22	Am	111	291E-44.5, 61	Am	72
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209-6	Am	111			39
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209E-2	Am	9			232
			159	302A-102	Am
225M-2	Am	83	302A-123	Am	232
226-6, 10, 10.5	Am	133	302A-411	Am	17
226-20	Am	155	302A-601.5	Am	76
226-103	Am	133	302A-605	Am	39
231-18	Am	136	302A-801 to 805, 807,	Am	232
235-____	N	200	808		39
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235-110.93	Am	101	302A-1134	Am	215
235-116	Am	136	302A-1141	Am	206
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237-13	Am	42	1155		232
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304A-2351	Am	96	388-____	N	208
304A-3153	R	13	388-1, 2, 5.5	Am	208
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329-14, 18, 20	Am	54	431:10D-104	Am	234
333E-6	Am	214	431:10H-217	Am	45
333F-____	N	214	431:11-____	N	234
334-5	Am	87	431:11-102, 104, 104.2,	Am	234
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339-8, 10	Am	218	431:19-101	Am	186
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342G-72, 83, 103, 121	Am	218	431M-6	Am	186
342H-1, 7, 9, 11, 12, 13, 14, 20, 39	Am	218	432:1-____	N	186
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HHCA Section No.	Effect	Affected By Act No.	Section No.	Proposed Effect	Bill No.
HHCA §204	Am	173	Art. VI, §3	Am	HB420 HB748 SB2876

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2013 Second Special Session and 2014 Regular Session

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